

The Vienna Forum to fight Human Trafficking
13-15 February 2008, Austria Center Vienna
Background Paper

**024 Workshop: Quantifying Human
Trafficking, its Impact and the
Responses to it**

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**THE VIENNA FORUM TO FIGHT HUMAN TRAFFICKING
13-15 February 2008**

Vienna, Austria

BACKGROUND PAPER¹

WORKSHOP 024

**RESEARCH ON TRAFFICKING IN PERSONS: GAPS AND LIMITATIONS IN
CRIME AND CRIMINAL JUSTICE DATA**

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¹ Background paper for the workshop 'quantifying trafficking, its impact and the response to it' in the context of the Vienna Forum of UN.GIFT.

INTRODUCTION

Over the past decade, and even more so after the adoption of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children² ("the Protocol") in the year 2000, international awareness of the crime of human trafficking has increased significantly. This is also reflected in the burgeoning number of reports, documents and research studies published on the topic.³ While many of these reports provide valuable qualitative insights into trafficking patterns, research should also be based on hard data. However, there is still a lack of quantitative information or understanding regarding the scope and development of the crime of human trafficking around the world. Even basic criminal justice data on trafficking in persons (TIP) offences is not publicly available for many countries and regions of the world, making the compilation of accurate statistics on human trafficking elusive and unreliable at any level. In the absence of systematic and reliable statistical time series, we do not even know with any degree of precision if the number of *reported* trafficking cases is increasing or decreasing and why this might be so. Compiling reliable and comprehensive statistical time series on the criminal justice response to human trafficking is thus a first step towards a more global understanding of the phenomenon. It is also, as this paper will try to show, quite a challenging task.

The difficulties connected with researching human trafficking are related to the nature of the subject itself. Like in many other areas of criminal justice studies, research on the nature and scope of trafficking in persons is considered inherently difficult as it involves *hidden populations*. Trafficking in persons is often a hidden criminal activity, and, as a consequence, the number of victims that come to the attention of the general public at any one time is necessarily only a subset of the total population of trafficking victims. This leads to calls for estimating the "dark figure" of human trafficking statistics. There are various methodologies for estimating total trafficking cases but it is important to note that most methods to estimate the *unknown* part of cases of TIP are based on some form of "hard data" on *known or reported* cases.⁴ The same is true for detecting and interpreting trends in human trafficking. Thus, even for the estimation of the whole universe of TIP cases, detailed and accurate knowledge on identified cases of victims of human trafficking is indispensable.

However, under current circumstances, it is difficult to relate various estimates on the "true" extent of human trafficking put forward by researchers, governments and international organisations to confirmed cases of the crime around the world. At the

² The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children was adopted by the United Nations General Assembly Resolution 55/25 of 14 November 2000, supplementing the UN Convention against Transnational Organized Crime, and entered into force on 25 December 2003.

³ For a global overview, see Laczko, Frank and Gozdzik, Elzbieta (2005), Data and Research on Human Trafficking: A Global Survey, Special Issue of International Migration, Vol. 43 (1/2) 2005

⁴ In the absence of comprehensive information on known or reported cases, some researchers have also resorted to estimating the number of reported cases. For example, the ILO estimate of human trafficking victims is based on an estimation of reported cases worldwide through the application of the capture-recapture method on known reports that is further extrapolated by a factor of 10 to arrive at the ILO global minimum estimate of forced labour (only part of which is then considered human trafficking). See Belser, P., de Cock, M. and Ferhard M. (2005), ILO Minimum Estimate of Forced Labour in the World, ILO, Geneva, April 2005

same time, even unreliable estimates – once quoted – seem to take on a life of their own. Regional or global estimates are frequently based on aggregating smaller-scale estimates that are themselves based on unsound methods. For example, a 2004 data comparison project of UNESCO Bangkok has documented a wide range of global estimates (differing by a factor of 10) on human trafficking made by governments and international organizations.⁵ Clearly, the current uncertainties surrounding the nature and scope of the problem render the development of targeted anti-trafficking responses worldwide a particular challenge.

What is needed for the design of adequate policies, therefore, is a more credible information base on which to base research on trafficking in persons. The most direct way of generating this information base is to focus on the universe of known trafficking cases that directly result from the criminal justice response to this crime. Gathering accurate criminal justice statistics, supplemented by information on the institutional and legal framework in which the crime of trafficking in persons is defined and pursued, as well as on services available to victims from governmental and non-governmental actors alike, is necessary to understand where the major information gaps are, and how to improve national responses to trafficking in persons.

National governments and the international community are currently investing growing resources in anti-trafficking initiatives, commonly split into prevention, prosecution and protection efforts. However, to date, there is very little measurement of the impact of many human trafficking initiatives and consequently, without solid monitoring tools, there is no guidance on where these resources could best be invested. For example, there is as yet a lack of recorded data on the effects of introducing comprehensive anti-trafficking legislation or enhanced law enforcement capacities on the number of investigations, prosecutions and convictions of human traffickers. Similarly, there is little evidence on whether and how information and awareness-raising campaigns among target populations can contribute to reducing the incidence of trafficking in a certain country or region.

At present, statistical data on trafficking in persons frequently do not meet the basic standards for statistical accounting: at the global and regional levels, detailed data are simply not available and even when data are presented, they are frequently partial, incomplete and unreliable. At the national level, the lack of centralised reporting and data-gathering systems in many countries prevents the production of nation-wide criminal justice statistics, as data on investigations, prosecution and convictions are often dispersed across several national institutions and criminal justice agencies. Similarly, data on trafficking victims are often collected by various institutional actors, including criminal justice agencies, victim support structures, NGOs or international organisations. At the international level, moreover, institutional differences in criminal justice systems and in the legal definitions of offences constituting trafficking in persons present special problems in the comparability of the data. These issues will be further explored below.

⁵ See the UNESCO Trafficking Statistics Project, available at: www.unescobkk.org/index.php?id=1022

LIMITATIONS AND DATA GAPS IN THE RESEARCH OF HUMAN TRAFFICKING

In the following sections of this paper, the main limitations of data on human trafficking will be discussed and some preliminary findings on data gaps will be outlined. The overview will draw both on relevant findings in the literature and on new insights gained during an ongoing UNODC research project on trafficking in persons that will be introduced further below.

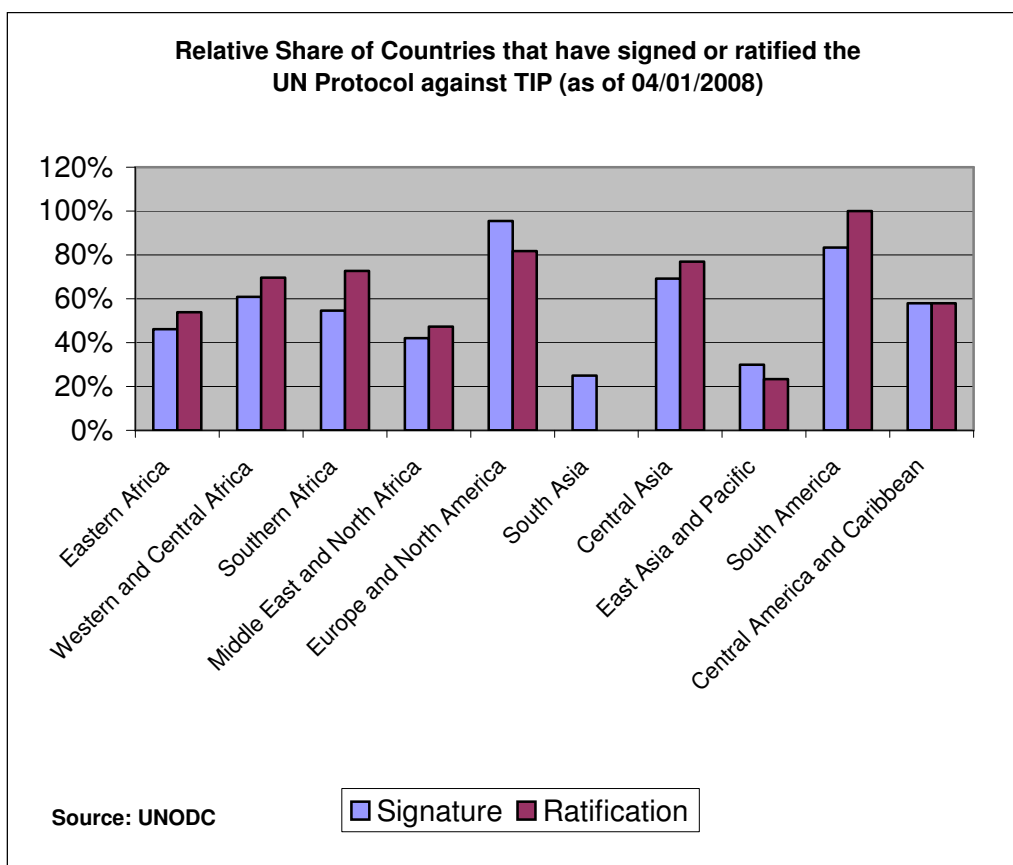
General issues concerning data on trafficking in persons

Lack of legislation

In many countries of the world there is still a lack of specific legislation against the crime of trafficking in persons in its various forms. Earlier attempts to define the crime of trafficking in persons in international law focused on prostitution or sexual exploitation of women only, a focus that is still reflected in the penal codes of many countries in Africa, Asia and Latin America. For example, in 1921, the "*International Convention for the Suppression of the Traffic in Women and Children*" was concluded in Geneva. This Convention was succeeded in 1949 by the "*UN Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others*". In total, 80 countries had become party to the 1949 Convention.⁶ However, it is only since the adoption of the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* in November 2000 that a universal definition of the crime of "trafficking in persons" has been recognised, and increasingly adopted and implemented in national legislations. The Protocol entered into force on 25 December 2003 and to date (4 January 2008) has 117 signatories and 116 parties.⁷

⁶ See: <http://untreaty.un.org/ENGLISH/bible/englishinternetbible/partI/chapterVII/treaty11.asp>

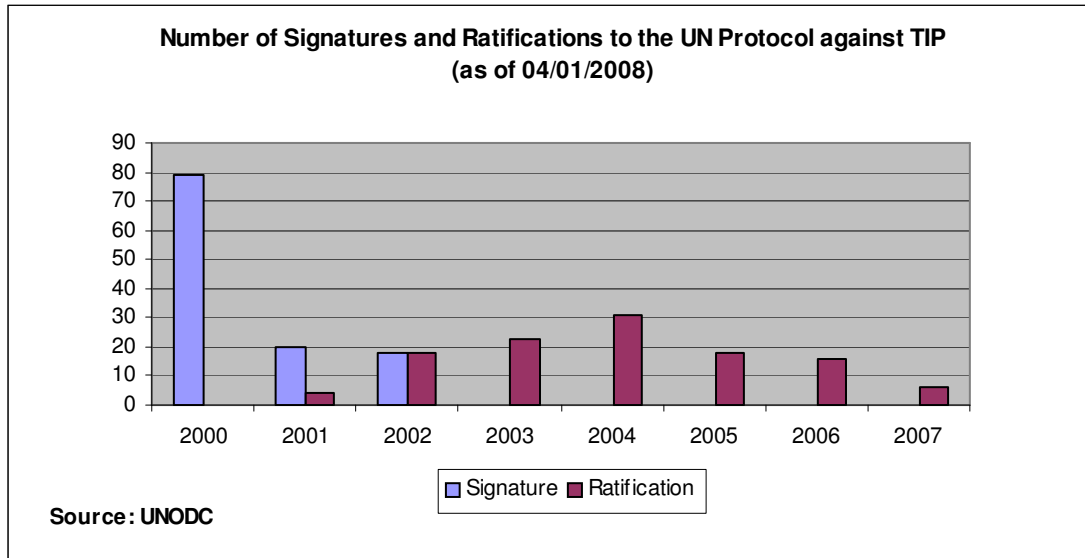
⁷ For an up-to-date list of signatories and ratifications, see:
<http://www.unodc.org/unodc/en/treaties/CTOC/signatures.html>



While those States Parties to the Protocol are required to criminalize domestically the conduct of trafficking in persons, as defined in the Protocol, many States are still not party to the Protocol. As it usually takes some years from the signature and ratification of the Protocol to the adoption of relevant anti-trafficking laws, and many other states have not yet signed or ratified the Protocol at all, there are still many States without any specific anti-trafficking laws in place.⁸ The following chart provides an overview of the ongoing process of signature and ratification of the UN Protocol.⁹

⁸ At the same time there are some States not party to the Protocol who nevertheless have anti-trafficking laws in place, even if the definition of human trafficking offences may not always conform to that in Article 3 of the Protocol.

⁹ Please note that, after 2003, no more signatories to the Protocol are recorded as the act of ratification normally includes accession to the Protocol at the same date. Thus, 27 States that acceded to the Protocol are not recorded as original signatories. At the same time, from those States that have signed the Protocol up to 2003, 25 have not ratified it yet (all statistics as of 4 January 2008). This leaves some 50 States who have neither signed nor acceded to the Protocol.



The lack of specific legislation against trafficking in persons is arguably the most serious obstacle in countering the crime. In the absence of legislation, it is very difficult to punish human trafficking and bring the traffickers to justice. However, even where provisions against trafficking in persons exist under national law, these often cover only parts of the crime in trafficking in persons as defined in the UN Protocol. For example, legislation may still be based on previous conceptions (e.g. the *1949 Convention* mentioned above) of trafficking in women and children and may hence be “limited to equating human trafficking with exploitation in the sex industry while ignoring exploitation in the labour market”.¹⁰ Where this is the case, the focus of anti-human trafficking activities is then on women forced into prostitution, while trafficking of men (e.g. for exploitation on the labour market) may be dealt with under existing labour laws.

All this is to say that the understanding of data on human trafficking depends, first and foremost, on the underlying legal instruments that define and criminalize the crime as well as on the focus of law enforcement efforts dedicated to giving effect to these laws.¹¹

Underreporting

As mentioned above, statistics that report on the number of prosecutions, arrests, convictions or the number of identified victims, are necessarily only a subset of the real universe of human trafficking cases that come to the attention of the authorities. There are a number of reasons for this but it is generally accepted that trafficking victims are usually in a very vulnerable position making them unwilling or unable to

¹⁰ Aronowitz, A., Expert Brief Data on Trafficking in Women, United Nations Division for the Advancement of Women, Vienna, 2005, p.3

¹¹ For example, laws that define human trafficking as trafficking for sexual exploitation only will lead to statistical data that show the victims of trafficking to be victims of sex trafficking only.

report to the police or other authorities. We do not know what share of human trafficking cases is detected by law enforcement authorities and subsequently reported in available statistics but we have reason to assume that it is generally only a minority.¹² It appears, however, that the share of identified cases of human trafficking will be higher the more resources and efforts are invested on investigating and uncovering this particular type of crime. Since the awareness of and amount of resources spent on anti-human trafficking activities varies widely between countries and regions of the world, we can further assume that the share of actual cases detected also varies widely.

Thus, we can conclude that, in any given human trafficking situation, the higher the general awareness among police, judges and prosecutors of the issue, the more personnel and resources devoted to pursuing it, and the more coherent the criminal justice response to the challenge, the higher the share of actual cases detected. This should be the case not only between countries but also over time. It is a common observation in many countries that after the establishment and implementation of a coherent national anti-trafficking strategy – often laid down and promulgated in a specific National Plan of Action against Human Trafficking – there is a marked increase in criminal justice actions against human traffickers.¹³

The number of reported human trafficking cases in any given place and time thus reflects as least as much the collected anti-trafficking efforts directed at this crime as it reflects the underlying problem. This makes comparability across countries near-impossible, but it also complicates the interpretation of time trends in any given country: a rising number of detected human trafficking cases (e.g. identified victims, traffickers, convictions, etc.) may reflect an increase in total human trafficking activity or it may reflect an increase in the functionality and success rate of law enforcement efforts.

In recent years, there has been an enormous increase in attention paid to human trafficking worldwide, an attention that has been further translated into more coherent policy responses and significantly higher resources spent on combating human trafficking. One straightforward indicator of this trend is the number of new States who have signed and ratified the UN Protocol against trafficking in persons in recent years. In many cases, this has been followed by the elaboration and adoption of National Action Plans against Trafficking in Persons, which have often been instrumental in designing and implementing a coordinated set of measures against trafficking in persons by a multitude of actors at the national level.

¹² For example, the Dutch National Rapporteur on Trafficking suggests that perhaps 5% of human trafficking cases are detected in the Netherlands, see: Bureau NRM (2004), *Trafficking in human beings, Third and Fourth report of the Dutch National Rapporteur*, Den Haag

¹³ For example, after the introduction of a National Plan of Action for Combating Trafficking in Women and Children in Norway in 2003, increased resources were given to the field in a coherent policy and operational response. As a result, the number of identified cases of human trafficking increased from less than a handful to 42 cases in the first 10 months of 2004. See: Tyldum, G. and Brunovskis, A. (2005), *Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking*, in: Laczko, Frank and Gozdzia, Elzbieta (2005), *Data and Research on Human Trafficking: A Global Survey*, Special Issue of *International Migration*, Vol. 43 (1/2) 2005, p.22ff

LIMITATIONS CONCERNING CRIMINAL JUSTICE DATA ON TRAFFICKING IN PERSONS

Non-comparable data

As the ratification of the Protocol by a State is usually followed by the adoption of relevant legislation and national action plans within a matter of years rather than months, the implementation of national anti-trafficking legislation that is in line with the Protocol is often a very lengthy process. Thus, many States (most of those who have not yet ratified the Protocol and many who have already ratified it) still use different definitions regarding the act of trafficking, the means of trafficking or the purpose thereof. For example, many national legislations do not include *internal trafficking* in their definition of trafficking in persons but instead refer to transnational trafficking only, while the Protocol and other national and regional human rights instruments (such as the 2005 Council of Europe Convention on Action Against Trafficking in Human Beings) cover also internal trafficking.

In many other countries, it appears that internal trafficking in persons, even if covered by relevant national legislation, receives less attention by law enforcement authorities than transnational trafficking across borders. One reason why transnational trafficking may receive relatively more attention than internal trafficking is the stronger involvement of international organizations in anti-human trafficking activities and victim support services when it comes to cross-border trafficking, which is clearly related to the specific (international) mandates of these service providers.

Another problem arises out of differences over the legal age of minors. Not all countries apply the definition of children contained in the Protocol as persons under 18 years of age but instead have different definitions of who is a child, including in national family- and child protection laws. Such differences become especially significant when trying to define and measure trafficking for sexual exploitation of children, trafficking for organ removal or when trying to decide whether the illicit recruitment or use of children in armed conflicts falls within the definition of *child trafficking*. As defined by the Protocol, the crime of child trafficking does not require the use of criminal means such as coercion or deception, as, for children, the existence of the victim's consent is irrelevant. The problem of child trafficking and child soldiers has received particular attention in Western and Central Africa. In many countries of the region, there are a number of laws on child protection that can be applied even if these are not necessarily specific anti-trafficking offences. However, in the absence of more general anti-trafficking laws in some countries, only children under 18 years of age are taken into consideration by the national legislation against TIP.

There are also significant differences in various anti-trafficking laws when it comes to the *purpose of exploitation*. The Protocol leaves the purpose of exploitation of trafficking victims principally open but states that, "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" (Article 3(b)). As mentioned, however, in many countries,

the specific offence of trafficking in persons extends only to sexual exploitation while leaving trafficking for other forms of exploitation out.

Where national legislation extends only to trafficking for sexual exploitation, trafficking for some other purposes may be prosecuted under national penal law, for example, under a more general offence of "*reducing someone to a condition analogous to slavery*" or similar offences. In countries where such provisions are not available under penal law, or where the application of penal law has proven to be too cumbersome in practice¹⁴, the offence of trafficking for forced labour is sometimes also pursued under existing labour legislation rather than criminal law. This means that the resulting penalties are likely to be different than provided for in criminal or penal law (for example, they may be less severe for the perpetrators or consist of the payment of collective damages rather than incarceration for the same offence). The point here is that, whatever the outcome, such cases would not be recorded in criminal justice statistics on human trafficking, as the prosecutions and convictions would fall under different categories.

As the preceding paragraphs demonstrate, not all forms and manifestations of the crime defined as trafficking in persons under the UN Protocol are covered by various national anti-trafficking legislation and important legislative gaps remain around the world. On the other hand, many crimes that can be considered trafficking in persons in the sense of the Protocol are pursued under other, related offences in national law.¹⁵ For several decades already, many States have identified a number of related offences in their criminal codes that are used to prosecute trafficking in persons offences, albeit under different headings – including offences related to sexual exploitation, forced prostitution, kidnapping, abduction, child sex tourism, child pornography, corruption of minors, child labour and forced labour.¹⁶

Despite this broad range of potential offences that may be used as an alternative to an explicit "trafficking in persons offence", it may still be possible to establish the rate of trafficking in persons crimes adjudicated under different offences when looking closely at national crime statistics and records. However, up to now, this has never been done systematically and we cannot exclude the possibility that many presented cases involving trafficking in persons activities are left unrecorded (or recorded under different categories) in national data on human trafficking offences.

Finally, when gathering and interpreting human trafficking data, we should also be aware that, in many countries, there is generally little legislation available that could

¹⁴ For example, due to the higher burden of proof involved and the longer duration of trials, compared to trials under civil law.

¹⁵ For an illustration of this point, see: Qaba, N. (2007), Prosecuting trafficking without trafficking laws. Unpublished paper presented at Seminar: Trafficking in human beings: National and International perspectives. University of the Free State. Bloemfontein, South Africa. 17 August 2007.

¹⁶ United Nations Office on Drugs and Crime (2005), CTOC/COP/2005/3/Rev.1 - Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime: updated information based on additional responses received from States for the first reporting cycle - Analytical report of the Secretariat.

be used to pursue trafficking in persons offences. In some regions of the world the crime of "trafficking in persons" is largely absent from national legislations.

Lack of capacity for systematic data collection on TIP

In many of the least developed countries of the world, which are often but not solely, reported to be countries of origin of victims of human trafficking, the capacity for data collection and analysis is often inadequate, due to a lack of resources, coordination or appropriately trained law enforcement personnel. In many countries, police officers, judges and prosecutors would like to have better criminal justice data to monitor the overall anti-human trafficking efforts in their countries but are faced with severe resource and time constraints to build an appropriate data collection mechanism that would systematically and consistently track information on trafficking activities and the responses made. As there is no standard methodology for such data collection, data on TIP are often collected on an *ad-hoc* basis, reflecting different definitions, data sources, geographic and political areas, or various periods of coverage. This is also reflected in the quality and consistency of the data: sometimes the figures for a given year may significantly change in later years simply due a change in the manner the information was gathered or, more often, due to the further development of anti-trafficking legislation and the definitions used.

This lack of capacity for data collection is a widespread problem, even in countries that have recently introduced comprehensive anti-trafficking legislation and stepped up efforts to create a central statistical database. For example, a recent UNDP country report highlights that "*the anti-trafficking community and stakeholders in Armenia continue to confront the challenge of lacking up-to-date statistics on identified and assisted victims of trafficking*".¹⁷ Similarly, concerning the overall European area, a 2005 UNHCR report notes: "*Presently, there are no reliable and conclusive statistics on the number of trafficking victims in the European region. [...] Regrettably, available data do not record key indicators, including information on age, gender, number of victims as well [as] country of origin. [...] Without this information, it is extremely difficult to raise awareness and effectively deal with the protection and assistance needs of the victims*".¹⁸ To these examples we could add many other similar situations in countries around the world where the capacity for systematic data collection on TIP is still weak and needs to be further developed.

Lack of a central database on TIP

In recent years, different authorities and institutions in many countries have started to collect hard data on trafficking in persons. However, in the great majority of countries, there is a lack of central coordination of this data gathering activity that could provide common guidelines, definitions and formats for the data to be collected. Even in

¹⁷ United Nations Development Programme (2007), "Victims of trafficking assisted in Armenia, 2003-2007", UNDP, Geneva, p. 4.

¹⁸ United Nations High Commissioner for Refugees (2005), Combating Human Trafficking. Overview of UNHCR Anti-Trafficking Activities in Europe, Bureau for Europe Policy Unit, 2005, p.6

countries where a lot of data on human trafficking are collected, these data usually remain dispersed and there is no central database that would allow the consolidation of statistical information. Hence, criminal justice data on investigations, prosecutions and convictions commonly remain scattered across several national authorities, regional and sub-regional institutions. Similarly, data on victims of human trafficking are often collected by various institutional actors, including criminal justice agencies, victim support structures, NGOs and international organisations.

The main reason for the widespread absence of a central database lies in the distribution of competencies and mandates among various national agencies. At the same time, data-gathering within public agencies are routinely geared towards use for their own administrative purposes only, rather than for more general statistical purposes. When the competences for dealing with various forms of trafficking offences (e.g. child trafficking or sexual exploitation) are divided between various actors (e.g. different law enforcement agencies at federal and state levels), the resulting data collection will be fragmented and dispersed unless a deliberate effort is made to bring these data together in a central location.

While still the exception rather than the rule, more and more States have reacted to the need for centralized data on TIP by establishing central focal points that coordinate data gathering and maintain a central database.¹⁹ Over the past few years; a number of such mechanisms have been developed that can serve as best practices: both the Dutch National Rapporteur and the German Federal Criminal Office are collecting and publishing annual detailed statistics on trafficking in persons offences. The reports focus on identified cases of human trafficking, criminal intelligence information, crime groups, victims profile and resulting recommendation for law enforcement and policy makers.²⁰ Nigeria has established a National Agency for the Prohibition of the Traffic in Persons (NAPTIP) that also has a central database on criminal justice data concerning trafficking in persons that is currently being filled. Peru has a central database that since the end of 2005 centrally registers criminal justice statistics on human trafficking. Other countries have appointed national rapporteurs to gather, exchange and process information on human trafficking. Many more countries around the world have already established, or are in the process of establishing, National Coordinators, Roundtables or Inter-Institutional Task Forces for anti-trafficking activities, who also collect and disseminate data on TIP.

¹⁹ For example, a 2005 Resolution by the European Parliament calls for Member States to appoint national rapporteurs on Anti-Human Trafficking Activities, and stresses the importance of gathering gender-based and comparable data. European Parliament, Committee on Women's Rights and Gender Equality, Draft report on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation. PR\580691EN.doc, 19/9/2005.

²⁰ See: Bureau NRM (2004), Trafficking in human beings, Third and Fourth report of the Dutch National Rapporteur, Den Haag 2004; Bundeskriminalamt der Bundesrepublik Deutschland (2005), Trafficking in Human Beings 2004. Public Release Version, Wiesbaden, August 2005

Additional limitations in criminal justice statistics on TIP

As a general observation, whether or not a specific case is to be considered (and hence registered in the statistics) as a case of trafficking in persons in the sense of the Protocol depends on the nature of the criminal act committed. At a minimum, this involves the combination of the three constituent elements of the definition in the Protocol: *actions*, *means* and *purpose* of exploitation (except in the case of children where the means are irrelevant). It is clear from this definition that by far not all cases of, for example, slave labour or sexual exploitation are human trafficking cases. Thus, in legal proceedings, as well as in the production and compilation of data, a choice must be made whether or not to classify an identified case of exploitation as human trafficking or not. *A priori* classifications will have to be revised in the course of investigations and proceedings. A particularity of human trafficking may be that it is often the victims who are accused and arrested for various offences (illegal residence, illegal work, procurement) rather than the human traffickers and that much investigative effort has to be spent to uncover the exploitative links between trafficker and victim.

In addition, a common problem in compiling comparable criminal justice data is that data are only rarely standardized, due to wide differences in legal traditions and institutional settings of national criminal justice systems. To allow for such differences, UNODC, in its regular survey of crime trends²¹ around the world, uses composite categories that contain similar law enforcement concepts in one statistical indicator, such as “the number of persons brought into initial formal contact with the police and/or the criminal justice system”. This indicator then encompasses *persons suspected, investigated or arrested* for trafficking in persons offences. Only a minority of countries can supply additional disaggregations into these three sub-categories.

Using a similarly broad definition of “the number of persons against whom *prosecution* is commenced for trafficking in persons offences”, the UNODC crime trends survey demonstrates that a number of countries are able to supply such data but that the availability of such data varies widely among regions.

It is also noticeable that, when we look at the availability of data on *convictions* for trafficking in persons offences, we find that, when such data are available at all, the numbers are generally very low compared to the numbers of investigations and prosecutions. On the one hand, this is related to the well-known difficulties in convicting the human traffickers on the basis of available evidence (for example, when the victims of trafficking are not able or willing to testify against the perpetrators because, amongst other reasons, they are returned to their countries of origin). In this sense, data on a relatively low number of convictions already constitute an important result of the research and may lead to direct policy implications.²² On the other hand,

²¹ The United Nations Survey of Crime Trends and the Operations of Criminal Justice Systems (CTS) is carried out by UNODC every two years. See: <http://www.unodc.org/unodc/en/data-and-analysis/United-Nations-Surveys-on-Crime-Trends-and-the-Operations-of-Criminal-Justice-Systems.html>

²² Several countries have already introduced temporary residence permits for victims of human trafficking cooperating with law enforcement agencies. For example, under U.S. law trafficking victims willing to

the very low number of convictions is also likely to indicate the weaknesses of current legislation or endorsement efforts, which may lead to trafficking offences being punished under other, related offences such as sexual exploitation, assault or even immigration offences. In fact, this is often the only option available to punish traffickers in persons in the absence of any anti-trafficking legislation but it may also be a frequent phenomenon in countries with comprehensive legislation when related offences are easier to prove in court. The point here is that the actual number of convictions of traffickers in persons may be understated (to an unknown extent), when such convictions are done and registered under a different criminal offence. There is also the real possibility that some corrupt public officials may deliberately choose to treat a case of human trafficking in court as a less serious offence in return for financial rewards.²³

Finally, we should note another issue arising out of the complexity of judging human trafficking cases in court, namely their long duration. It is quite common that such trials last up to two years – and in many cases much longer – in which case data on the number of convictions in one year reflect cases in which prosecution was commenced several years earlier. Given the growing number of prosecutions in many countries over the past few years, we may expect the number of convictions to grow as well, albeit with a considerable time lag.

assist prosecutors can obtain a so-called T-visa which allows them to stay in the country for up to 3 years. The Council of Europe Convention has introduced an obligatory recovery and reflection period for a minimum of 30 days for undocumented victims and many European States have already introduced temporary visas for a reflection period of 6 months. See: United Nations Population Fund (2006), *Selling Hope and Stealing Dreams: Trafficking in Women and the Exploitation of Domestic Workers*, in: *State of the World Population 2006*, p.48

²³ On the relationship between corruption and trafficking in persons, see: Richards, K. (2005), *The Trafficking of Migrant Workers: What are the Links Between Labour Trafficking and Corruption?*, *International Migration*, Vol. 42, Nr. 5, December 2004, pp. 147-168. The point here is that, in the presence of a significant level of corruption, the incentives for providing accurate and comprehensive criminal justice data on human trafficking rapidly diminish.

LIMITATIONS RELATED TO DATA ON VICTIMS OF TRAFFICKING IN PERSONS

Non-reporting to the authorities

As mentioned above, there are a number of reasons why victims of trafficking in persons are unable or unwilling to report to the police or to seek assistance from outsiders. Fear of the consequences of engaging with the police and a perception of the hopelessness of obtaining justice when cooperating with law enforcement authorities are two important reasons for not coming forward. This may be true even in cases when victims of trafficking come in direct contact with the police, for example during raids on workplaces or brothels. However, there are a number of supporting mechanisms that can contribute to the incentives for victims of human trafficking to come forward and report their case to the police. One important support mechanism is provided by organisations that provide services, such as shelter and reintegration support programmes, for victims of trafficking (in 2002 the United Nations High Commissioner for Human Rights recommended that support and care should not be made conditional upon the capacity or willingness of trafficked persons to cooperate in legal proceedings).²⁴ Other mechanisms are provided by many States in the form of witness protection programmes and temporary residence permits for victims of human trafficking. It is also clear, however, that not all States provide such protection programmes or any services to victims of human trafficking at all (due in part also to the absence of legislation) and, therefore, we can expect that the incentives for victims of human trafficking to come forward and report to the police will vary widely among different states. We can further expect that this situation is also reflected in the data on trafficking victims with countries offering more comprehensive protection programmes achieving a higher share of victims that eventually report to the police than those that offer fewer services and less protection.

Different criteria for registering victims of TIP

Beyond the general problem of obtaining information on the *actual* numbers of victims of trafficking, there are other issues that need consideration when analysing and interpreting data on *identified* human trafficking victims. The first question we need to ask is *who* identifies the victim and *what are the criteria* for identifying someone as a victim. The answer to the first question varies from country to country but usually involves the police and official law enforcement authorities of a country. However, there are also cases where the police have little or no legal basis to identify victims of trafficking. In such cases, there may still be organisations providing services to victims of TIP according to their own criteria and the only data that are available come directly from these service providers. Thus, data on victims of human trafficking obtained from such service providers can provide valuable indicators on national human trafficking responses.

²⁴ United Nations High Commissioner for Human Rights (UNOHCHR) (2002), Recommended Principles and Guidelines on Human Rights and Human Trafficking. Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council, E/2002/68/Add.1, New York: United Nations.

However, it should be kept in mind that the primary mandate of these service providers is to help victims in distress and not to collect standardized data. Thus, as these organisations will collect and compile data for their own purposes and with their own definitions and criteria, it is important to distinguish such data clearly from official data collected from law enforcement authorities, who usually have to follow certain legal criteria and procedures for identifying and processing human trafficking cases. An example, taken again from a recent UNODC assessment on Moldova illustrates the difficulties: “*There are currently no common criteria for data collection on trafficking victims in Moldova. [...] Organizations continue to collect information using their own diverse methodologies. Not all service providers distinguish clearly between potential and actual victims, or the types of exploitation*”.²⁵ Data from service providers to victims of trafficking are also decentralised, more difficult to collect, less standardized and may even be kept deliberately secret to protect rescued victims.

Looking more closely now at *official* data and the criteria for determining (and thus counting) victims of trafficking, it appears that there are significant differences among countries. In some countries, most persons who self identify to be victims of trafficking will initially be counted in statistics while further investigations will determine how to proceed in any specific case. In other countries, only persons that have been pre-selected as potential victims of trafficking by the police will be registered as identified victims of trafficking. In yet other countries, only the number of officially “certified” victims of trafficking in persons will be reported.²⁶ Still other countries apply even stricter criteria for enumerating victims of trafficking where even *identified* victims of trafficking will only be registered by official bodies (police, prosecutors, etc), if they are willing to press charges and/or to testify against their traffickers.

It is true, of course, that in many countries data on victims of trafficking in persons obtained from official governmental bodies (such as the federal police, national anti-trafficking coordinators, the ministries of justice, etc.) will be similar to data obtained from service providers. This is especially likely where law enforcement agencies and NGOs cooperate closely in assisting victims of human trafficking. To enhance this cooperation, many countries have now instituted so-called National Referral Mechanisms for victim assistance where victims identified by the police are referred to NGOs for shelter and assistance. In other countries where such mechanisms are not formally in place, the referral of victims to service providers may be done in an informal manner on a routine basis.

Finally, one potentially serious problem in monitoring and aggregating data on victims of human trafficking across different countries needs to be addressed – the statistical problem of double-counting, namely of victims who are returned from the destination countries to their countries of origin (either officially through victim support programmes or otherwise). In this case, it may be the case that victims are counted

²⁵ United Nations Office on Drugs and Crime (2007), “An Assessment of Referral Practices to Assist and Protect the Rights of Trafficked Persons in Moldova”, UNODC, Chisinau, Moldova, February 2007

²⁶ Cf. United States Government Accountability Office (2006), Human Trafficking. Better Data, Strategy and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad, GAO-06-825, Washington D.C., USA, July 2006, p. 16f

both in the data on victims in the destination countries and in their countries of origin who receive them back and often provide further support.

DATA COLLECTION IN UNODC

To alleviate current shortcomings in data collection on human trafficking, a special research project has been established within the Policy Analysis and Research Branch of UNODC that aims at systematically collecting official crime and criminal justice related data on TIP and human trafficking victims. The research focuses on national responses to human trafficking on a global level, first, by developing methodologies for improved data collection and, second, by actually gathering and reporting available primary data and information on human trafficking.²⁷

This global data collection exercise focuses on data in three areas:

1. Institutional framework
 - Existence of human trafficking legislation, identification and quantification of national law enforcement personnel combating human trafficking, national action plans, victim support programmes;
2. Criminal justice response
 - Investigations, arrests, prosecutions, convictions and sentences for trafficking in persons offences;
3. Services provided to victims of trafficking in persons
 - Referral mechanisms, victims identified, forms of exploitation, victims sheltered by authorities and NGOs, number of sheltering facilities and beds available for victims of trafficking.

To meet the challenges of comprehensively gathering and compiling these data on a global level, the information is proactively collected by researchers who act as regional focal points deployed at different UNODC field offices throughout the world. The researchers have been chosen on the basis of their regional expertise on human trafficking and have been trained in a common data gathering methodology. Their role is mainly to solicit the various national authorities involved in anti-trafficking activities to provide the information sought and to gather information from other sources (NGOs, international organisations) where required. This research will build knowledge, highlight what 'real' data are available and which major information gaps exist. It will result in a global overview for the international community of the existing human trafficking information based on official data. The project is continuously supervised and coordinated by a team of research experts at the UNODC Policy Analysis and

²⁷ UNODC Situational Analysis of National Responses to Human Trafficking: General Workplan, UNODC, Vienna, June 2007

Research Branch and will result in a Global Situational Analysis of National Responses to Human Trafficking by the end of 2008.

CONCLUSION

This paper has sketched some of the major problems in compiling and interpreting criminal justice statistics on human trafficking: a complete or partial lack of legislation, differences in existing legal definitions of trafficking in persons, serious underreporting due to the challenges of correctly identifying the crime, lack of capacity for data collection and a common lack of central databases on the crime. Given all these constraints, it is not surprising that it is difficult to supply reliable official data on enforcement activities against human trafficking. Similarly, there are major problems in obtaining and compiling reasonably complete, comparable and accurate data on identified victims of human trafficking. Apart from the familiar problems of non-reporting to the authorities, there are also different criteria used for registering, certifying or generally recognizing victims of trafficking in persons which seriously affect the comparability of data across countries. A special research project of UNODC that aims at systematically collecting official crime and criminal justice related data on trafficking in persons and human trafficking victims around the world aims to address the data problems identified here and to contribute to improve data collection in the years ahead.

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This paper has been prepared to provide some broad background material for the workshop. Please note that fuller materials, including speaker summaries and workshop conclusions, will be included in the official report of the Vienna Forum.

If you have any further information regarding this topic, please contact:

Anti-Human Trafficking Unit
United Nations Office on Drugs and Crime
P.O. Box 500
1400 Vienna
Austria

tel: +43 1 26060 5687
fax: +43 1 26060 5983
email: ahtu@unodc.org
website: www.unodc.org