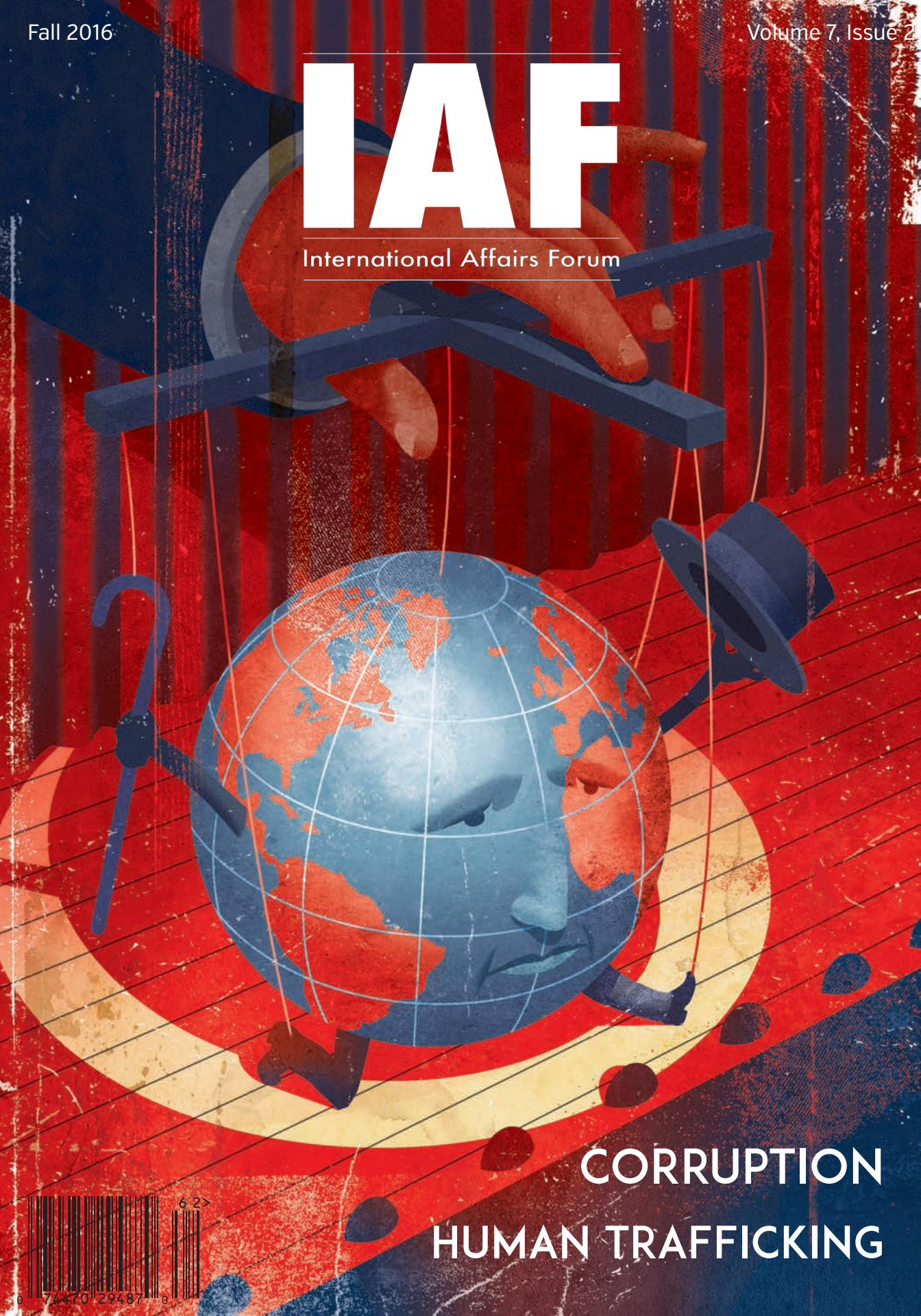


Fall 2016

Volume 7, Issue 2

IAF

International Affairs Forum



CORRUPTION
HUMAN TRAFFICKING



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Special Themed Issue: Editors' Introduction

Following on from our previous issue on Migration and Statelessness, this issue focuses on the themes of Corruption and Human Trafficking. Both topics disrupt and are disrupted by the state—at one extreme corruption and human trafficking may be state-sponsored through compliance or a lack of checks on the processes and institutions that give growth to such crimes; these are largely insidious alliances. On the other end, the range of those working to tackle these issues and the methods for assessing and addressing them, is expansive and varied. Across states globally, the issue of corruption in both state institutions and in businesses and services, damages trust in the state and impacting individuals at different levels. In addressing the realities in which corruption has tainted established and developing democracies, a range of article/opinion pieces, research notes and interviews are presented in this issue. Coverage transverse the fields of security (Frank Vogl from *Transparency International* and his article on forging a US strategy), to Louise Shelley's discussion of her 2014 book on the link between corruption and terrorism, to analysis of policy-making efforts to combat corruption (Prof. Emeritus Michael Johnston to discussion of finance (with Raymond Baker); to the legal aspects of developing anti-corruption legislation (interview with Assistant Dean at The George Washington Law School, Jessica Tillipman), through to development and civil engagement (interview with *OECD's* J.B. Terracino; research note (Peiffer at IDD, at the University of Birmingham (UK)), to discussion of *Transparency International's* ongoing civil engagement project in Macedonia. Whistleblowing (Suelette Dreyfus), transparency in public procurement and contracting (Hivos) to issues of corruption in the Olympics (Professor Emerita Helen Jefferson Lenskyj) to the health and pharmaceutical sector (Kohler and Mackey)—demonstrate the wide-reaching tentacles of corruption and its impact.

Human trafficking, like corruption, is partially hidden as an issue—everyone knows that it exists, but tracking and identifying it can be more elusive. In contrast to corruption, many argue that human trafficking impacts particular sectors of the population more adversely (women and children), although it can take different forms. States and organizations globally have made significant efforts to eradicate the trafficking of humans—discussion of these efforts in this issue focuses on anti-trafficking frameworks and includes: EU Anti-trafficking Coordination efforts and frameworks (discussed by the EU Commission's Dr. M. Vassiliadou, and Dr. Monacò of the Bar Association of Naples), to NGO efforts (L. Skillen). Because different areas of the world have different experiences and perspectives of the problem, this issue includes discussions on the human trafficking tragedy in Sub-Saharan Africa (Thipanyane), West Africa (Dickson), and child trafficking in China (Shen). Another layer to the issue is the “who” and “why”—leading to discussions about the perpetrators of human trafficking—from “state sponsored slavery” (Abdulla) to the private sector (Friedman); to those dramatically impacted by human trafficking (women—as discussed in interview with Bien-Aimè, and in the article by Denton from the LSE, UK); as well as the reasons for economic forces behind it (Lawson interview) to a more specific commodity—organ trafficking (Lundin interview and Nancy Scheper-Hughes article).

Corruption and human trafficking are tangibly linked issues in many parts of the globe. Recognized as major concerns by policy-makers, academics, and global leaders alike, many will agree that the challenge in tackling these issues is due to their nature: these criminal acts

are visible (*as known problems that impact states and people*) and invisible (*in terms of their depth, connectedness across borders, sectors, and through state structures*) simultaneously. Common to both are the issues of power and control, and solutions to these challenges are therefore necessarily posited in terms of accountability and justice.

The current issue of International Affairs Forum demonstrates the publication's unique place within the field, providing an outlet for academic-type research and discussion articles, short essays, and opinion-editorial pieces from researchers and practitioners, alongside interviews with scholars and officials (from think tanks, international organizations, and academic institutions) who assist with informing and shaping the policy-making landscape.

The core values for the publication are:

- We aim to publish a range of op-ed pieces, interviews, and short essays, alongside longer research and discussion articles that make a significant contribution to debates and offer wider insights on topics within the field;
- We aim to publish content spanning the mainstream political spectrum and from around the world;
- We aim to provide a platform where high quality student essays are published (winners of the IA Forum Student Writing Competition);
- We aim to publish the journal bi-annually;
- We aim to provide submitting authors with feedback to help develop and strengthen their manuscripts for future consideration.

All of the solicited pieces have been subject to a process of editorial oversight, proof-reading, and publisher's preparation, as with other similar publications of its kind.

We also welcome unsolicited submissions for consideration alongside the solicited pieces. In addition, the publication holds a student writing competition, seeking the best student pieces for publication in the journal along with our distinguished contributors.

We hope you enjoy this issue and encourage feedback about it, as it relates to a specific piece or as a whole. Please send your comments to: editor@ia-forum.org

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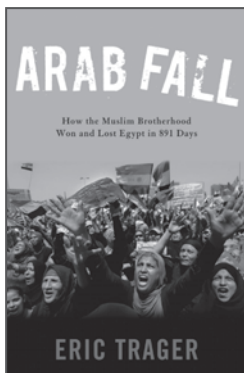
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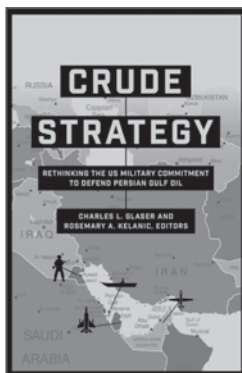
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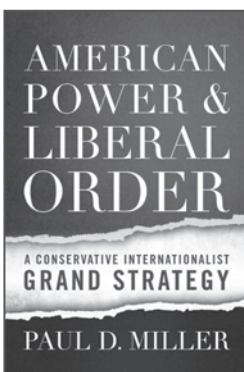
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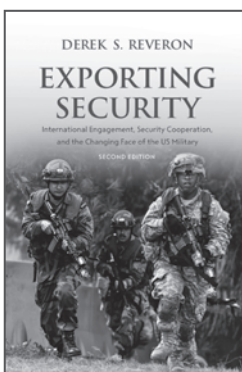
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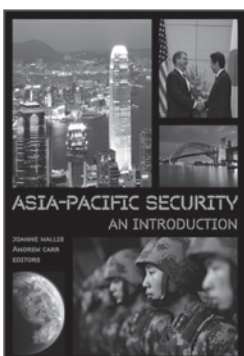
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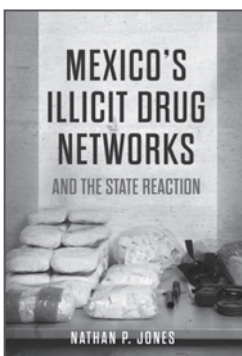
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Corruption - Security: Forging US Strategy

Frank Vogl

Transparency International

Repeatedly, the government of the United States has given insufficient attention to issues of corruption in determining and implementing international security strategies. For example, it has turned a blind eye to widespread abuses of power for personal benefit in the government and military of Pakistan in pursuit of a strategic relationship (between 1947 and 2011, the United States provided Pakistan with over \$67 billion in various forms of aid¹). Or, to take another example, the United States provided another government with a long history of corruption with substantial aid year after year to support strategic goals (between 1948 and 2015, the United States provided Egypt with \$76 billion in aid²).

In *Learning from Iraq* (2013), the final report of former US Special Inspector General for Iraq Reconstruction, Stuart W. Bowen, Jr., details critical lessons that stress that when embroiled in a foreign war, the United States must set processes and seek to build institutions that prevent corruption. The quarterly reports from the office of the Special Inspector General for Afghanistan Reconstruction,³ John F. Sopko, attest to the US and NATO authorities' failure to apply Inspector General Bowen's Iraq experiences to Afghanistan. Bowen understood that major consistent efforts were needed in Iraq to root out corruption in order to enhance security in the country. Sopko agrees, but the practice on the ground in Afghanistan tells a different story. There is no evidence that corruption in the country has been reduced over the last decade.

Bowen argued in the case of Iraq that detailed monitoring of all expenditures and the deployment of sufficient professionals who were experienced for this purpose were essential. Sopko agrees when it comes to Afghanistan. Yet his regular reports tell many stories of insufficient accounting of US aid expenditures and of projects with relatively straightforward goals—such as improving literacy in the Afghan military—whose results have been dismal. The implication is that allocated funds were improperly used.

Like recent books by journalists with long experience in Afghanistan (notably Sarah Chayes' [2016] *Thieves of State: Why Corruption Threatens Global Security* and Carlotta Gall's [2014] *The Wrong Enemy: America in Afghanistan 2001–2014*), Inspector General Sopko's reports suggest that the US authorities in Afghanistan have contributed to corruption significantly. The most recent report, "*Corruption in Conflict: Lessons from the US Experience in Afghanistan*",⁴ documents Sopko's experiences. The inadequate accounting for the enormous funds for "reconstruction aid", which exceed \$100 billion; the failure to strongly support the development of institutions of justice; the acceptance of graft in almost every corner of national and regional government and politics; and the frequent use of presents of cash to obtain short-term security

goals on the ground—all have contributed to securing the country's place year after year at the bottom of Transparency International's Corruption Perceptions Index.⁵

Although the deep ties between issues of corruption and security have been discussed increasingly in recent years at senior levels of the US military and the US Department of State, evidence of acceptance of the idea that curbing corruption is intrinsic to ensuring sustainable security has been scant. In war-riven countries, the prevailing practice is to seek security and stability first and to address justice and governance second—only after those priorities have been attained. For example, Iraq today shows that where the public has no confidence in accountable institutions of security (judiciary, police, and military), stability is a fiction, and corruption abounds. Work to establish anti-corruption processes and institutions that the public trusts must run parallel to military and police efforts to ensure security.

In May 2016, speaking on behalf of President Obama at the London Anti-Corruption Summit, US Secretary of State John Kerry pledged to explicitly address the nexus of corruption and security. At the summit, organized and hosted by former UK Prime Minister David Cameron, the United States issued a statement that included the following:

- The United States will integrate anti-corruption components into training for its security forces deployed to environments with endemic corruption.
- Recognizing that corruption foments instability and drives violence, the United States is committed to tackling the link between corruption and extremism through measures to prioritize corruption in our security assistance and through new focused programming.
- The United States will take steps to conduct assessments on corruption risk during development of security cooperation with foreign security forces.
- The United States will seek to ensure that security sector assistance incorporates, wherever relevant, support in improving security sector governance, to complement the provision of equipment and tactical training.

The United States played an important role in the development of both the London summit communiqué (Anti-Corruption Summit: London 2016, 2016a) and the official declaration (Anti-Corruption Summit: London 2016, 2016b). These documents and Secretary Kerry's statement (United States, 2016) reflect what could be an emerging consensus in the Obama administration. It is critical that the next US administration builds on this beginning to forge a comprehensive US policy that can be widely applied to situations where the US pursues strategic relationships with countries that are widely perceived to have highly corrupt governments.

In part, the US statement presented at the London summit reflects US experience in Afghanistan. It also reflects the increased engagement of Vice President Biden, who has made

several visits to the Ukraine over the last 18 months to publicly warn that failure to counter extensive corruption would risk the loss of Western support for the Kiev government and an increase in the nation's security risks.⁶ At the same time, the United States has quietly pressed the International Monetary Fund to refrain from extending significant financing to Ukraine until evidence that the government is moving to counter widespread corruption is stronger.⁷

The US statement in London also contains important sections on anti-money laundering. One section asserts, "The United States redoubles our commitment to the Financial Action Task Force (FATF), the global standard-setting body for anti-money laundering and countering the financing of terrorism."

Last December, in an unprecedented move, finance ministers—not foreign ministers—filled the chairs of the UN Security Council. Chairing the conference was US Secretary of the Treasury Jacob J. (Jack) Lew, and the topic was terrorist finance.⁸ The US authorities are well aware that terrorist networks operate with organized crime to secure assets and launder cash to support their activities and the purchase of arms. For example, an important link in the chain is the Haqqani network, which has been a major supporter of the Taliban in Afghanistan, is based in Pakistan, and is the leading organization in opium production in Afghanistan and its international distribution from there.

Indeed, over many years, developments on the ground in Afghanistan and Pakistan have shown intense connections between corruption and the support of insurgencies, terrorism, narcotics production, and trafficking. This combination not only has produced a multiyear security nightmare for the people of Afghanistan and for large parts of Pakistan but also has a deadly impact on global security.

Making concerns even more grave is another consideration whose home is Pakistan: the illicit sale of nuclear bomb-making technology. The greatest single crime of the 21st century may well prove to be the sale of vital information by A. Q. Khan, the scientist who led Pakistan's nuclear bomb-making research, and his associates to the governments of Iran and North Korea.⁹ It is improbable that he acted without the knowledge of senior Pakistani government and military officials. He accepted bribes while making the world a more dangerous place. Yet, the United States has never publicly rebuked the government of Pakistan and withheld foreign and military aid. It seems that the United States has tolerated such corruption because it believes that a breach in diplomatic relations would be counterproductive and perhaps because US diplomats are cynical about ever reducing corruption in Pakistan.

In the Cold War era, the United States and the Soviet Union spared no effort to win foreign governments as friends. Foreign aid was seen as a major tool for winning, keeping, and influencing such friends. For example, despite extraordinary corruption in the Congo, the US saw strategic advantage in providing support to President Mobuto.¹⁰

Despite the end of the Cold War some 25 years ago, to no small degree this approach has

Leaders of the US foreign policy establishment must urgently develop a full-fledged approach to the issue of the relationships between security and corruption

prevailed. For example, diplomatic and perceived strategic concerns have been the prime imperatives for significant US aid flows not only to Pakistan—but also, for example, to the former government of Egypt led by President Hosni Mubarak, which was widely perceived at home and abroad to be corrupt. To take another example, Kenya has been engulfed in corruption scandals in recent years, but mindful of security concerns above all, the United States has remained a supplier of aid.

Such approaches to diplomacy and security have increasingly been discredited. In January 2011, public protests against Mubarak exploded in Cairo, and the United States was initially on the wrong side. Opposition politicians in Pakistan have publicly denounced the United States for supporting corruption. More generally, citizens in many countries are demanding far greater accountability from their own governments as information technologies and the growth of nongovernmental organizations combine to document corruption in governments on a detailed and daily basis. These developments make it increasingly untenable for US diplomats to be close to governments whose own citizens perceive as highly corrupt.

Leaders of the US foreign policy establishment must urgently develop a full-fledged approach to the issue of the relationships between security and corruption. In so doing, it must consider that the stability of countries depends not only on basic security but also on good governance. The challenge is difficult in a world where terrorism is a major threat and where deep ties between terrorist organizations, corrupt politicians and public officials, and organized crime are widespread.¹¹

Although no easy answers arise, one thing is clear: The practice by US authorities in Afghanistan today, which fails to place as much emphasis on anti-corruption efforts as it does on short-term military and CIA security actions, is counterproductive and will have additional deadly consequences for citizens in Afghanistan and beyond.



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Political Will - or Political Won't

Professor Emeritus Michael Johnston
Colgate University

In May 2016, the Great and the Good assembled in London for an international Anti-Corruption Summit. Prime Minister David Cameron, hosting the event, was joined by a wide range of officials and organization activists from around the world. Also present were an unspecified number of what Cameron himself, in an off-the-cuff remark to Queen Elizabeth II, had termed, “leaders of some fantastically corrupt countries.” At the end of a string of high-flown speeches, the assembled delegates issued an equally high-flown communique, along with what they called, “the first ever global declaration against corruption.” Actually, it is not the first, but they no doubt adjourned to the capital’s finer clubs and restaurants to congratulate themselves on a job well done.

What is wrong with this picture? Well, not everything: global corruption-control efforts over the past generation and more have had indifferent results at best. More public attention and high-level support, if it is sustained, backed by significant resources, and open to a range of new ideas, might be helpful. No doubt, many of the participants were sincere, as they pledged their support for reform. In his closing remarks, PM Cameron claimed to detect “far more political will—not just from words but from actions—that will make a difference.”

Or so we can hope. Unfortunately, history, and a long list of practical problems, many of them, in fact, reflecting the roles and interests of those self-proclaimed reformers themselves, suggest otherwise. In all likelihood, the great “political will” of London 2016 will end up being yet another case of political won’t.

First, there is the obvious question: welcome to the party, folks, but what kept you? It is true that after a flurry of discussion with a modernization focus in the 1950s through the early 1970s, corruption more or less dropped off the academic and international policy agendas for nearly a generation. A handful of us who have been working on corruption issues since the mid-1970s toiled in near-isolation until the end of the Cold War, and the acceleration of globalization in the late 1980s drew new attention to the topic. In 1993, Transparency International was launched, and by the time then-President James Wolfensohn announced the World Bank’s anti-corruption agenda in 1996, a new reform movement and provocative new streams of scholarship were emerging in many parts of the world. Will the London Summit bring anything new to the table two decades later? Will it take

In all likelihood the great “political will” of London 2016 [Anti-Corruption Summit] will end up being yet another case of political won’t.

advantage of the past twenty-five years' advances in theory, measurement, and reform thinking? Given most top-level leaders' antipathy to scholars and their ideas, and given the reform movement's own tendency to roll out the same ideas again and again, without much regard to local realities, there seems little reason for optimism.

"Political will" is a tempting, but ultimately empty slogan. From an analytical standpoint, it is a matter of intentions and dispositions, both fundamentally unknowable. From an empirical view, it is impossible to distinguish between political will and the results we claim it will produce. Leaders may say they are fully on board for the fight against corruption, but fundamentally we know nothing about their "will" until we see what they actually do. In that regard, one common tactic for claiming a strong will—proclaiming new eras of "zero tolerance"—is generally a good indication that those doing the proclaiming haven't thought through the problems of corruption in any depth. Governing leaders are constrained by circumstances, resources, and the powers and agendas of others. Ultimately that only underlines the fact that "political will", by itself, is rarely, if ever, sufficient.

Many factors influence the actions and intentions of even the best-intentioned political leaders. Policy and political tradeoffs are everywhere. The four- and five-year electoral cycles of democracies are out of synch with the generations-long transformations of institutions, incentives, and expectations, that lasting corruption control is likely to require. Entrenched interests—often, overlapping with the ranks of politicians, bureaucrats, business figures, and generals—may be quite happy with a corrupt *status quo*, thank you very much, and will go to great lengths to protect it. In any event, many of those people do much of their business outside the reach of the law; the only real surprise from the "Panama Papers" is that anyone would be surprised by the scope of wealth, privilege, and impunity on display. More citizens than we might expect believe, or hope, they might benefit too, even if only by getting a few crumbs from the high table, or at least, have seen enough failed morality campaigns to be highly skeptical of the latest round.

Despite all the brave talk about "tackling" corruption, it is not just a particular kind of deviance or institutional malfunction that can quickly be fixed, nor is it usually the doing of a few "bad apples" in an otherwise sound system. In the worst cases, corruption *is* the system. In many others, it operates in international markets and murky cross-border dealings: illegal trafficking in arms, drugs, and human beings. These activities may enrich and enjoy the protection of those leaders of "fantastically corrupt countries" that are often linked to corruption. Despite our fascination with international indices and rankings, corruption is not a national attribute like climate; it arises and can be concealed in all manner of niches and personal connections in specific corners of the state and economy. Naming and shaming may accomplish little: even an utterly venal government can hold a splashy conference, announce "zero tolerance", appoint a blue-ribbon reform commission, and imprison a few alleged fraudsters. Indeed, those sorts of things can be an excellent smoke screen for continued self-enrichment, and a pretext for locking up alleged fraudsters who just happen to be critics of the regime.

Corruption is not one single problem that varies only in terms of more-versus-less, and we cannot control it simply by resorting to "best practices" or anti-corruption "toolkits." What seems to work in

Country A may be impossible in Country B, irrelevant in Country C, and downright harmful in Country D. Indeed, the problem may, in some ways, be worst where it appears to be least threatening. Affluent democracies tend to feature what I have elsewhere called “influence market” corruption, in which access to decision makers and influence over specific decisions, become commodities to be bought, sold, or put out for rent. This is often in exchange for fully legal, publicly-disclosed political contributions. In such systems, unearned economic privileges and unfair advantages can be written into, and enjoy the protection of, laws and public policy. Institutions may enjoy, or, at least, need considerable public trust—parliaments, academe, the professions, science and medicine, and can be quietly undermined and distorted by the influence of wealth. Influence market corruption, in turn, is one more force exacerbating economic and political inequality, while undermining the credibility of democratic and market processes. Worse yet, while many other kinds of corruption are rooted in the exploitation of official roles and powers in specific places, influence market corruption has a way of spreading through global markets. Many of the higher-profile scandals that help give developing countries poor corruption scores originate, and produce illicit bank deposits, in the very countries that led the reform charge in London.

I am not one who reflexively blames the West and its institutions for all of the problems of the developing world. Nor am I under any illusion that mass populist upheavals are the key to better government (we’re looking right at you, Mr. Trump). But events like the London Summit, and indeed much of the established anti-corruption playbook, miss a fundamental point: corruption is not just a problem of rule-breaking, greed, or flawed administrative process. It is a matter of *accountability and justice*: can people govern themselves or, at a minimum, be governed in ways that are fair and just, by leaders whom they can call to account? Can ordinary people articulate and protect their own interests by political means?

Answering those questions in the affirmative requires far more than “tackling” rule-breakers. Much of the larger corruption problem—of the mechanisms of privilege and impunity that comfort the comfortable, while troubling the afflicted—is not only legal, but helps sustain the economies and political frameworks of the societies represented at the Summit, and from the very international system PM Cameron and others claim to be mobilizing for reform.

Still, when it comes to the long-term prospects for reform, I have been accused of being a pathological optimist, and I plead guilty. A number of today’s apparently better-governed societies—the UK, US, Sweden—had seriously corrupt eras in their past. While there is no real way of knowing whether corruption is increasing worldwide—we haven’t even got a settled definition, much less any valid and reliable measures—stated standards of behavior have been on the rise (if, of course, not always enforced) for a very long time. But throughout history, corruption has rarely been curtailed by good-governance crusades. More often, the force originates in broad-based political *contention*—contention over who will govern whom, by what right, using what means and measures, and within what limits. Among other things, that means that real corruption control may have little to do with getting people to “be good.” More often, it is a matter of enabling broad segments of societies to defend themselves, their families, and their property by political means. Reform of that sort will not look like a moral progress toward civic virtue, but rather—as people and groups challenge their

would-be leaders and seek to draw limits around their powers—it will be a lot more messy and acrimonious. To a surprising extent, civic values and the institutions in more fortunate societies work to check abuses of wealth and power, are not the causes of that sort of reform, but rather are among its outcomes. Attempting to transplant them whole into societies where they cannot tap into sustained social energy will be futile.

That process is one I have termed “deep democratization”—not merely the institution of democratic forms and processes, which in fact tends to exchange some forms of corruption for others, but rather, a much broader and deeper process of encouraging and enabling citizens to become their own effective advocates. In the extremely useful formulation of Acemoglu and Robinson, it is the challenge of making regimes less *extractive* and more *inclusive*. It is a process that need not—in fact, cannot—await sweeping systemic transformations, nor does liberal democracy bring it to an end. Even in unpromising circumstances, deep democratization can begin with bringing more voices into the public arena and creating safe, valued space for political and economic participation. *That* sort of change cannot be orchestrated or controlled from above; in many instances, it would make life considerably more uneasy for many of the self-proclaimed champions of reform at the London Summit. Moreover, it places significant burdens and, at times, risks upon ordinary citizens. But it can—and, I believe, even in some surprising places, will supplant political won't with a healthy dose of broad-based, sustained, and visible political will.



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Interview with Raymond Baker

Global Financial Integrity

Would you provide some background about Global Financial Integrity and its mission?

Global Financial Integrity was formed in 2006 for the purpose of addressing illicit financial flows and the impact of such flows, principally on emerging markets in developing countries. There are three sources of illicit money: corrupt, criminal, and commercial. We work to address all three of these.

Your group has performed a great deal of research and analysis on illicit money flows. Would you expand on your work regarding balance of payments?

Countries file balance of payment statistics with the International Monetary Fund (IMF). We study these statistics to look for gaps in the data. This is where the funds that are available to governments do not match up with the funds utilized by governments. It is, in other words, where inputs and outputs don't match and some money has disappeared. This could be the result of a statistical error or it could be the result of a theft of money from government coffers. More often than not, statistical errors are fairly small, only one or two percent. So where we see gaps that are greater than that level, it is suggestive of a theft of government revenues. It is not proven,

but it is an indication of what is not being properly accounted for.

Have you determined dollar estimates of these illicit financial flows?

Our overall estimate of illicit financial flows coming out of emerging markets in developing countries is more than a trillion dollars a year. The bigger part of this results from trade misinvoicing. Misinvoicing does not show up in the balance of payments data, but in the direction of trade statistics that are compiled by the IMF. It is our estimate that of the one trillion dollars a year flowing out of developing and transitional economies, about eighty percent derives from the misinvoicing of trade. The remaining balance of roughly twenty percent represents errors and omissions, as well as imbalances in balance payment statistics.

Would you explain how misinvoicing works?

Let us take the simplest possible example. Suppose a multinational corporation wants to move money out of a developing country and it has imports and exports with its parent company. Now let us suppose it wants to move money out of the developing country, without going through the process of declaring profits and

Our overall estimate of illicit financial flows coming out of emerging markets in developing countries is more than a trillion dollars a year.

dividends, or sending dividend payments abroad. What it can do in its trade relationships with its parent is to misprice trade, either overpricing an import, so that it pays an extra amount to the parent company, or underpricing something it is exporting to the parent, in order to shift value to the parent. It is the over-invoicing and under-invoicing of imports and exports that gives traders the ability to move money at will. This enables the muddying of capital and trade transactions, in order to facilitate the flow of resources out of emerging markets in developing countries.

What are the impacts to developing countries as a result of illicit financial flows?

In my opinion, there is nothing more damaging to developing countries than the loss of massive amounts of revenue that are bleeding abroad. It directly impacts poverty and it is inadequately addressed. It means that the economy does not have as much money in it as it would otherwise have and that governments do not have as much tax revenue as they would otherwise have. Illicit financial flows also contribute to inequality of income and the growth of that inequality. It has all the negative effects that you can imagine from massive amounts of monies draining. And, in most cases, they are drained permanently out of emerging markets and developing countries.

Much of your work centers on data collection, research, and analysis of illicit financial flows. What issues have you experienced trying to obtain good, reliable data for your research?

We take a couple of approaches to this. First, we base our analysis entirely on data filed by governments with the IMF. We also use UN Comtrade data, broken down by countries and commodity groups. However, there can be errors

in this data, such as statistical errors. There can be intentional holes left in the data, and so forth. Imperfections in the data can reduce the level of illicit flows that we measure, or increase the level of illicit flows that we measure. As previously mentioned, we think that if we had perfect data, the data would show more than a trillion dollars are flowing out of emerging market in developing countries. The reason for this is that there are a lot of things not included in the data that is provided by governments to the IMF. For example, cash transactions and across border cash transactions that are used by drug dealers, human traffickers, and counterfeiters, do not show up in official statistics.

Secondly, none of the misinvoicing of services and intangibles shows up in the data because the IMF does not compile data on the trade of services and intangibles. That is estimated to be about twenty-five to twenty-eight percent of global trade.

Furthermore, in the business of misinvoicing, if the misinvoicing is agreed to by the buyer and the seller in a transaction, and that misinvoicing is included in the invoice that is exchanged between the buyer and the seller, it does not show up in our data. The only misinvoicing that shows up in our data, is where it has been re-invoiced. In other words, the seller sends the invoice to, for example, a tax haven entity, which re-invoices at a higher or lower amount and sends the invoice onto the buyer. But where the misinvoicing is agreed to, between the buyer and the seller, and it's simply the original invoice is manipulated, this also does not show up in our data. So there are a lot of elements of both the corrupt departmental and the commercial components that don't show up in our data. We believe that if we had better data on those, the numbers would be considerably higher.

Since Global Financial Integrity was founded, what traction have you seen in international recognition of the issues and also steps to combat them?

When my colleague Tom Cardamone joined me in this endeavor in 2006, we went through a lengthy conversation as to what we would call this phenomenon that we're dealing with. In a book that I had written (*Capitalism's Achilles Heel: Dirty Money and How to Renew the Free-Market System*), I called it "dirty money." We agreed not to call it "dirty money", however. So we went through a lot of combinations and permutations and finally decided to call this phenomenon, illicit financial flows. It took us about five years to get that terminology into the media and to get it to be used.

Over the last five years, it has exploded to the extent that now the entire global community has signed on to addressing the issue of illicit financial flows. So we've gotten the issue on the table. One hundred ninety-three nations signed onto addressing this issue in the Sustainable Development Goals (SDGs) and there was the adoption of the Financing for Development outcome document. We have gotten the issues into the thinking of a lot of organizations, such as the United Nations, the OECD, and the World Bank. Each of those institutions is at various levels in progressing with these issues, as well as the entire world recognizing that this phenomenon is a reality and has to be dealt with.

What do you view as the major challenge moving forward?

The challenge now is to take the steps necessary to curtail these flows by putting teeth into the business of curtailing illicit financial flows. Since the adoption of the sustainable development goals and the Financing for Development

outcome document, there appears to be some uncertainty as to what comes next. There needs to be concrete steps that governments take to curtail these flows. There are some steps being taken now, but there needs to be a great deal more focus on this in the immediate months and years ahead.



Raymond Baker is the President of Global Financial Integrity and the author of *Capitalism's Achilles Heel: Dirty Money and How to Renew the Free-Market System*. He has written and spoken extensively, testified often before legislative committees in the United States, Canada, the European Union, and the United Kingdom, been quoted worldwide, and has commented frequently on television and radio in the United States, Europe, Africa, Latin America, and Asia on legislative matters and policy questions.

Mr. Baker founded Global Financial Integrity in 2006, and the GFI team has produced more than 25 economic analyses of resource transfers affecting countries, regions, and the world. GFI has led in securing the terminology and the reality of illicit financial flows onto the global political-economy agenda. He also serves on the Board of Directors of the Center of Concern, on the Policy Advisory Board of Transparency International-USA, and on the Advisory Board of the Ethical Research Institute. He also serves on the World Economic Forum's Meta-Council on the Illicit Economy.

Interview with Jessica Tillipman

The George Washington University Law School

Developing countries face special issues, challenges and constraints to develop effective anti-corruption campaigns. What areas present the most problems for them? What measures/methods can be put into place to mitigate potential pitfalls?

No two developing countries are the same. While there are common threads among developing countries that contribute to corruption, or contribute to the drivers or causes of corruption, each country has such different dynamics, it is impossible to say there's one particular cause.

I want to point out that you often hear people saying things like, "corruption is a way of life in that country" or "they just have a culture of corruption." However, I am a big believer that there is no such thing as a "culture of corruption." Yes, corruption is very common in certain countries, but it is not a cultural thing. There are factors that have contributed to corruption in developing countries, but when people say, "corruption is a way of life", it really undermines the role of the average citizen in these countries. It is difficult to imagine that an average citizen wakes up every day and says, "I hope I get extorted today" or "I love paying these bribes." Most citizens don't want to pay a bribe. Factors have made corruption prevalent in these countries, but it's not the average citizens themselves.

At the same time, there are some common threads in developing countries concerning corruption. One of the primary factors is a weak rule of law. Although many developing countries

have strong laws to prohibit bribery and strong enforcement agencies to prosecute individuals or companies accused of corruption, enforcement is weak or non-existent. Without enforcement, the laws are pretty meaningless. In many developing countries, civil society will try to work with government officials to strengthen anti-corruption laws, but without enforcement, political will, capacity-building, and other tools to assist with the enforcement of the laws, these efforts don't go anywhere. Notably, this problem is not limited to developing countries. For example, Australia has their own version of the FCPA (Foreign Corrupt Practices Act), but they rarely enforce it.

Another driver of corruption is overregulation or government control over services that are in high demand. For example, in some countries, it is common for the government to control hospitals, where people are asked to pay bribes to receive care. This is a very common theme when the government controls certain resources and there is a weak rule of law. Often, officials act with impunity. They know that they can demand bribes and accept bribes without being punished for it.

Another issue that contributes to corruption in developing countries is low civil servant salaries. If civil servants do not make enough to care for themselves and their families, they will be more likely to demand or accept bribes.

Lack of transparency is certainly a common theme in many developing countries. In the US, we talk a lot about the importance of transparency in our laws. But in many developing

countries, transparency is nonexistent, so the average citizen, media, and civil society don't have access to information.

The lack of political accountability in many of these countries speaks to the impunity issue of civil servants but also to a lack of accountability with political actors. If they're going to stay in power because voting is ineffective, it perpetuates the cycle of corruption.

These are a few of the biggest factors that drive corruption in developing countries. Again, it varies from country to country depending on what the particular issues are in that country.

Do you view anti-corruption efforts being more effective through more of a bottom up or top down approach?

Again, it depends on the country. A bottom up approach is important because you want something coming from the citizenry, but if there is a nonresponsive government, that's a big constraint. I'm fairly confident that most citizens of Russia would not want to live in a country with corruption issues, but they can do very little. The same goes for China.

One of the interesting things about the Panama Papers is that there was an immediate reaction in countries with a free media. Then there is China, who censors the media. As a result, there was no reaction from Chinese officials or citizens. It is the same in Russia where Putin just dismissed the Panama Papers. You can have some action from citizens but the government must provide access to information and show support.

If it is just a top-down approach without engagement from the citizens of a country, that is difficult, too. The government must obtain buy-in

from all of the stakeholders: the government, civil society, media, and citizens.

The Foreign Corrupt Practices Act of 1977 (FCPA) was enacted “for the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business.” Would you describe its elements (including amendments)? How effective has it been to date?

The FCPA has been around since the late '70s. It stems from the Watergate investigations when the government discovered that some oil companies and government contractors were bribing foreign government officials. The FCPA was the government's response to this discovery—it did not want our largest multinational corporations to travel around the world, bribing foreign government officials.

The FCPA has two sections. The first prohibits the bribery of foreign government officials. It only prohibits the paying of bribes to foreign government officials; it does not prohibit the receipt of bribes. As you can imagine, if US prosecutors routinely attempted to prosecute foreign officials, it could have severe political and diplomatic implications.

The second section of the FCPA is the books and records/internal control provisions. Congress crafted these provisions because they not only wanted to prohibit the bribery of foreign government officials, but also wanted to ensure that companies could not hide bribes in off-the-book accounts and slush funds by disguising or concealing them in their accounting books and records. Congress also wanted to ensure that companies had controls in place to prevent bribery, as well as measures in place to

remediate corrupt activities once detected.

Many times, the two sections of the FCPA work in tandem. The Department of Justice (DOJ) can work with the Securities and Exchange Commission (SEC) to take action against companies for violating both sections. However, they don't have to work together. Sometimes there will be an anti-bribery prosecution or just a books and records prosecution. In fact, it is far more common these days to see a books and records, and internal controls enforcement action. This is because it is often easier to find evidence that a company's books and records are inaccurate or internal controls are weak, than to prove that a company paid a bribe to a foreign official.

For several decades, the US enforced the FCPA but not very robustly. It was difficult for the Department of Justice and the SEC to build foreign bribery cases. Around 2004, after the passage of Sarbanes-Oxley and following the Enron scandal, companies began voluntarily disclosing violations of securities laws. Voluntary disclosures essentially gift-wrapped FCPA cases to the government. Naturally, the increase in voluntary disclosures led to an increase FCPA enforcement actions and settlements. Companies would conduct their own internal investigations and report the findings to the government.

The increase in voluntary disclosures also coincided with increased US and global anti-terrorism efforts. Around this time, there were also changes in leadership within the Justice Department that made FCPA enforcement a priority. In response to increased enforcement actions, companies began changing the way they conducted business abroad.

Around 2008, the US government settled an FCPA enforcement action with Siemens, which

remains the largest FCPA enforcement action (and settlement) to date. The expansive nature of the Siemens enforcement action (coupled with the settlement amount) showed companies that the government was serious about these cases and would go after major household names. It was excruciatingly expensive: \$1.6 billion in fines and penalties with \$800 million going to the US government and \$800 million to German authorities. This figure was in addition to the billion dollars that Siemens spent investigating allegations internally and the ongoing fees the company had to pay to US and German corporate monitors.

After the Siemens case, we saw a noticeable shift in corporate behavior. While some companies in highly regulated industries (i.e., government contractors) were generally aware of the FCPA, most commercial companies had not even heard of the statute. After Siemens, companies started to invest in ethics and compliance programs, and changed the way they conducted international business transactions.

Another factor that increased the number of FCPA enforcement actions was the Justice Department's increased use of deferred prosecution agreements and non-prosecution agreements. After Arthur Andersen was indicted and ultimately convicted of obstruction of justice during the Enron scandal, the thought was (and still is today) that a corporation couldn't be indicted/convicted without putting the company out of business. So, the government began using Deferred Prosecution Agreements (DPAs) and Non-Prosecution Agreements (NPAs) to settle many white collar enforcement matters. DPAs and NPAs are effectively settlement agreements where the company agrees to take certain steps, such as implementing robust compliance requirements, paying fines, and firing certain employees, in exchange for the government's promise to defer or decline to prosecute

the case. If a company adheres to these requirements for the term of the agreement, then the company may avoid prosecution. The agreements have provided companies with some level of comfort and certainty when negotiating with the government, while simultaneously enabling the government to settle a greater number of enforcement actions.

A number of countries that have had difficulty prosecuting foreign bribery cases do not have similar settlement mechanisms. Some countries are now investigating whether they can integrate DPAs and NPAs into their criminal justice systems. For example, the UK is already using DPAs and other countries, such as Australia, are discussing it as well.

Over the past 15 years, the United States has worked with other countries to improve global anti-corruption enforcement. When the FCPA was passed in the late '70s, the US was alone in the world in its attempt to prosecute foreign bribery. In fact, until recently, many countries considered bribes to be tax deductible. After passing the FCPA, the US government spent the next several decades lobbying the world to pass similar laws. Ultimately, this resulted in the OECD Anti-Bribery Convention which obligated countries to enact and implement FCPA-like laws. Subsequently, many have done so. Eventually, similar treaties were enacted, such as the United Nations Convention Against Corruption (UNCAC).

In recent years, we have seen increased efforts in other countries to ramp up the enforcement of their foreign anti-bribery laws. For example, enforcement in Canada, the UK, Germany, and Switzerland has been more robust. The “active” countries are pushing other countries to ramp up their enforcement as well.

Over the past eight years, we’ve seen a seismic

shift in views regarding compliance programs. The DOJ and SEC have released guidelines which outline the “hallmarks” of an effective compliance program. This guidance mirrors what we are seeing around the world. We now say that there is an emerging “global” anti-corruption compliance standard for companies promoted by organizations such as Transparency International, the World Bank, the United Nations, and the OECD. The UK Bribery Act developed similar guidelines regarding what is expected of companies that operate multi-nationally.

As part of the Department of Justice Fraud Sections’ FCPA Enforcement Plan and Guidance, a Pilot Program has been launched to promote and facilitate voluntary disclosure of FCPA violations. Since the launch, DOJ has released two declination letters for Akamai Technologies and Nortek, Inc. and the SEC announced disgorgement settlements. What are your thoughts on the program and prospects for its success?

I view the pilot program as simply memorializing an existing DOJ policy. As discussed, DOJ has been encouraging companies for over ten years to disclose violations voluntarily. However, companies could not see the benefit in disclosure as disclosure would often result in huge fines and penalties. Without clarity from the government, companies failed to see the benefit in coming forward when there was a chance the government might not find out about the misconduct.

So, in recent years, the government has tried to be very clear about what that benefit is. Often, in a settlement with a company, the government will outline the steps that it took to determine fines and penalties. If the sentencing guidelines calculated the penalty as X, a company, by voluntarily disclosing the illegal

activity, remediating issues, and undertaking certain compliance obligations, would see a considerable reduction in their fines. While companies certainly appreciate reduced fines, the benefit of disclosure has not always been clear.

The pilot program has memorialized the government's policy towards full cooperation, voluntary disclosure, and remediation. If a company takes certain steps, they will receive a reduction in fines or even potentially a declination. Companies are not eligible for the same type of discount or declination if the government initiates an investigation and then the company cooperates. Companies must proactively disclose violations and cooperate with the government to receive a benefit.

So, the recent declinations have not been surprising. The companies were good candidates for the pilot program given their disclosures and the facts of the particular cases. It is good that they resolved those cases fairly quickly because companies and FCPA attorneys frequently complain about the length of FCPA investigations. The government is trying to prove to corporate America and other critics of the FCPA that they are not only serious but able to provide an example of what to expect under the program.

How should government contractors establish an effective ethics and compliance policy?

Today, government contractors must follow the same or similar best practices as the commercial sector. Although, as a highly regulated industry, government contractors have greater compliance obligations than the commercial sector, the best practices are quite similar. One difference is the mandatory versus discretionary nature of

government contractor compliance programs. Whereas ethics and compliance is critically important in the commercial sector, developing an ethics and compliance program is not required by law. Conversely, the Federal Acquisition Regulations require government contractors to implement an ethics and compliance program. If you're a contractor of a certain size performing a contract of a certain amount, you must have an ethics and compliance program in place in order to be eligible for a US government contract. Although it is legally required for government contractors, one would argue that if you're a large multi-national US (commercial) corporation without an ethics and compliance program, that is not a good practice and potentially exposes a company to significant liability.

On the commercial side, having a good ethics and compliance program is a part of being a good corporate citizen. It is rare that you see very large US-based multi-national companies that have not invested in ethics and compliance. Because of FCPA enforcement, US multi-national companies are aware that they need to invest in compliance. Not only does it help prevent corruption, it also can help mitigate the consequences of corruption if discovered.

In recent years, we have seen the development of a global anti-corruption compliance standard. There are some variations in the rules relating to government contractors, but it is basically a reiteration of the same best practices that commercial companies should follow.

What are your reflections on the Panama Papers and what are the impacts on anti-corruption efforts going forward?

I think it has had a tremendous impact on the organizations that have been calling for the disclosure of beneficial ownership information for

The Panama Papers have served as an impetus for change around the world and, most recently, at the Anti-Corruption Summit in the UK

quite some time. The Panama Papers exposed individuals and companies that had been hiding assets and beneficial ownership information for a variety of reasons, such as trying to avoid taxes, attempting to conceal illicit activity, or even trying to hide assets from divorce proceedings.

One of the easiest ways for individuals who have benefitted from corruption to hide assets is through off-shore anonymous companies. In these cases, one anonymous company can transfer funds to another anonymous company and it is very hard to follow where the money has actually gone. A very difficult aspect of anti-corruption prosecutions is following the money because of the protections afforded to these off-shore anonymous accounts. Though, to be clear, it is pretty easy to hide assets and establish anonymous shell companies in the United States as well.

Groups like Transparency International, Global Integrity, Global Financial Integrity, and OXFAM have been pushing for years to establish global registries which would require companies to disclose beneficial ownership information. The release of the Panama Papers validated what these organizations have been arguing for a long time—that this is a serious problem and it needs to be remedied. The Panama Papers have served as an impetus for change around the world and, most recently, at the Anti-Corruption Summit in the UK. We have also seen a reaction in the United States, where policies regarding beneficial ownership have been discussed.

The Panama Papers also disclosed a lot of

information about people who have been hiding money for years, some perfectly legally, some not so legally. One of the interesting things about the Panama Papers is that the reaction from countries in which citizens have access to information and a free media was vocal and immediate. In Iceland, the Prime Minister had to step down and David Cameron experienced significant criticism for his father's off-shore trust in Panama. As I mentioned earlier, there was little to no fallout in countries like China and Russia where media is censored, civil society is weak, and citizens have little recourse.

An important outcome from the Panama Papers is that they have given prosecutors and investigators a roadmap to trace funds, companies, and records that may lead them to illegal activity. Some of the individuals involved in the FIFA scandals were mentioned in the release of the Panama Papers, so that will certainly be helpful to the US prosecution. Although the Panama Papers have had a positive impact on the global fight against corruption, there is still a long road ahead and I don't foresee prosecutions in the near future.

Any final thoughts?

We have entered an interesting period in the global fight against corruption. We have seen several recent policy pronouncements from the US government over the past year: not only the Pilot Program, but the Yates Memorandum as well. The "Yates Memo" has identified the prosecution of individuals as a priority for the Justice Department. Most FCPA cases involve

companies, so it will be interesting to see if the government continues to increase the number of individual enforcement actions. While corporations can pay fines, in order to truly deter individuals from paying bribes, they have got to go to prison.

The other important issue to watch is the prosecution of the demand side of corruption. Someone once used this analogy to describe the lack of “demand side” bribery enforcement: your house is on fire, and while you are trying to put out the fire in the front of the house with water, someone is pouring gasoline on the back of the house. In other words, although combatting corruption through the prosecution of the supply side of bribery is helpful, until officials address the demand side, corruption will remain a serious issue. The failure of countries to prosecute their own officials for demanding or accepting bribes makes it incredibly difficult for multi-national

companies to do business abroad. One way to improve this issue is to increase capacity-building efforts in countries that need to boost their domestic bribery enforcement capabilities. Since bribery is not legal in any country, governments in developing countries must ramp up enforcement of their own anti-corruption laws. They must start prosecuting their own foreign officials who are demanding these bribes. Once you actually see an effort on that end, I think we’ll start to see tremendous progress in the global fight against corruption.



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Prior to joining GW, she was an associate in Jenner & Block's Washington, DC office, where she was member of the firm's Government Contracts and White Collar Criminal Defense and Counseling practice groups. Dean Tillipman joined Jenner & Block after serving as a law clerk to the Honorable Lawrence S. Margolis of the US Court of Federal Claims. Dean Tillipman is a Senior Editor of the "*The FCPA Blog*"—a leading Foreign Corrupt Practices Act resource on the internet. She has also published numerous articles on anti-corruption, white collar crime and government contracts topics, including the Foreign Corrupt Practices Act, domestic corruption, compliance, suspension and debarment, and government ethics.

Her legal commentary has been featured in numerous international media outlets, including CNN, ESPN, The Washington Post, Slate, BuzzFeed, and the Associated French Press.

Dean Tillipman is a member of the bars of the United States Court of Federal Claims, the state of Virginia, and the District of Columbia. She graduated cum laude from Miami University (Oxford, OH) in 2000 and obtained her JD, with honors, from The George Washington University Law School in 2003.

Interview with Dr. Julio Bacio Terracino

Organization for Economic Co-operation and Development (OECD)

“Corruption” has been defined in a number of ways and, ‘on the ground’ the definition may vary from country to country. How would you define it?

I would not dare to provide a definition.

Corruption changes between societies and even within a society in different time periods. I value the approach taken with the UN Convention against Corruption, which in fact does not provide a definition, but lists all the possible acts that may be considered corruption. It is then up to countries to define, through their legal frameworks, what they consider corruption in their particular contexts.

What roles and influences does the OECD provide regarding anti-corruption efforts?

The OECD has been playing a major role in anti-corruption efforts for more than two decades. The data and policy lessons developed by the OECD regularly inform national anti-corruption policies and practices. The OECD countries have developed a wealth of anti-corruption knowledge that they share among themselves, as well as with non-members to learn from each other and

avoid reinventing the wheel and making similar mistakes. Most importantly, the OECD, with its more than 200 committees, has the capacity of linking anti-corruption discussions to other policy issues. This is how corruption takes place in the real world, not in an isolated way, but always in connection to a contract, a license, or in a sector such as health, etc. All this, in addition to the OECD convention on the bribery of foreign public officials in which the OECD literally changed the rules of the game.

Would you briefly explain the correlation between corruption and human rights?

On this front, there are some interesting discussions, such as whether there is a right to a corruption-free society, or whether we need an international court against so-called, grand corruption. I would not go this far, but the correlation between corruption and human rights is there and straightforward. Plain and simple, corruption has a detrimental impact on human rights. When funds for health or education disappear due to corrupt deals, the human right to health and education may be impaired. The same can be applied potentially to all human

When funds for health or education disappear due to corrupt deals, the human right to health and education may be impaired. The same can be applied potentially to all human rights if countries do not ensure peoples’ enjoyment of human rights due to corruption.

rights if countries do not ensure peoples' enjoyment of human rights due to corruption.

What progress has been made in controlling public procurement corruption?

There has definitely been progress in addressing corruption in public procurement. As a minimum, there is now widespread recognition of the risks of corruption in public procurement. This was not the case two decades ago. Yet, while awareness of these issues has grown, much remains to be done. It is key to apply integrity and transparency policies and practices that will prevent corruption in the whole procurement cycle, and not only in the contract award/bidding phase. The pre and post award phases remain the weakest points in the process.

OECD's recent publication, *Financing Democracy: Funding of Political Parties and Election Campaigns and the Risk of Policy Capture*, found that political finance (public and private) is in need of better regulation. What can international groups such as OECD do to steer positive change in countries' political finance practices?

The financing of political parties and election campaigns remains an area where much needs to be done. It is extremely complex, and at its core lays the fundamental right of people to participate in democratic processes, as well as support any party or candidate of their choosing. But when money is used to capture public policies, so the policies favor only those that had the means to finance political parties and election campaigns, then we face a major failing of the political process. This is not new, but the realization of the extent is, perhaps due to the increase in inequality in most societies, combined with a more vocal civil society. The OECD is supporting countries that wish to reform

their political finance system with data and policy lessons on effective measures. As always there is no one solution. There are several tools available, such as increasing public funding of election campaigns, reducing private funding, or strengthening the electoral body, to name a few. A delicate balance of different regulations and practices is needed to ensure that there is no restriction of the right to participation in the political life and the integrity and transparency of the political finance system.

How can we ensure sustainable progress in the fight against corruption?

It is time to step up the efforts and challenge societal cultural issues around corruption. Involving the whole of society is a necessary condition to make progress. The anti-corruption agenda has focused, perhaps too narrowly, on the public and private sectors, and only indirectly on individuals. Addressing the role that individuals may play by directly participating in corrupt acts, or simply tolerating it, has to be part of the equation. Yes, this may require a change of culture. The OECD is currently finalizing a major undertaking in the area of anti-corruption to develop a public integrity strategy based on a cultural change. The process, which took two years and involved all OECD member countries, has resulted in a new OECD Recommendation on Public Integrity which provides a strategic approach to anti-corruption, and brings together all pieces to provide a systemic response to corruption.

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Interview with Professor Louise Shelley

George Mason University

Would you briefly explain the intersection of corruption, crime, human trafficking, and terrorism discussed in your book, *Dirty Entanglements*?

The book was finished in November 2013 (published in 2014) and it turned out to be very prescient. It concluded that two of the greatest threats that we were going to have in the near future were a terrorist type crime group out of Iraq and Syria, and a similar phenomenon coming out of Mali. The Iraq-Syria version of this is ISIS and what we have seen out of Mali's surrounding area is the rise of Boko Haram. They are both terrorist groups that are heavily dependent on criminal activity for their survival. What led me to this conclusion when other people did not see the rise of ISIS, was that they did not see how it could grow and fund itself through crime.

With the decline of state support for terrorism, terrorism was being increasingly funded by illegal activity from illicit trade, with some additional funding from other forms of criminal behavior. Therefore, we were no longer going to be seeing crime and terrorism as distinctive but as associated phenomena. I also saw that this close

association was going to occur in regions of great instability in which there was no functioning state providing service to the inhabitants where there were large numbers of unoccupied or underemployed men with no opportunities for themselves. So it is these conditions that led me to these major conclusions of *Dirty Entanglements* on the locale of new and emerging potent terrorist groups.

There is a chapter in the book on the Business of Terrorism and another on The Underpoliced Areas of Criminal Activity. In both of them, I assert that terrorism functions like a business. Therefore, criminals and terrorists are going to go into areas with high profits and lower risks. Many of these areas are ones that are underpoliced in which nobody is really looking to control the criminal activity. It is in these activities that terrorists are now deeply engaged.

I have been asked twice to testify on this topic for the Homeland Security Committee including their Task Force on Terrorist Financing. Recently, I was on an investigative TV show of German public broadcasting. They approached me as a result of finding my Congressional testimony online. What they have been finding through their

What we are seeing is that funding terrorism in Europe is totally different from the terrorism that supports ISIS in the Middle East.

months-long investigations of terrorism funding in Europe is that it is going on in the areas of activity that I mentioned in the chapter on underpoliced criminal activity that I also identified in my Congressional testimony. What we are seeing is that funding of terrorism in Europe is totally different from the terrorism that supports ISIS in the Middle East. It is being supported by counterfeit trade that goes on in public markets and by importation of illicit cigarettes and other low-level criminal activity. Some of this trade is done through online transactions as these terrorists order products to sell in street markets. Because European law enforcement is not looking at this petty illicit trade nor at the network of structures of terrorists with criminal pasts, they are missing the criminal activity that is providing so much funding to terrorist groups. These European terrorist groups do not need huge amounts of funding to operate in Europe.

So, even though the book is two years old, it is becoming more relevant, not less relevant.

An issue that you have pointed out is that, by not looking at the connections among these problems, the work of enforcement agencies has been affected.

Absolutely. In the US, some of our largest police departments such as in New York and Los Angeles are very good at connecting the terrorism and crime links, and there are increasing efforts in the rest of the United States to do this. But ISIS recruitment in the US is not as targeted at criminals as it is in Europe. Ninety-five percent of the terrorists in Europe who have participated in terrorist acts or are part of supporting networks have criminal backgrounds. That is because of who ISIS is targeting. In Europe, ISIS is targeting individuals with criminal pasts but they seem to have a different profile for those they are targeting in the United

States. Even though ISIS is not directly recruiting criminals in the US, there is still much use of criminal activity in the US to generate funds for many different terrorist groups operating internationally.

You have stated that, on a certain level, some of us are actually complicit in terrorist funding and allowing it to be sustainable.

When people buy goods that they know are illegal: cigarettes at half the price, counterfeit DVDs, counterfeit sneakers, when they are paying a small part of the price of what a legitimate product is, then they know that there is something wrong. Most buyers are aware that they are not buying a genuine item. They are also not buying something governed by the rules of trade as these products are often not sold in normal stores. It is locales with unregulated markets and/or counterfeit products that are the source of much of the funding generated in the United States for terrorism overseas.

How are these issues affecting economic development in developing countries?

That is a complex topic. I recently met with a group of Tanzanians who are responsible for fighting poaching in wildlife, especially elephants. They wanted to learn about network analysis, following the money, understanding the networks. If many of the elephants disappear from the parks in Tanzania, it has a critical impact on tourism which is a major foreign currency source for them. Yet, many elephants are going to China which is providing much investment capital to Tanzania. So there is a trade in these elephants that helps support some of the development capital that is coming in. It is a very complex issue that impacts development in different ways.

Another issue that we are looking at is in antiquities that are being stolen from Iraq and Syria. Seeing antiquities and visiting ancient communities and sites were a major rationale why tourists came to Syria. Apart from the destruction of cultural legacy by the looting, if you also destroy this cultural heritage, you are destroying one of the important drivers for economic development. Not only will the tourists not come in the future when there is peace but the jobs and the employment that comes along with the tourism industry will not be created.

What would you prescribe for tackling issues that you have identified in *Dirty Entanglements*?

There is a lot that can be done. Countering dirty entanglements requires a very diverse approach that is not just a military strategy. The way we have been attacking ISIS's oil fields through a military approach is just one piece of the puzzle.

Understanding illicit trade and its role is an important aspect. There are many parts of the international business community that are involved in transporting things that they should not be. There needs to be much greater engagement with the private sector. This is not only because the private sector needs to monitor what it is doing more, but businesses also notice trade anomalies. In my research, I have heard many examples of business leaders in the private sector bringing trade anomalies to the attention of governmental authorities when they were convinced that specific incidences of illicit trade were linked to terrorism. A mechanism for governments to use and respond to these insights was not available.

In the United States, we keep saying we need to attack these problems with a whole of government approach. There need to be

ways developed to foster a "whole of society approach" to terrorism that incorporates the skills and insights of business, civil society and journalists. We also need to encourage citizens to be responsible consumers and not buy things that are suspiciously cheap. It is these items that help support criminal and terrorist networks. There is a role for many different participants in our society, not just for government to oppose terrorism.

We've discussed a few regional terrorist trouble spots that were identified in *Dirty Entanglements*. Are there currently any hotspots that are not receiving enough attention?

I think we need to be thinking more about megacities and their problems as more and more people gather in concentrated urban areas that do not have the resources for them. We are also not looking enough at hotspots in Latin America, Africa, and the South China Sea area, which have always been a contentious area with a long, strong history of piracy and illicit activity that continues today. Instead, our focus is mainly about the Middle East. For example, in Venezuela, we are focusing on their political problems and leadership, but there are also many more other problems and linkages with crime, terrorism, and corruption.

Since the collapse of the Soviet Union, traceability and recovery of nuclear material has been a concern. How considerable does this problem currently exist?

A lot of the nuclear materials that were in the Soviet Union have been controlled. There is not one hundred percent control but there has been progress in that area.

However, there are other pieces of the problem

that we are not paying enough attention to. There are individuals involved in trafficking nuclear components or radiological materials from the former Soviet Union who have become entrepreneurs in the uranium industry.

Some Russians have bought uranium mines in Australia. These same groups are active in Africa and it is not clear who their customers are and what they plan to do with this material.

We are not just looking at a problem that exists within the confines of the Soviet Union. Some individuals involved in high-level corruption involving WMD, for example, former Russian Atomic Energy Minister, Yevgeny Adamov, had global linkages. Indications are that corrupt and criminal networks around him may be involved in other areas of the world where there are uranium mines and where they may be trafficking in uranium to what we would call rogue states.

You have found that corruption in the US was actually related to the success of the 9/11 attacks. Would you expand?

There are quite a number of examples in which low-lying corruption in the United States helped facilitate the attacks. A key example is that perpetrators of 9/11 got on the airplanes with driver's licenses that they should not have had. The reason they had them is because there was corruption in the Motor Vehicles Division in Northern Virginia. I knew about this problem in the late 1990's because I was working on human trafficking training with law enforcement from immigration. They were saying, "we're so busy working on deportation of people who have come out of prison for homicide and very serious offenses, that we do not have time to look at low-

There are quite a number of examples in which low-lying corruption in the United States helped facilitate the [9/11] attacks.

lying corruption that is in our local DMV where driver's licenses are being given to many people who should not have them. There are busloads of illegal migrants who, because of corrupt links between human smugglers and employees of the DMV, are getting driver's licenses that allow them to be able to work." The terrorists benefitted from this to get their driver's licenses.

The corruption was reported in the press after 9/11 but nobody really grasped the implications of this information. But if the INS investigator had not been told to ignore this low-lying corruption, then there would not have been this facilitating mechanism for the 9/11 hijackers.

Are you working on a new book?

Yes. The book will be about illicit trade and how it has changed over time. I am analyzing what has changed in large-scale illicit trade and why it is more diverse and more harmful to human life and the sustainability of the planet than before. It examines the illicit trade in many different environmental products as well as carbon credits that are supposed to mitigate climate change. It will also examine how illicit trade has gone online and how the virtual world has allowed illicit trade to scale in a way that's not been known previously.



Dr. Louise Shelley is the Omer L. and Nancy Hirst Endowed Chair and a University Professor at George Mason University. She is in the Schar School of Policy and Government and directs the Terrorism, Transnational Crime and Corruption Center (TraCCC) that she founded. She is a leading expert on the relationship among terrorism, organized crime and corruption as well as human trafficking, transnational crime and terrorism with a particular focus on the former Soviet Union. She also specializes in illicit financial flows and money laundering. She is presently an inaugural Andrew Carnegie Fellow writing a book on illicit trade and sustainability under contract with Princeton University Press.

Dr. Shelley is the author of: *Dirty Entanglements: Corruption, Crime and Terrorism* (Cambridge University Press 2014), *Human Trafficking: A Global Perspective* (Cambridge 2010), *Policing Soviet Society* (Routledge, 1996), *Lawyers in Soviet Worklife and Crime and Modernization*, as well as numerous articles and book chapters on all aspects of transnational crime and corruption.

From 1995-2014, Dr. Shelley ran programs in Russia, Ukraine and Georgia with leading specialists on the problems of organized crime and corruption. She has testified before the House Committee on International Relations Committee, the Helsinki Commission, the House Banking Committee, the Senate Foreign Relations Committee and the Task Force on Terrorist Financing and Homeland Security on transnational crime, human trafficking and the links between transnational crime, financial crime and terrorism. Professor Shelley served on the Global Agenda Council on Illicit Trade and Organized Crime of the World Economic Forum (WEF) and was the first co-chair of its Council on Organized Crime. Professor Shelley is also a life member of the Council on Foreign Relations and is a member of the Global Initiative on Transnational Crime.

Corruption: Is the Right Message Getting Through?

Dr. Caryn Peiffer
University of Birmingham

A few years ago, Cote d'Ivoire's government erected striking black and orange billboards around Abidjan that carried messages like "It destroyed my region" and "It killed my son." The plague the government was trying to raise awareness about was not disease, poverty, or even war; it was corruption (A.R., 2013). The awareness-raising agenda now has a prominent role in many anti-corruption programs. Anti-corruption billboards and posters appear in major cities across the developing world, usually less cryptic than Abidjan's, and they are just the tip of the iceberg. Anti-corruption sessions feature in secondary school curricula. Anti-corruption-themed pop music and events sing out in lyrics and act out on stage the ways people can resist corruption and limit the damage it does. In some countries, even the youngest children are not overlooked; on a trip to Fiji, a couple of years ago, I was given a few cute anti-corruption cartoon bookmarks that were being distributed by the anti-corruption commission to primary school students.

Those hoping to fight corruption craft many of these messages, but, in an environment wherein the press enjoys some freedom, there will also likely be headlines to read that cover high profile corruption scandals, news stories that report on the government's efforts to control corruption, or, of course, the salacious coverage of when a politician publicly brands another politician with the scarlet letter "C". Speaking of the news coverage in Indonesia, Widjayanto, a Professor at the University of Paramadina commented "Nowadays, if you open the newspaper, if there are 10 stories, then 11 will be about corruption" (Kuris, 2012: 19).

While various types of "corruption messages" are being pushed out, it remains unclear what impact they are having. The preliminary findings from recent Developmental Leadership Program field experiment I conducted reveal that messages about corruption and anti-corruption may have profound, intended and unintended influences on people's perceptions of their corruption environment and their political behavior.

Experimenting with messages

Last summer, using a tightly designed household survey experiment, I exposed subsets of respondents in Jakarta to four different messages about corruption (and did not expose another "control" group to any message at all). One message explained how and where ordinary citizens could report corruption and involve themselves in other ways in the fight against corruption (*Civic Engagement*). Another touted recent achievements that the government had made in controlling corruption (*Government's Success*). The third described cases of elite

level corruption, and is closest to the type of message one receives from news coverage of high profile corruption scandals (*Grand Corruption*). The final message listed details about the prevalence of bribery and other local level corruption (*Petty Corruption*); those details were sourced from Transparency International's Global Corruption Barometer Survey's statistics.

After reading their respective message (or in the case of the control group, not reading one), all respondents then answered the same questions about their perceptions of corruption, their willingness to report or otherwise fight corruption, and their interest in engaging in the political system. So far, the data has been preliminarily scrutinized to see whether and how different messages provoked different reactions in the follow-up survey questions. Though the analyses are still in the early stages, it is already clear that the project can begin to answer a couple questions: Do certain messages heighten worries about corruption, while others ease them? Do some messages ignite the anti-corruption activist spirit, while others dim it?

Perceptions

The most basic question the project aims to tackle is, do messages about corruption and anti-corruption influence how people think about corruption and anti-corruption efforts? Whether and to what extent messages about corruption shape perceptions is important because "agents base their actions on their perceptions, impressions, and views" (Kaufmann et al. 2009: 3). Messages that alter attitudes towards corruption might therefore offer an important tool in the fight against corruption, or alternatively serve as an additional barrier in mobilizing popular support behind genuine resistance to corruption.

The analyses so far of the experimental data reveal two main lessons with respect to the impact that messages have on beliefs about corruption and anti-corruption. First, messages about corruption probably will not alter how corrupt people think the government is. There was no real difference between the control group's estimation of how common corruption was and the other groups who were exposed to the four different messages. This is not entirely surprising; people tend to be passionate in their beliefs about how corrupt the government is and it is well established that people tend to discount information that disagrees with perceptions that they strongly hold (see Taber et al. 2009 for an example of research on this theme). Moreover, the two other studies found that exposure to different types of information did not shift perceived levels of corruption (Chong et al. 2014; Hawkins et al. 2015).

The second lesson is that *all* messages about corruption work to heighten worries about corruption's consequences. This was unexpected because two of the messages had a positive tone; to virtually the same degree that the *Grand Corruption* message—which read like news coverage of corruption committed by many high ranking officials—increased worries about corruption's harm to development, so did the message about the government being successful in their fight against corruption and the message describing the different ways in which citizens could get involved in the fight against corruption. It seems as though talking about corruption in any way triggers worries about its detrimental effects and that is potentially very important. We

...when people think that corruption is becoming a growing problem, they tend to be less willing to report it, protest against it or join civic anti-corruption organizations.

do not know, for example, whether or how worries about corruption's effects influences political behavior; as such, it may be that even positively phrased encouraging messages may have indirect unintended consequences on shaping unsavory political behaviors (like encouraging disengagement, for example). These types of possibilities will be explored in further analyses of the data.

Anti-corruption activism

One of the main objectives of the project was to start to address this concern of whether awareness-raising efforts might be backfiring. This worry has been raised in recent years, mainly by those researching under the "corruption as a collective action problem" framework (see Person et al., 2013 for the most influential paper in this camp). The argument goes that when there is a pervasive expectation across society that everyone is engaging in corruption, most citizens will be inclined to swim with the tide rather than perhaps find they are struggling against it alone. So, if anti-corruption messages give people the perception that corruption is more widespread and is deeply detrimental than they would have otherwise thought, the messages may actually be reducing their willingness to fight it rather than firing them up to confront its perpetrators. Little research has so far been done to test this notion, but there is already some worrying evidence. For example, after examining Transparency International's Global Corruption Barometer data from over 70 countries, my co-author Linda Alvarez and I find that when people think that corruption is becoming a growing problem, they tend to be less willing to report it, protest against it, or join civic anti-corruption organizations (Peiffer and Alvarez 2016).

The preliminary evidence from the Jakarta experiment gives both a little more cause for concern and some promising glimmers of hope. The results showed that people exposed to the *Grand Corruption* message were more likely to agree with the idea that "there is no point in reporting corruption, because nothing useful will be done about it", than those who were not exposed to a message at all. This is not entirely surprising as it seems logical that people may be down on reporting when they think of high profile cases involving people much more influential over the system than they are. The finding still works to support the argument that perceptions of corruption being a big problem can trigger a sense of resignation, rather than inspire an activist's indignation. On the hopeful side, however, those exposed to the *Government's Success* message were more likely to think that it was their duty to report corruption if they observed it happening, than any other group. This is encouraging; it suggests that publicized successes that the government has had can positively shape how people see their own role in the fight against corruption.

Looking forward

The Jakarta messaging experiment is an early attempt at assessing how different messages about anti-corruption and corruption influence popular beliefs and behavior. Reviewed here are just a few of the findings that have been unearthed from the project's preliminary analyses. Unexpectedly, some messages about corruption seem to have unintended consequences, while others' impacts were anticipated and some perceptions proved unwavering, regardless of the messages received. Importantly, these early findings already indicate that messages about corruption can shape the ways in which people view their governance environments as well as how they see themselves in the fight against corruption.

Further analyses of the data will illuminate even more by exploring what influence these messages have on political engagement and cynicism, and more work is to be done on examining the mechanisms through which these messages will likely influence political behavior. While it is anticipated that more lessons can be teased out of the Jakarta messaging experiment, it is also hoped that this line of research will expand. Especially as corruption awareness-raising programs proliferate, research should aim to test and establish whether the messages that are being propagated are having the intended influences on popular beliefs and behavior.



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Interview with Dr. Suelette Dreyfus

The University of Melbourne

What is your assessment of the current state of citizen journalism and its effect on anti-corruption efforts?

Anti-corruption efforts across Western countries seem to have had few successes of recent. Citizen journalism and whistleblowing could be the exception to that.

Determining success depends in part on what you include in the definition of citizen journalism. If you cast the definition widely, then citizen journalism is working as well—and possibly better than—mainstream media on anti-corruption. This is particularly true if you define corruption as not being simply about financial fraud, but other forms of wrongdoing such as behavior that is out of sync with the citizenry's expectation of its institutions.

Many newspaper subscribers have been turning away from their daily dose of dead-tree journalism in favor of a morning Twitter feed. Maybe it is not always as accurate as The Washington Post, but the news breaks faster and citizen journalism platforms often provide much more diverse perspectives.

When it comes to anti-corruption, citizen journalists are frequently closer to the wrongdoing. They have their ear to the ground in the local community. Chances are that they know better than anyone when a local politician is taking bribes, a company is dumping toxic waste in the woods or a pedophile is haunting the local schoolyard. Many of those stories would not make it into the major mainstream media.

They are either highly localized geographically, or else they are narrow in the topic they cover. Yet, that new story may be vitally important to a specific community of people, who want know the truth and also want to act on it in order to stop wrongdoing.

There is also a fearlessness that features in citizen journalism. It really is about calling truth to power. That is missing from much of traditional mainstream media today. Citizen journalism on social media in particular is more of an informal conversation than classic journalism school reportage. This leads people to be less constrained in what they say. In some countries, the reluctance of the mainstream media to speak truth to power is due to defamation laws, with accompanying big ticket legal fees. In others, such as the US, it is because many large media organizations are controlled by powerful interests in society.

Either way, it would be interesting to track the growth in citizen journalism—enabled by technology—against the decline in public confidence in the institutions of our society. Think of how so many of these institutions have been rocked by scandals over the past decade—the churches, all levels of government, the regulators, the banks. Even beloved sporting heroes like Lance Armstrong have fallen from their lofty pedestals. Each of these revelations has chipped away at the citizenry's willingness to blindly trust the powerful.

Security of whistleblowers has been a widely discussed and on-going issue. Some

The fact is this: the public has figured out that whistleblowers have become the ethical temperature-takers in our society.

consider current technical controls and law/policies lacking to protect them. Therefore, out of fear, this may also prevent some potential whistleblowers to report. What technical controls and laws/policies would you like to see put in place?

Whistleblowers have, by and large, been mistreated by officialdom. There is no denying it—and no excuse for it. The poor treatment is out of kilter with public expectations of how whistleblowers should be treated. That isn't my opinion; that is what our fact-based research of public attitudes to whistleblowing across countries actually shows.

But things are starting to turn around. In places like Australia, whistleblowers were once just “dibby-dobbers”—seen as ratting out colleagues. That has changed. A research survey I co-developed has run in a number of countries with surprising results revealing how the public really feels about whistleblowers. For example, eighty-one percent of Australians consider it more important to support whistleblowers for revealing serious wrongdoing in organizations—even if they revealed information from inside the organization—than it is to punish them for revealing the information. Eighty-two percent believed it was fairly or highly acceptable for someone to blow the whistle on people in charge of an organization. Eighty-seven percent believe whistleblowers should be able to use the media to draw attention to wrongdoing—as a first option, a last resort, or when the need arises. Survey results were similar for the UK. In Iceland,

some of the survey figures of public support for whistleblowers were even higher. Perhaps not coincidentally, Icelanders also experienced their own banking crisis.

These are very large majorities of public support. Decision makers in government need to take note of where the public is at in this discussion. An understanding of how the public felt on this issue in Australia contributed to the government's willingness to pass a reasonably good federal whistleblower law. Further, Australian state and territory laws have been advancing as well, either being written from scratch as new laws or being reviewed with a view to being updated by Parliamentary Committees. I've given evidence before a number of such committees, and there seems to be a genuine awareness among the parliamentarians that the law needs to provide better protections.

As far as I know, public attitudes to these same issues have not been canvassed in the US, but it would be fascinating to compare how Americans viewed them compared to other countries where we already have data.

The fact is this: the public has figured out that whistleblowers have become the ethical temperature-takers in our society. They tell us the ethical temperature of our world. They tell us—the patient ill? How ill? What is the medicine? How we, as a society, treat whistleblowers is a key indicator of our advancement on the timeline of societal progression. The hope is that as whistleblowers increase the risk of exposure of wrongdoing, the powerful in society will choose to act more ethically in the future.

As for protecting whistleblowers properly, there has been some progress in creating a more

refined blueprint of what good whistleblower protections look like, largely thanks to work by NGOs, academic researchers and former whistleblowers themselves. Improvements need to be made both in law and in implementation. Governments and corporations often resist whistleblower protections, which is entirely the wrong approach. They seem to think sweeping the problem under the carpet will solve it. Not only is there a good chance the wrongdoing will eventually come out anyway, but it will do so in a way that makes those who played ‘see no evil’ games look guilty.

Good whistleblower protections laws have broad definitions of reportable wrongdoing and similarly should cover employees, contractors, volunteers, etc. Early on, whistleblower protection was focused on employees, but work patterns have changed, with much more short term contract work and formalized volunteer work. You could have a volunteer member of a school board for example, who is privy to information inside an organization which might reveal wrongdoing. That person also needs protection.

Organizations need to provide three layers of reporting channels: internal, regulatory (such as to an ombudsman), and external (such as to the media). The threshold for going external can be higher but the channel must exist. In some cases, corruption goes all the way to the top of an organization, and this external channel may be the only failsafe. Good legislation will also protect a whistleblower who goes to a member of Congress or a Parliamentary representative. They are often able to take action on injustices in a way that a few others can do, particularly on injustices against a single person by a large institution. Protections should also exist for going to labor unions, NGOs and other such external entities. Laws should include a threshold for protection that is workable—such as an “honest

and reasonable belief of wrongdoing”—and protections for “honest mistakes.” The thresholds and the legal protections must be clear and understandable to an average person.

Anonymous reporting channels are also critical. Technology has a critical role to play here in providing true anonymity wherever possible. There must also be protections if the whistleblower is identified later. Anonymity may be the only thing that lures a whistleblower out of his or her shell, particularly if there is no confidence that the rest of the system is not corrupt, or if the whistleblower is in fear of life or limb.

There must be broad protections to stop retaliation against whistleblowers. The place where many laws fail is they offer recompense after the fact but do not have the power to effectively stop retaliation as, or before, it happens. It is interesting that places such as the United Kingdom, long considered to have one of the best Public Interest Disclosure Acts in the world, actually falls down somewhat in this area in practice. By comparison, relative newcomer Bosnia has an interesting mechanism that offers better pre-emptive protection in some situation. Protection is key. If work colleagues see a whistleblower subjected to involuntary transfers, a reduction of meaningful duties, trumped up internal disciplinary proceedings and then dismissal, it sends a powerful negative message to others who would speak up.

Remedies including compensation rights should be embedded in any good whistleblower protection law, along with sanctions for those who are involved in reprisal. Sanctions are one of the few tools legislators have in their toolbox to stop the bullying of whistleblowers before it starts.

There must be a process set out for the whistleblower to get a fair hearing, including an oversight body that can provide an independent investigation. Organizations sometimes have this review process run by the very same people who are engaged in the reprisal against the whistleblower. As you can guess, that produces little more than a kangaroo court atmosphere.

Whistleblowers need to be given immunity from disciplinary, civil, and criminal liability related to their disclosure. They should be able to refuse to participate in any activity they know constitutes wrongdoing.

Fundamentally, whistleblowing is the right to dissent from wrongdoing—and to do so without hiding meekly in the corner while it goes on. It is a freedom of speech issue, and should be accorded many of the same protections as a result. The courts are not really there yet. But with the changing weight of public opinion moving in favor of whistleblowers, I think the courts will be in the future.

Gag orders have been a major problem in some places, such as the UK Whistleblower laws must explicitly say that a public interest disclosure supersedes all other obligations, including secrecy clauses in employment contracts. This is one of the most critical components of a good regime. There are effectively three parties in the act of whistleblowing: the whistleblower, the wrongdoer (often the employer), and the public. In practice, the employer has often forced the whistleblower to agree to a settlement which involves a gag clause. In desperation to get out of a long and expensive legal battle, the whistleblower signs the agreement. The party that loses is then the public. We never learn about the poisoned lake, the tainted food, or the dodgy defense contract. In terms of laws being made for the greatest possible good, that is the

worst possible outcome. So gag orders must be stopped at the outset.

Transparency and accountability are key here. That means that there should be annual reporting of data on the number of cases and how long it took to resolve each case. That information should be public in the case of matters that use the legislation or involve public authorities. While “dollars saved” is one common measure of success in terms of exposing fraud, that is not sufficient. There are many types of wrongdoing and not all of them involve financial crimes.

For example, there have been cases of fragile, elderly people mistreated in aged care facilities, or of ambulances being kept in such a dirty state as to be unsanitary. These examples do not necessarily involve financial fraud, but they certainly offend the values of the citizenry about how the vulnerable in our society should be treated.

Some successful protection regimes offer financial rewards, while others do not. In my experience, whether or not “bounties” should be adopted depends a great deal on the specific culture of the country or organization adopting the protections. In some places, it is a very motivating incentive for people to step forward and tell the truth. In others, it is seen by some in the culture as making whistleblowers somehow “dirty” because they should be speaking out for “purely altruistic reasons.” This must be decided by the local community. Even within a single country, the tool of whistleblower payouts can divide the community. In the UK, whistleblowers in the health space have dominated newspaper headlines for several years. Many such groups oppose financial rewards. By contrast, whistleblowers from The City in London, the financial heart of Europe, strongly support

the idea. In Ukraine, where an excellent whistleblower protection law is being considered as a way to combat serious corruption there, civil society groups favor of mechanism. Yet, some progressive members of parliament are worried that it will be twisted or warped in some fashion by fraudsters who would see it used for financially defrauding the government. Financial rewards are one of the thorniest areas of whistleblower protection, and there is no one “right answer” for this mechanism.

What does make sense however is if a portion of financial savings is set aside for the whistleblower (say, twenty percent of recovered fraud monies) then an equal amount of the savings should be put into a “whistleblower protection fund.” This fund, which might work a bit like a Legal Aid fund, would then be used to support the legal and other costs for whistleblowers involved in cases that do not involve financial fraud, as mentioned previously. In this way, society can at least give some practical support to those who step forward in the public interest for non-financial crimes or wrongdoing. This hybrid system is being discussed informally in several countries at the moment, although I do not know of any country that has adopted one yet. This surprises me in one way. I would have thought it would be a vote-getter for a savvy politician in this climate where so many citizens no longer have high levels of trust for many institutions.

Whistleblowers need to be kept informed of the status of their disclosure as it winds its way through investigations and action. Having interviewed numerous whistleblowers as well as journalists who worked with them, I discovered this turns out to be quite important to them personally. In one sense, the tribulations they go through makes the narrative of the wrongdoing a very personal one for each whistleblower. They

often have a strong sense of justice needing to be done in order to justify all the heartache. Thus a good regime will require investigators to brief the whistleblower regularly—perhaps every 2-3 months—about the status. This is not just a practical matter, but one of human dignity.

Newer elements for a good regime might include protection from extradition for a whistleblower. If he or she cannot expect a fair trial or treatment in their home country, such protections become very important to prevent reprisal. This will also put pressure on the home country to devise fair ways to deal with a returning whistleblower.

Much has been made about how law enforcement, military, and intelligence services should only have internal whistleblowing regimes. This is incorrect. It assumes that somehow these areas are immune from the kind of high level corruption seen in other areas of government. If anything, the very lack of transparency endemic to these environments actually creates a climate where wrongdoing can fester and hide for long periods.

The law needs to protect ALL citizens making a public interest disclosure. A good regime in this area should have internal channels, avenues to disclose to parliaments or Congress without reprisal, and even, if necessary, to the media. Clearly, the thresholds for disclosure should be higher for this sort of protected information, but should include immediate danger to public health, safety or the environment, or serious illegal conduct. Only as much data as is needed to reveal the wrongdoing should be disclosed.

I have interviewed whistleblowers from these sensitive areas and one theme that occurred over and over is a kind of mental anguish they go through in deciding to speak out. They want to be loyal to their country and their organizations;

they feel that loyalty deeply. For many of them, their job is in fact their identity. It is how they define themselves and their purpose in the world, perhaps more so than in the private sector. The wall they have to climb over in their own minds to get to that point of disclosure is very high indeed.

This internal self-regulation is a powerful force pulling them back. It is not just about a fear of going to prison for revealing secrets; it is a genuine desire to protect their organization and its higher purpose. In fact, it is usually this deep loyalty that drives them to speak out about the serious wrongdoing or illegality in the first place. Often they want to save their organization from eroding its own integrity. The reason this element is important is that it provides a natural barrier of protection in its own right. It is not enough of a protection on its own, but it is something that should be taken into consideration in shaping higher threshold for disclosure avenues for whistleblowers in this sector.

For someone considering becoming a whistleblower, what steps would you encourage them to take, not only to protect their claim but protect themselves as well?

Whistleblowers need to make a personal judgement between their conscience, their ethical situation and the often terrible disrespect and mistreatment most will still face even today as they go through the process. I would suggest:

- Find a lawyer who specializes in whistleblower cases and knows the local laws in this area. It is not enough to just find a criminal lawyer. Get generic advice in the first instance on a “hypotheticals” basis without disclosing too much of the specific case until you are confident in the lawyer’s knowledge and integrity.
- Get documentary evidence of the wrongdoing —gather it carefully, methodically over time. Be patient. No matter how you choose to blow the whistle, this evidence is crucial.
- Do not assume that regulators will behave well. In one case, a whistleblower made a disclosure to a regulator in the UK—and the regulator turned around and told the whistleblower’s company the name of the whistleblower what they had disclosed. It was astonishing really. But that is the reality of intertwined power structures. Be prepared to run up against that.
- Do not be afraid to use the media. Sometimes the media provides as good or better protection than lawyers on their own. One whistleblower I interviewed said they were only alive today because they hit the media. The high visibility provided a deterrent to the corrupt officials in the law enforcement/military/intelligence organization actually attempting to harm the whistleblower. A previous whistleblower in the organization had been shot and had to go into hiding. In this instance, the corruption was subsequently proven to have gone straight to the top. It really was a cancer in the institution.
- If the “going public” route is not the right option, then anonymized information delivered to a trusted journalist, NGO, union, or elected official can also be a way to fix the wrongdoing. In some ways, this is the best way, because a journalist cannot be forced to reveal what he or she does not know. However, it will be important in this situation to explain the context of the information. Highly detailed original documents can make sense to a specialist deep in a field, but be utter gibberish to a general news reporter. When I worked as a staff reporter on a major daily

newspaper, I routinely got documents from disturbed, non-rational people. Do not make it difficult for the reporter to separate your story from the large amount of noise out there.

- Digital metadata is your enemy. Do not leave electronic breadcrumbs. Depending on how sensitive the wrongdoing being disclosed is, you may want to have zero electronic contact with the journalist or other avenues of disclosure, such as a Member of Parliament.
- Conferences are a great way to get to people face to face; tracking their movements on social media (being careful not to explicitly follow them) can provide ways to create opportunities for face to face discussions. Leave your cell phone at home for that. Importantly, do not assume that original

documents—especially digital ones—are free from electronic breadcrumbs. Metadata is everywhere. Photos taken from your phone, for example, contain all sorts of identifying information you may not want to divulge.

Finally, do not tip your hand too early. Plan, plan and plan again. Because if you are whistleblowing about wrongdoing by the powerful and well resourced, it is likely to be a long, difficult battle. The good news is that increasingly the public will be on your side.

[For more detail, see Blueprint for Free Speech's *Blueprint Principles for Whistleblower Protection*.]

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For her research work on the impact of digital technologies on whistleblowing, she has been invited to appear before several parliamentary committees at a state and federal level in Australia. She has co-authored a number of international reports and papers in this area. She works with civil society not-for-profit NGOs internationally which seek to improve the whistleblower protection structures in society, both in law and via use of technology.

New Methods to Engage Civil Society in Macedonia and Change Attitudes Towards Corruption

Dr. Dale Mineshima-Lowe¹

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In contemporary discussions about corruption, the promotion of citizen participation, increasing transparency, and examining strength of and trust in institutions have long been acknowledged as cornerstones for embedding and consolidating democracy. Corruption is commonly seen as a problem of both developing and developed countries, hence the move by many governments to take a more proactive role in the development of strategies to stamp out corruption where it exists. In particular, rising democracies have found it particularly challenging to balance economic and political developments. Where a country is poor and suffers from weak institutions, corruption has gained a foothold, infiltrating these fledgling democracies, becoming more difficult to ferret-out, and get rid of it at later stages of democratic consolidation.

As the numerous Transparency International (TI) global corruption barometers have listed, levels of corruption have been particularly highlighted in transitional states and fledgling democracies where consolidation of democratic institutions and practices are weak or incomplete. Not only is the existence of corruption problematic but, in particular, the larger impact this has on issues of transparency and trust in governments and government institutions by citizens. One such instance can be seen as the impetus for the development of a new project in Macedonia. Transparency International's 2010 global corruption barometer² illustrated how Macedonia's population saw corruption as a major problem, claiming that institutions were corrupt, these results were based on citizen experiences (and not just perceptions). There was a feeling that failure to address and demonstrate significant progress in fighting corruption³ was linked to apathy amongst the populace, further undermining trust in officials and institutions, and entrenching a feeling that the country lacked any real accountability to protect citizens and their rights.

To counter how corruption has been undermining democracy within Macedonia, Transparency International Macedonia undertook the development of a project to allow citizens to report allegations of corruption experienced or observed. The Transparency Watch-Macedonia (TW-M) project⁴ has focused on taking steps to address the experiences and perceptions of corruption within the country, through engaging the citizenry as a means of monitoring, identifying, and combating corruption. The project, started in 2011, was the first of its kind within the region and also within the Transparency International movement. An important feature of the project is its use of the Transparency Watch website (www.prijavikorpcija.org) where citizens are able to file an online form, send an email, or call TW-M directly. As technology has progressed, the use of mobile technology and social media

TW-M's corruption reporting/monitoring project combines the two aims for ensuring long-term, continual reduction of corruption that is perhaps applicable to any country, but more particularly to those where institutions and practices are weak and there lacks a tradition of democracy.

corruption. However, many of those surveyed by TI felt that levels of corruption amongst the judiciary was still an area that needed improvement.⁶ This particular example matches up well with the TW-M incident reports from the project. The three top sectors under which allegations of corruption were reported were—*land and property*, the *judiciary*, and *labor and employment*. The most commonly reported instances of corruption involved the *misuse of public position*, followed by *inefficiency/red-tape*, *bribery*, and *cronyism*.⁷

Secondly, according to the reports submitted to the TW-M team, most had problems with public institutions over private sector companies or other actors. And in 75% of the cases, the problem was at the national level, while 15% of the cases were at the municipal/local level, and 10% of the cases indicated other or a mix.

Like many of those examining the use of new methods to combat corruption while simultaneously developing civil society, TW-M's corruption reporting/monitoring project combines the two aims for ensuring long-term, continual reduction of corruption that is perhaps applicable to any country, but more particularly to those where institutions and practices are weak and there lacks a tradition of democracy.

In many ways, this pilot project, like other projects and studies involving the use of new technology and social media,⁸ are really in their infancy with regard to extrapolation of results from the actual data collected to-date in the fight against corruption. As social media and new technology have become more readily used in sectors such as disaster response and election monitoring, and rather successfully in some cases—there is acknowledgement that there still remains a large gap in the study of social media as a tool for issues like good governance, transparency, and corruption monitoring.⁹ Such observations and questions have been raised by others in this developing field, including Giulio Guaggiotto¹⁰ working with UNDP, who has posed a number of questions that he feels have yet to be really examined, much less answered. He comments on the need for more in-depth case studies to examine a number of questions posed¹¹, including:

- How do we define impact?
- How do we ensure long term sustainability of projects?
- How can we foster that ideal triangulation of citizen reporting, civil society monitoring, validation, and government commitment to respond which seems to be a key factor to success?

Much can be made of the use of social media and new technology in solidifying good governance and fighting corruption globally. But as Guaggiotto amongst others suggest, there are a number of issues that need addressing, the main one of which is the lack of in-depth case studies to-date. Perhaps this is where organizations like Transparency International and the World Bank could assist in closing the case-studies gap. Whilst still in the early stages, the Transparency Watch-Macedonia project is beginning to look as if it could serve as solid in-depth case study on the use of social media and new technology in the fight against corruption. As Anstey and McCarthy from the World Bank noted in 2011, “Technology can give real meaning to transparency and accountability; can help bring sunshine to the darkness. But technology is also human-made and human-driven. Technology can help. Integrity will always count.”¹²

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Transparency and Open Contracting

HIVOS

Some of the major challenges countries around the world are facing are caused or accelerated by inefficient use of natural resources, mismanagement, and corruption. Big data leaks like Swissleaks and the Panama Papers have made headlines around the world, only making visible the tip of the iceberg of systematic misuse of power, fraud, corruption, and tax evasion. In this sense, whistleblowing and leaking of classified information are to be seen as civic duties and civic courage.

In response to the growing movement of citizens around the world demanding their governments to become more transparent and accountable, governments are becoming increasingly responsive to these demands and some are committing to good governance, open government, and taking measures to mitigate corruption, as seen at the recent Anti-Corruption Summit in London, May 2016.

At the same time, the private sector has established practices of tax avoidance and tax evasion in the world's offshore tax havens, while the beneficial ownership of companies is hidden behind opaque company constructions. These practices, often in a grey zone due to money-laundering and criminal behavior, are also coming under increased pressure from a broader movement demanding transparency, accountability, and tax justice.

Why do small entrepreneurs and citizens pay their fair share of taxes, and stick to the rules, while big companies and the super-rich do not? Why should citizens be transparent about all their (financial) whereabouts and spending, while governments do not? Meanwhile governments spend staggering amounts of public money, in a way that lacks transparency, and hence nobody can be held properly accountable.

At Hivos, we believe that citizens should not have to depend on "leaks" to be informed on what governments and private companies are doing. Citizens have *the right* and *the need* to know, and therefore should be able to follow public money flows, just like governments and companies should be. Public money brings along a public responsibility.

Transparency, Accountability, and Citizen Engagement

Hivos envisions an Open Society where democratic institutions enable citizens to shape society and take control over their lives. Transparency, accountability, and citizen engagement are essential elements, because better governance will only be achieved if citizens are able to question authorities, denounce abuse, and have meaningful opportunities to hold their governments accountable. The missing link between Transparency and Accountability is citizen engagement. As a result,

Hivos started the Open Contracting Data programme, launched in January of this year. It will be implemented jointly with Article 19 and the Dutch Ministry of Foreign Affairs, in six countries in Latin America, Africa, and South East Asia. This will be done in close cooperation with the Ministry of Foreign Affairs of the Netherlands and partners such as the Open Contracting Partnership. The programme aims to open up public contracting by active engagement of citizens who want to monitor public spending, so that the money is spent honestly and efficiently, following the highest standards of transparency and integrity. As such, it is Hivos' major programme on anti-corruption.

Two Examples

Governments use public contracting to provide vital infrastructure, goods, and services to citizens. When schools are built badly in an earthquake zone, damage when earthquakes occur is bound to happen. In Sichuan, China, contractors built schools to cheap and shoddy standards. In 2008, disaster struck, the schools collapsed like “tofu”, killing over five thousand students and teachers. The government later arrested parents for protesting, not the contractors. Public disasters like this keep happening.

A recent investigation by Africa Uncensored unveiled a massive scandal in public procurement of medicine and medical expenses in public health services in Kenya. Kenyans are incurring medical expenses which are 30-300% higher than market prices due to the government's skewed procurement mechanism. The mechanism, known as the Market Price Index model, is not informed by market prices. This has facilitated regular leakage of funds through purchases made at significantly inflated prices. As a result, there have been exorbitant regional price discrepancies for medical equipment and drugs in Nairobi, Kisumu, and Mombasa. “The pricing variations appear to have been negotiated, and do not conform to any known pattern”, reads a recent policy brief compiled by the Society for International Development, Transparency International-Kenya, and the Kenya Ethical and Legal Issues Network. This is a perfect example of infomediaries using public contracting data and documents to investigate misuse and corruption, and turn it into actionable information that then can be used by civil society organisations, policy makers and prosecutors to fix the broken system of public contracting. Africa Uncensored is an investigative journalism project and was one of the core beneficiaries of the Kenya Media Programme (KMP), supported by Hivos East Africa.

Each year governments spend an estimated US \$9.5 trillion worldwide in public contracting. Through their daily activities, they accumulate enormous quantities of data. At the same time, the 2016 Open Data Barometer found that just eight percent of countries publish open data on government contracts. This presents high corruption risks.

By making data and information about the public contacting process more open and transparent, governments can save tax money, make better use of the government's financial resources (tax payers money), deliver better goods and services to citizens, prevent corruption and fraud, and create a better business environment to stimulate innovation. Transparent, accountable, and efficient public spending and public contracting is not only is it an obligation towards citizens, but is in the interest of governments to be able to effectively provide oversight about what value for money was achieved and

The Hivos Open Contracting Programme is an approach to improving public procurement through three core elements...

whether results are being delivered as promised. Moreover, it is also in the interest of private sector companies to have a fair chance to be involved in public contracting.

The Hivos Open Contracting Programme

The Hivos Open Contracting Programme is an approach to improving public procurement through three core elements:

1. Public disclosure of open data and documents and the planning, procurement, and implementation of public contracts.
2. Participation and use of contracting data by non-state actors at appropriate points in the planning, awarding, and monitoring of contracts. Participation involves appropriate communication, consultation, and collaboration to make sure increased information is used to create changes and also involves input into policy to make sure that contracting follows a set of clean, widely understood rules.
3. Accountability and redress by government agencies or contractors acting on the feedback that they receive from civil society and companies, leading to real fixes on the ground (i.e., better public goods, services, institutions, or policies).

As part of the second element, Hivos supports independent journalists, activists, entrepreneurs, academics, and civic watchdog organizations in their efforts to use contracting data and public revenue flows for public scrutiny and advocacy campaigns. Moreover, to translate it into meaningful, comprehensible information for citizens.

Through the use of technology, open contracting data brings new opportunities to engage citizens to bring about greater accountability in public spending decisions. Emerging technological opportunities and an increasing availability of (open) data enable new ways of storytelling, data journalism, and citizen engagement. This increases the number of ways to participate, such as monitoring budgeted projects.

In addition, the programme advocates for policy and practice change by governments to open up more and better high-quality data for the public good. Policy influencing will take place at key international fora (such as the United Nations Convention against Corruption (UNCAC), the Open Government Partnership (OGP), the International Anti-Corruption Summit and the International Open Data Conference) as well as at the national level, putting Open Contracting on the agenda of governments, civil society and the private sector, pushing for new international norms, and the implementation of existing rules and norms. Thorough research and a good network ensures our

global advocacy activities are locally driven and built on evidence, giving local organizations access to international and intergovernmental forums to promote their experiences.

During the Anti-Corruption Summit in London, Hivos presented its programme and contributed to the Anti-Corruption Manifesto. The outcome of the summit was significant in terms of commitments—especially the one “making public procurement open by default” and the fourteen countries that promised to implement the Open Contracting Data Standard, envisioning accessible, useable data across the entire chain of public contracting. Also, see the Summit Communiqué.

The Open Contracting Data Standard (OCDS) enables disclosure of data and documents at all stages of the contracting process by defining a common data model. It was created in support of organizations to increase contracting transparency and allow deeper analysis of contracting data by a wide range of users. The adherence to this technical standard is important because it enables data users worldwide to compare data sets across sectors and countries. We would have liked stronger outcomes on beneficial ownership and for government leaders to take the necessary steps to end impunity and protect whistleblowers and human right defenders.

How We Work

Working with champions within governmental institutions and the private sector helps to engage partners across the state-market-civil society divide. Brokering coalitions—particularly between citizens and governments—is an important component of our strategy. Being keenly aware of existing and emerging patterns of exclusion in the digital age, we are also keeping a special eye on initiatives that contest marginalizing practices which keep large portions of populations (youth, women, rural communities, senior citizens, non-tech educated) detached from the decision making processes. One of the risks evolves around the digital divide between those having access to digital technology and knowing how to use it, and those who don't.

This emerging environment also brings novel ethical challenges and uncertainties. Hivos, therefore, also seeks to work on the basis of “responsible data” principles. The “data revolution” should be subject to critical debate about the ethical responsibilities entailed in an increased use of data, especially when it comes to taking decisions that directly impact people's lives and autonomy. We believe that citizens need to be the subjects and owners of the data revolution, not just its objects reduced to data points.

Another critical assumption is that citizens will take up their responsibility and use the data as tools of active citizenship. Often, a change in behavior, as much as in expectations and culture, is needed for people to start asking questions and hold governments accountable. For Hivos, asking these questions is an indicator for success in itself. That is why one of the pillars of the Open Contracting Programme evolves around the strengthening of citizen engagement in governance. Making public contracting more transparent and efficient should be of high priority for any government aiming to advance good governance, accountability, and mitigate corruption.

To this end, governments should endorse the International Open Data Charter and join the Open Government Partnership to provide public access to the company register including information on beneficial ownership. Moreover, they should publish detailed information about the whole process of public contracting following the Open Contracting Data Standard and publish detailed budget and spending data following open data standards. Finally, they should guarantee the human rights of citizens and media.

Because we believe that people have the right to information, so they can shape their own lives and make their own choices.



Hivos is an international organization that seeks new solutions to persistent global issues. With smart projects in the right places, Hivos opposes discrimination, inequality, abuse of power, and the unsustainable use of our planet's resources. Hivos' primary focus is achieving structural change. It cooperates with innovative businesses, citizens and their organizations towards achieving sustainable economies and inclusive societies.

Core values of Hivos are:

- human dignity and self-determination
- pluralism and democracy
- focus on material and non-material aspects
- mutual solidarity and responsible citizenship
- respect for people's cultural and social identity
- responsible management of nature and natural resources

Hivos focuses its social responsibility policy on the following 4 themes, based on the link with the humanist values, practicality, added value and consistency with its 4 programs and campaigns:

1. Integrity and embodying the Hivos Values
2. Diversity and Equality
3. Good Employment Practices
4. Environmental Stewardship

Treating Health and Pharmaceutical Corruption: The Need for a Multistakeholder UN Partnership Framework

Professor Jillian Clare Kohler, University of Toronto

Professor Timothy Mackey, University of California, San Diego

There is now clear recognition by policy makers within and outside the health sector that corruption negatively impacts health services and outcomes. As Transparency International underscored in a 2016 policy paper, corruption events, such as the embezzlement of public health budgets and biased procurement processes can result in the financial overpayment of limited health budgets for goods and services.¹ Furthermore, corruption threatens a country's ability to provide universal health coverage (UHC) for its population and ensure equitable access to health care services.² Of equal note, corruption cuts into public trust in governments and public services, reduces the morale of healthcare professionals (HCPs), and patients' willingness to make use of health services.³ Corruption is a veritable threat to human development and, its reach is wide and borderless.

In this regard, corruption can be understood as a global wicked problem. A wicked problem has been described as one that, "...has innumerable causes, is tough to describe, and doesn't have a right answer.... Not only do conventional processes fail to tackle wicked problems, but they may exacerbate situations by generating undesirable consequences."⁴ In other words, we need to think creatively about how to tackle corruption and not limit ourselves to sector-specific solutions.

The global development agenda is now being shaped by the Sustainable Development Goals (SDGs), adopted in September 2015, that promotes a comprehensive approach to development goals that includes making gains in the health sector (SDG 3). What is most promising about the SDGs is that it explicitly notes the need to tackle corruption and bribery in all their forms (SDG 16.5). This holds promise for the health sector given its susceptibility to corruption.

In the health sector, corruption can take place in many of its spheres: product procurement, government regulation, service provision, to name but a few. One of the salient areas where corruption takes place can be found in the health sector with the transnational sale and distribution of SSFFC (i.e., falsified, substandard, counterfeit) medicines. What is most unfortunate as we seek to achieve global health gains, is that medicines used to treat some of the most prevalent diseases of the world (such as malaria, tuberculosis, and bacterial infections) are the most commonly compromised.⁵ In developing countries where the rate of infectious diseases is high, SSFFC medicines also run the risk of producing drug resistant pathogens and raising immense economic concerns for the region.

The global market for pharmaceutical-related crime is continuing to grow with no indications of slowing down. The Pharmaceutical Security Institute (PSI) reported 3,002 incidents of pharmaceutical crime during 2015. This represented “an all-time annual high.” It also reported that from 2011 to 2015, incidents have increased by as much as fifty-one percent.⁶ These trends will remain vibrant unless relevant political and administrative institutions at the national and international levels are prepared or compelled to cooperate in full and that the issue is addressed as one that is not limited to the health sector but has reach across sectors, such as customs and the judiciary.

The global market for pharmaceutical-related crime is continuing to grow with no indications of slowing down. The Pharmaceutical Security Institute (PSI) reported 3,002 incidents of pharmaceutical crime during 2015.

The manufacturing of falsified medicines continues to grow as a profitable business for a number of reasons. It is due in part to a perpetually high demand to supply ratio of medicines. When the demand for medicines exceeds its supply, this favors entry of counterfeit medicines into the supply chain, especially when production costs are low. Also, when the prices for medicines are exceedingly high, or in countries where the normal supply chain does not reach certain communities, such as rural areas, it fosters a growing market for counterfeit drugs. The lack, or absence, of laws and regulations which hinder SSFFC drug production and insufficient legal sanctions for those who make bad medicines acts as an incentive for individuals to produce SSFFC drugs at the expense of patients worldwide.

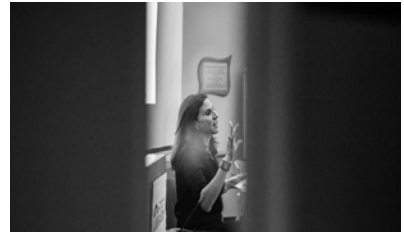
While regulations may exist in many countries, whether these regulations are in fact enforced depends greatly on the human and financial resources available for enforcement.⁷ Too often, regulatory agencies in developing and least developing countries are poorly staffed and resourced so that even regulatory control is lax. Further complicating regulatory and enforcement efforts are unregulated transactions occurring in the drug supply and distribution chain, including illegally selling medicines on the Internet and in the informal economy, which increases the probability of SSFFC medicines leaking into the pharmaceutical system.⁷ Furthermore, the expansion of trade, with mega trade agreements such as the Trans-Pacific Partnership and accompanying deregulation and impact on access may also present more opportunities for the introduction of fake drugs into the medicines distribution system. Technology has also worked to the benefit of counterfeiters by allowing for the nearly identical reproduction in physical appearance of the drug and packaging being counterfeited.⁸ Entrepreneurship is clearly not limited to those who work within the boundaries of the law.

Hence, the transnational trade of SSFFC medicines is a prototypical example of the dangers posed

to human health by corruption that crosses borders and often operates outside the jurisdiction of national regulators and law enforcement officials. In fact, many forms of health-related corruption are multinational and demand multi-sectoral anti-corruption approaches. Fortunately, this is a strategy envisioned by SDG goal 17, which explicitly calls for multi-stakeholder partnerships to support the SDGs under the UN umbrella.

In response, we feel that SDG17 should be used as a foreign policy vehicle to catalyze international efforts under a shared framework to combat corruption in health and also in support of SDG goals 3 and 16.5. Several international actors are already active in this space, including Transparency International and the UN Development Programme, but clearly meaningful coordination and collective action are needed amongst key stakeholders. In order to ensure that the SDG theme of “transforming our world” is achieved, health corruption needs to be specifically prioritized on the international global health agenda and treated as a priority global health disease.

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Interview with Professor Emerita Helen Jefferson Lenskyj

University of Toronto

In a recent controversy, it was found that International Olympic Committee (IOC) members had been bribed, in order to vote for Salt Lake City for the 2002 Games. Controls have apparently not been effective since that time, as allegations have risen concerning the bidding process for the 2020 Tokyo Olympics. Why do issues with bidding continue to be such a problem?

The bribery and corruption that have been documented in the German publication *Der Spiegel*, as early as 1990, was finally addressed in December 1998 when an IOC whistleblower claimed that bids since 1989 have involved bribery. A series of investigations, both internal and external to the IOC, produced clear evidence of wrongdoing, and the IOC developed recommendations for reform, in a process carefully managed by their public relations firm. Given the “magic” surrounding all things Olympic, it was not difficult for the IOC to present an image of a thoroughly reformed organization: the culpable members had been expelled or “disciplined”, and the new expanded membership included athlete representatives and international federation presidents. However, non-white members were more likely to be expelled than their white counterparts, who had been guilty of similar misdoings.

Other reforms concerned bid city visits, which would no longer involve all IOC members and their entourages; only members of the selection committee could enjoy these international trips. Outside of these restrictions, there is little evidence of systemic change within the IOC.

In fact, there are at least two examples in the public domain of bid city representatives, who boasted about the behind-the-scenes “deals” they negotiated. Former UK Prime Minister Tony Blair explained in his memoir that, before the 2007 vote for the 2012 Olympics, he approached Italian Prime Minister Mario Berlusconi, who in effect promised him the Italian IOC members’ votes, on the basis of their mutual friendship. Similarly, John Furlong, head of Vancouver’s bid committee, claimed in his memoir that in 2003 he offered the Russians technical assistance with their next Winter Olympics bid, in exchange for Russian IOC members’ votes on this round. Vancouver went on to win the 2010 games and Sochi’s bid for 2014 was successful. The IOC dismissed claims that Furlong’s “deal” with Moscow’s mayor contravened any rules.

The Sochi Olympics had numerous corruption reports—alleged and rumored—with various contractors. How extensive do you believe the problems were?

The corrupt dealings between the Sochi organizing committee, and various contractors associated with Putin and Russian oligarchs, have been thoroughly documented. Furthermore, organizations such as Human Rights Watch and Amnesty International, have exposed the human costs of these illegal practices. Russian opposition politician and whistleblower Boris Nemtsov, who was assassinated in 2015, was co-author of an early report.¹

There has been much discussion and debate about the economic impacts for host

countries. From a historical perspective, what is the economic impact to the host country? Who stands to gain the most and least in host countries?

Lack of transparency and accountability, in relation to building Olympic facilities and infrastructure is a systemic problem in host cities and countries...

Budgets for the construction of Olympic facilities and related infrastructure are routinely underestimated. Details of the proportion of public money directed towards these projects—in the case of Sydney 2000, totaled about 50% of the total costs. These figures are rarely disclosed in full, until after the event. A government audit conducted during construction of the Sydney facilities found that so-called “indirect benefits” were listed, while “indirect costs” were not. Politicians and bid committees exploit the idea of “legacies”, often implying that these are free benefits to local communities, when in fact, residents have made significant contributions to their costs through local, state, and/or federal taxes. Government spending priorities are often shaped by the demands of Olympic projects and hosting the event, and security budgets are a particularly costly item.

Increased tourism is consistently touted as an economic benefit to the host country, although research has shown that this boost is often short-term, especially when a host city is already a global tourist destination, such as London. Within the hospitality industry, benefits accrue to hotel and resort owners, while new, low-paying

service jobs are likely to be taken up by those with few other employment options, for example, racialized and ethnic-minority women.

Olympic construction generates jobs for tradespeople, mostly men, in the seven-

year lead-up to the games, but “job shuffling”, rather than new employment opportunities for previously unemployed people, often occurs. Human rights organizations have documented

the exploitation and abuse migrant laborers employed on Olympic projects experience, most recently in Russia.

Games in Rio were fraught with concerns including an unstable political and economic environment, Zika virus, and security. Among these issues, was water pollution at certain water event sites. According to reports, the Brazilian government promised to install eight treatment plants on Rio’s polluted rivers, but just built one. They also promised to treat eighty percent of the sewage flowing into Guanabara Bay, but were only treating about half. Meanwhile, four weeks before the start of the games, the head inspector for the IOC said she was confident the Rio de Janeiro Olympics are “ready to welcome the world.” What is your response?

Lack of transparency and accountability, in relation to building Olympic facilities and infrastructure is a systemic problem in host cities and countries, and is by no means limited to Rio. Similarly, construction that is over-budget is commonplace. The “ticking clock” requires extra expenditure to ensure that facilities are

ready by day one, and shortcuts to achieve this goal often involve lowering environmental and/or safety standards. In the case of Rio, the impact of the Zika virus could not have been anticipated; however, it could be argued that the IOC should have recognized the potential negative impacts of political instability, when it awarded the games to that city. Moreover, problems associated with the so-called “pacification” of the favelas were clearly identifiable from the outset.

Western media commentators tend to apply a double standard, publishing scathing assessments of organizing committees and governments in developing and/or non-Western countries, while taking a more lenient approach to similar problems that London, Vancouver, Sydney, and other host cities encounter. Over-zealous security provisions in Western cities routinely criminalize poverty and homelessness, while so-called legacies, especially those involving environmental promises, often fail to materialize. Mainstream media sources are, in many instances, official Olympic sponsors, and in effect unofficial boosters of all things Olympic.

Bribery has also crept into the games themselves in past Olympics. For example, in 1988, boxer Roy Jones, Jr. was the victim of a boxing judge who later admitted accepting a bribe. What is the state of controls to prevent similar occurrences?

The Court for Arbitration in Sport (CAS) was established by the IOC in 1984 to address these kinds of disputes during the Olympics. It is an arbitration body and not an actual court, and athletes are contractually bound to use this route. In fact, past IOC president Samaranch called it the “supreme court of world sport.”

In its early years, CAS was so closely linked to the IOC, that its objectivity was questioned,

but recent changes in structure have partly addressed the problem of anti-athlete bias.

Those who support the CAS system point to its efficiency and panelists’ sport-related expertise, especially in the resolution of disputes that occur during the Olympics or other sport mega-events, when its Ad Hoc Division can generate speedy decisions. However, a case currently before a Canadian court argues, in part, that an athlete has the right to a court hearing in his/her home country. Furthermore, critics point out that court decisions generate legal precedents, and that it is in the public interest for courts, rather than the CAS, to decide on significant sport-related cases, such as those involving gender identity and eligibility.

Similarities have been found between Olympic bidding scandals and FIFA bidding controversies for Russian World Cup. What are your thoughts on the FIFA scandals?

It is not surprising to find numerous similarities since many of the same players are involved. The same sense of entitlement and invulnerability characterizes IOC members and the men who control FIFA. The stakes during bid processes are equally high, as are the financial and symbolic rewards for certain sectors within host cities and regions: developers, resort owners, politicians, and leaders of sports organizations.



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DIRTY ENTANGLEMENTS

Corruption, Crime, and Terrorism

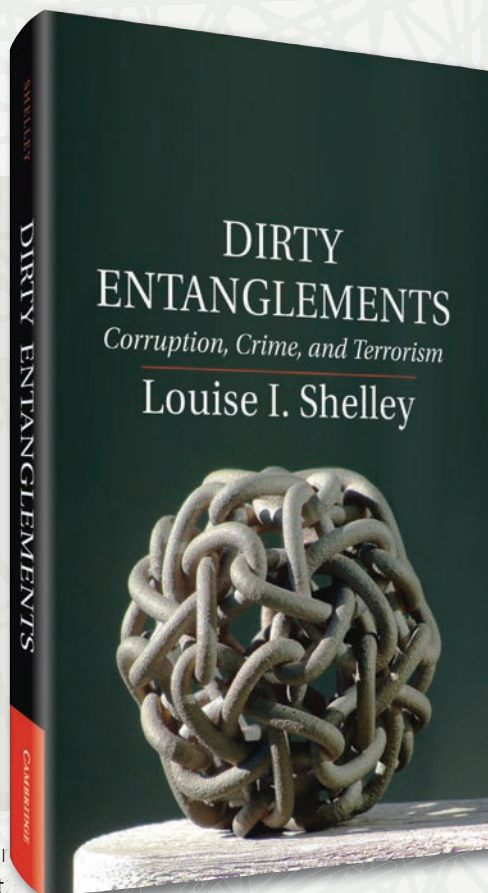
Louise I. Shelley

George Mason University

// Through examples, current and past, Louise Shelley provides a much needed understanding of the relationship among crime, corruption and terrorism, especially the sophistication of non-state actors and terrorists as they operate globally, exploiting technology and global systems. She demonstrates the diverse and damaging impacts to health, poverty, inequality and the planet's sustainability, as well as the perpetuation of social destabilization and conflicts. The importance of strong law enforcement, state institutions, and transparent financial institutions in pre- and post-conflict state building becomes apparent to prevent and address this devastating situation. This exceptional book is a must-read for policy makers, public and business leaders, members of the justice system, and university professors and students in most disciplines. //

Huguette Labelle, Chair, Transparency International

The entangled threat of crime, corruption, and terrorism deserves high-level policy attention because of its growth trajectory. Using lively case studies, this book analyzes the transformation of crime and terrorism and the business logic of terrorism. Louise I. Shelley concludes that corruption, crime, and terrorism will remain important security challenges in the twenty-first century as a result of economic and demographic inequalities in the world, the rise of ethnic and sectarian violence, climate change, the growth of technology, and the failure of nineteenth- and twentieth-century institutions to respond to these challenges when they emerged.



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Global Anti-Corruption Conditionalities and Judicial Reform in Ghana

Tyler Headley
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I. INTRODUCTION

Since postcolonial independence movements began in West Africa, international actors have attempted to enact policies, conditional aid packages, and communications with regional governments aimed at combatting corruption. The rationale behind the global anti-corruption movement in West Africa was to facilitate economic growth and trade, as corruption notoriously hinders both by “reducing domestic investment, discouraging foreign direct investment, encouraging overspending in government, and distorting the composition of government spending” (Wei 1999). Thus, international actors had strong economic and often political incentives to combat corruption in the developing countries within West Africa. But despite the near-constant involvement in West Africa of international third party actors such as the United States, Britain, and France, as well as supranational organizations, including the International Monetary Fund and the World Bank, anti-corruption efforts and conditionalities in West Africa have, with few exceptions, been heralded as ineffective (Cooksey 2003). Although conditionality as a policy continued for decades, the policy of conditionality does not work well—rather, the case study of a recent successful anti-corruption campaign in Ghana is indicative that within modern West Africa, grassroots and bottom-up anti-corruption initiatives are more effective and popular amongst the electorate.

Since the Bretton Woods institutions began looking into divesting into developing countries, international aid packages have frequently been tied to governmental policy changes, in a strategy known as conditionality (Sachs 1989). These supranational or developed country-given conditionalities were sometimes tied to economic reforms, such as deregulation and privatization during the Reagan-Thatcher era, but many conditionalities were also tied to political reform aimed at ultimately decreasing or limiting corruption (Babb and Carrthers 2008). In Sub-Saharan and West Africa in particular, many conditionalities were aimed at both making government policies more transparent and bolstering or stabilizing democratic governmental mechanisms with the intent that, without or with minimal corruption, these fledgling democracies would be more stable, last longer,

... within modern West Africa, grassroots and bottom-up anti-corruption initiatives are more effective and popular amongst the electorate.

...analyzing anti-corruption efforts in West Africa, a region where data is sparse and often questionable, must be primarily done through qualitative case studies rather than empirical surveys

and hopefully succeed over neighboring authoritarian regimes (Kanbur 2000). While the efficacy of these policies has been mixed at best and wildly detrimental at worst, conditionalities are still an oft-employed mechanism employed by international actors today in attempts to combat corruption. Scholarly research still dissents about why, in particular, conditionalities do not work, but there exists a broad consensus that an alternative method of battling corruption is needed.

II. METHODOLOGY

I propose that analyzing anti-corruption efforts in West Africa, a region where data is sparse and often questionable, must be primarily done through qualitative case studies rather than empirical surveys. Any data on West Africa is somewhat suspect if not outright questionable: recent research on data collection methods within West Africa have shown that the data collected, especially on corruption and government accountability, are riddled with purposeful and accidental errors (Cave 2014, Adeyemi 2010). In Ghana, a successful recent anti-corruption movement targeting the judiciary was catalyzed by an investigative report by award-winning journalist Anas Anas. This specific movement led to the jailing of more than thirty justices and subsequent investigation of more than 100 judicial staff (Darko 2015). I propose examining this case of anti-corruption, which is one of the most renowned and successful in the last five decades, to analyze what anti-corruption efforts might be feasible and perhaps more successful in modern West Africa than traditional trickle-down anti-corruption aid conditionality.

III. GHANAIAN CASE STUDY

Ghana is a mid-sized country located on the West Coast of Africa, often nicknamed the “Gold Coast”, a remnant from its colonial period. The official language is English, but local languages Twi and Ga are also popularly spoken. More than twenty-five million people live in Ghana. In recent years, it has been described as one of the shining beacons of West Africa, not only for its relatively stable economic growth but also for what many third party observers thought was a less corrupt government compared to many of its neighboring countries, including the Cote d’Ivoire, Burkina Faso, Togo, and Nigeria (Kermeliotis 2014). This is not to imply that Ghana’s government is corruption free—internal polling and anecdotes suggest that there is still rampant corruption within many branches of the government (Agbodohu and Churchill 2014). Tsikata writes that in Ghana, “Corruption has weakened most state institutions... The diaspora of Ghanaian academics and professionals and the weakening of institutions were to have serious consequences when economic reforms were finally initiated” (Tsikata 1999). But the point is that relative to its neighbors in West Africa, Ghana has one of the less

corrupt governments. Until recently, many observers believed Ghana's judiciary to be the least corrupt branch of the Ghanaian government. In 2011, the Norwegian ambassador to Ghana was quoted saying that, "Ghana is a beacon of rule of law in the West African Region", and a similar 2012 United States State Department memo stated that Ghana's judiciary was a highlight in an otherwise corrupt political system (Norway 2014).

Across the world, but in developing countries especially, an impartial and strong judiciary is the key to economic growth and countrywide stability. Increased judicial efficiency and rule of law have been widely linked in research to increased development, a more stable government, and a more developed economy (Dam 2006). In developing countries, the judiciary is invaluable in the fight against corruption as it is ultimately responsible for sentencing and imprisoning corrupt government officials (ibid.).

Ghana's modern judicial system stems from its colonization by the British. When, in 1958, the Ghanaian constitution was written, it established a judicial system that mirrored the British rather than the American or traditional Ghanaian judicial system, which was a chieftain-based dispute resolution system based at a village level. Specifically, Britain left a lasting legacy on the judicial system, setting the blueprint for the court hierarchies, nomenclature, subsequent roles of lawyers, and lawyer training mechanisms (Abdulai 2009). For the next fifty years, the structures and roles within this judicial system remained the same.

In 2015, despite internal and external reports that Ghana's judiciary was one of the least corrupt branches within the Ghanaian government, investigative journalist Anas Anas uncovered widespread judicial corruption. Anas had, over the course of two years, collected hundreds of hours of film on thirty-four judges accepting bribes in exchange for influencing verdicts for everything from drug trafficking and land disputes to rape and murder cases (Anas 2015). He then screened footage of these judges accepting bribes in a free feature length film across Ghana entitled, "Ghana in the Eyes of God." In the ensuing uproar, more than 100 judicial members of staff were investigated, and thirty judges were suspended and subsequently defrocked in what has widely been described as the largest and most successful anti-corruption movement in Ghana's history (Darko 2015). Some observers have even said that this has been the most successful anti-corruption effort in West Africa's history. As a result of a widespread public clamor, rigorous judicial anti-corruption mechanisms were put in place, and even US President Obama spoke in favor of Anas during his trip to Ghana. The repercussions of the Anas judicial scandal are still being felt in the country: the public has demanded more scrutiny and inspection of their politicians and political parties leading up to the 2016 Ghanaian Presidential Elections, anti-corruption was moved into the forefront of political discourse, and new top-down anti-corruption political policies and committees were put into place by the President of Ghana, John Mahama (Anas 2016).

IV. LESSONS LEARNED

The study of the Anas judicial scandal and the subsequent judicial reforms informs us of two crucial lessons: first, that the general population within Ghana acknowledges that corruption is negative

and acts overwhelmingly on this information, and second, that a grassroots or bottom-up approach to targeting corruption may yield more effective results than top-down or trickle-down anti-corruption predicated on aid conditionality. Before I elaborate on these lessons, it is worth noting that, while grassroots anti-corruption is still not in the mainstream, other groups have attempted it with varying levels of success. Grassroots anti-corruption women's groups in India have succeeded in affecting local city and province level politicians, and in Kenya, bottom-up initiatives were found to be more successful than top-down policies dictated by conditionalities (Richards 2006, Oluyitan 2015). Even so, the Anas justice scandal is unique in both its success, and its integration of journalism, public involvement, and governmental willingness to change.

First, there has been a debate in the scholarly literature on dishonesty and bribery over whether corruption, as defined by the West, is universally acknowledged to be negative and thus dissented against or whether in certain cultural contexts it is seen as a fact or way of life, thus rendering citizens apathetic towards reform (Barr and Serra 2006, 2008, Lee and Guven 2013). The overwhelming Ghanaian media publicity surrounding Anas' revelations and the subsequent protests and mass-collective action over the judiciary, which led to change, indicates that at least in West Africa, a region noted for its corruption, the people not only acknowledge that corruption is negative, but, given the chance, will revolt against a corrupt system.

Second, the change in the Ghanaian judiciary as a direct result of Anas' work demonstrates that international and local actors who target corruption should investigate new anti-corruption strategies which focus less on top-down conditionalities but instead turn attention to news outlets and empowering the local people with information. As mentioned previously in this paper, over the last three decades, international actors have attempted to target corruption in Africa through aid-tied conditionalities. These efforts have resulted either in mediocre results or have failed outright. The success of Anas in not only reforming the judiciary but also creating a culture of reform throughout Ghana suggests two things: international actors should look into the possibility of promoting bottom-up approaches to corruption via journalism, the press, and local actors, and that perhaps the best way to beat corruption is from the inside-out rather than imposing policies from the outside-in. It is interesting that the people and government alike in Ghana responded well to criticism coming from a citizen rather than international actors: this suggests that should a government be open to change, international actors should look into investing in local institutions to seek change rather than attempting to force changes from outside the country.

Finally, the importance of the rule of law in government-wide anti-corruption movements indicates that perhaps instead of creating conditionalities aimed at reforming the legislative or executive branches, international actors should instead first focus on ameliorating developing countries' judiciaries. While it is true that all branches of government must work together in order to preserve and bolster the rule of law, perhaps a good place to start would be the judiciary, which in the end is responsible for the indictment and sentencing of those who are corrupt. As shown through the Anas justice scandal, when a judiciary employs corrupt judges or is systematically corrupt, politicians, legislators, or even members of the executive branch of government who are corrupt can pay their way out of indictment

or sentencing. So while international actors have long focused their efforts on the executive or political leaders of countries, efforts met with little efficacy, perhaps an adapted approach aimed at the judiciary would be met with relatively more success in combatting overall governmental corruption.

V. POLICY RECOMMENDATIONS & CONCLUSION

What would programs or initiatives that take these two primary factors into account look like? First, policymakers within Ghana who are interested in reducing corruption should increasingly look into the twofold possibility of employing journalists and news people in their anti-corruption movement and transferring information to laypeople. International actors could begin training and funding programs targeting journalists, journalism students, and news outlets in Ghana, or more broadly, in West Africa. Currently, journalist programs don't have many students or aren't receiving the requisite funding for good quality education and publication (Owusu 2011). Anas, who was responsible for uncovering the scandal, has previously stated that he is interested in perhaps one day starting a journalism school (Anas 2016). Alternatively, policy makers could begin investigating different ways of transitioning news and power into the hands of the people, which isn't easy in a country with limited power and Internet. Perhaps this program could be done through texting a call list about recent corruption news, though this in turn creates questions about control, impartiality, and staffing. Nonetheless, new anti-corruption initiatives based in West Africa should focus on empowering news agencies, journalists, and the electorate rather than creating policies that attempt to limit the political leaders of a country.

In sum, the case study of the reformation of the judiciary in Ghana is indicative that international and local anti-corruption efforts targeting democratic, developing countries should focus not solely on conditionalities and programs to de-corrupt the executive sphere, but should also invest in journalism and other means of informing the electorate. The relative and historical failure of the traditional conditionalities compared with the resounding success of the Anas scandal in catalyzing a country-wide anti-corruption campaign as well as leading to the tangible change of forcing more than thirty corrupt judges out of the system indicates that bottom-up approaches have great potential and are indeed replicable. The positive impact that the press can have in developing countries should also not be overlooked: traditional anti-corruption efforts have often neglected bolstering investigative journalist and newspaper efforts, which, in the case of Ghana, were integral to not only exposing the corruption, but also combatting it. Perhaps for decades, international actors have been approaching anti-corruption in the wrong way, approaching corruption through trickle-down means rather than through bottom-up approaches. Finally, the judiciary of every democratic country is integral to the rule of law, and thus the economic and social development of a country. Anti-corruption efforts should not ignore the fact that with a corrupt judiciary, no corrupt official will be indicted or sentenced. By fostering a well-informed electorate, a strong journalism base, and an even stronger judiciary, developing countries will combat corruption by leaps and bounds.

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Interview with Dr. Myria Vassiliadou

European Commission, EU Anti-Trafficking

In your capacity as the European Union Anti-Trafficking Coordinator, you served as the architect of the EU Strategy towards the Eradication of Trafficking. In your opinion, has this strategy been successful over the past few years?

The EU Strategy towards the Eradication of Trafficking in Human Beings (the EU Strategy) has managed to deliver on numerous ambitious actions, and the Commission has worked on this extensively with other EU institutions, EU agencies, our Member States, and civil society. I am glad that the Council and the European Parliament have also supported the EU Strategy's efforts. Another way to measure the success of the Strategy is the increasing engagement by the EU Member States to work against trafficking in human beings (THB), and there appears to exist more awareness on the issue by the relevant stakeholders and the wider public. There are more references and documents (including studies, guidelines, manuals, etc.) that help us to perform better at the EU and national level. The EU Strategy has produced concrete outcomes, and we are happy to see that it is used in the work against trafficking in human beings. I would say that it has been successful. Having said that, it is important to stress that there is still a great deal to achieve and, certainly, the EU Member States must fulfill their legal obligations and fully implement the EU Anti-Trafficking Directive with a sense of urgency.

Despite its success, have there been any

unexpected challenges in implementing this strategy?

Absolutely. We have faced many challenges. The main challenge consists in the very nature of THB, which is a very serious and widespread form of organized criminality that generates billions in profits for the traffickers and the legal economy. We need to keep in mind that we are dealing with criminals that constantly change their movements and modus operandi. Another challenge is to ensure coordination not only at the EU but also at the international level. We must ensure that we are working in the same direction without duplicating work. Sometimes the wheel is there, and we do not need to reinvent it. We have seen that the current human trafficking situation is not just a European crisis; it is a global crisis with a lot of vulnerable people coming into Europe. We have had to deal with the additional challenge of ensuring that these people are identified, that they are protected, and that we properly address this issue. There are many obstacles in the way of our work to protect victims of trafficking in human beings. We need to convince our Member States that they must fully implement the laws and policies they have put in place and honor their legal obligations.

In your experience, have you noticed any significant or main causes of human trafficking?

Yes; the first Commission's report on the progress made by EU Member States, presented by the Commissioner and myself on the 19th

Trafficking for sexual exploitation remains the most widespread form of THB (Trafficking in Human Beings).

of May, identifies a number of trends, the most important of which is as sad as it is worrying: trafficking for sexual exploitation remains the most widespread form of THB. This is consistent with data from Europol, Interpol, and the United Nations Office on Drugs and Crime. If trafficking for sexual exploitation remains the most dominant form of trafficking in human beings, it means that we have not been able to eradicate this phenomenon or even reduce the number of victims. Another trend the report notes is that there are many cases of trafficking for the purpose of criminal activities. Basically, people are trafficked, and then forced to either steal or engage in all sorts of benefit fraud, as well as other kinds of criminal activities. One example of trafficking for the purpose of criminal activities is sham marriages: women who are EU nationals are trafficked and forced to marry third country nationals, who can then receive benefits, passports, and resident permits within the EU. We have also seen a lot of trafficking of children for the purpose of forced begging. These children are snatched from their families—or sometimes their families are involved—and they are forced to beg on the streets. There are thousands of reported stories of trafficked children forced to beg, and it is almost like a modern version of Oliver Twist.

Our report also refers to the links between THB and the Internet: based on the information we have, including information from Europol, a large number of victims are recruited online. It no longer bears any similarity to the kind of recruitment we had twenty or thirty years ago,

where a woman was snatched and forced to provide sexual services against her will. Now, we find that a number of people who apply online to get a job, or to have any kind of opportunity, end up becoming trafficked in the process.

Moreover, our report notes the role of trafficking in the migratory process. Some of the vulnerable people migrating to Europe are victims of trafficking. The International Organization for Migration (IOM) identified almost five thousand Nigerian women and girls who were trafficked from Nigeria via Libya to Italy; these women and girls were then trafficked for sexual exploitation. These are horrifying numbers and situations. Furthermore, as highlighted in the first report on the progress in the area of THB, we have evidence that the migration crisis has been exploited by the traffickers to target the most vulnerable of migrants: children.

You mentioned the new use of Internet recruitment in identifying potential victims of human trafficking. Have there been other new trends that we have not seen in the past?

I think the issue of engagement in criminal activities is relatively new, along with the trafficking of people for the purpose of sham marriages. These appear to be recent trends within the past few years. The issue of children being forced to beg is also relatively recent. Additionally, there appear to be reports on the sale of children through illegal adoptions. Sometimes, pregnant women who are trafficked are forced to give their babies away. These

babies are sold to childless couples or for organ removal; we have anecdotal evidence of the latter, but do not have exact numbers for it yet. So, yes, there are new trends.

While the EU strategy has been effective over the past few years, is it possible that there is something missing from current legislation or international mechanisms used to fight human trafficking?

First of all, the anti-trafficking legislation we have in the EU is highly regarded globally because that it is a very comprehensive, far-reaching instrument and covers prevention of the problem, protection of the victims, and prosecution of the criminals. Moreover, it is based on a human rights, child-sensitive, victim-centered, and gender-specific approach. The legislation and policy framework are ambitious. Many Member States have been very busy trying to ensure that they translate the EU law into national law. But, we are still waiting for the implementation of the legislation, which is the real challenge. We can put the law on paper once it has been agreed upon, but the question is: How do we ensure that we actually implement the law? That is the main challenge.

An important issue as per the Anti-Trafficking Directive, which is still under discussion, is the criminalization of those who knowingly use the services of victims of trafficking. The Directive asks Member States to consider criminalizing those who use the services of victims, and know that they are victims. That is a problem, because we do not know of any other area of crime—and trafficking is a very serious crime—where someone is knowingly involved in a crime and yet they are not criminalized. That is something we need to think about very carefully and something we are preoccupied with because, as requested by the Directive, the Commission

is drafting a report to be published by the end of this year to see how we can best address this issue at the EU level.

In regards to the prosecution of traffickers, is this something that has been difficult for Europe to implement?

It is a challenge and an area where a lot more needs to be done. The legislation is in place. However, we need to have judges and prosecutors that are better aware of the nature and modus operandi of this crime and what this crime implies, how it affects the victims, etc. This is also a legal requirement as per our Directive. Furthermore, it is a complex crime and it is difficult to build evidence for these cases. For example, a number of victims could be so scared that they would not want to identify themselves as victims or testify in court because they are too concerned that the criminal might hurt their families. They might be scared of deportation or all manner of other things. Having said that, our legislation is innovative enough to stipulate that the victims do not always have to testify in court, but we can still build the necessary evidence. It is not an easy process and we can do much better, but it is not the law that needs to change. What needs to change are the processes that are in place in order to ensure that the criminals are prosecuted and convicted.

What mechanisms exist to protect victims once they have been exposed to human trafficking?

That is very well enshrined in EU law. There are many provisions and rights that victims have that do not solely reside in the legislation on trafficking. We have identified seventeen pieces of EU law which include relevant provisions related to protection, reintegration, and support for the victims, and we have put it all together

in a Commission's publication called "The List of Victims' Rights", victims of trafficking that is, available on the Commission's anti-trafficking website in all the EU languages. There are rights ranging from specific ones for child victims in terms of how they are protected in criminal procedures, to ensuring shelters and protection from re-victimization, to guardianship of children who are deprived of parental care, etc. There are many protections in place, but are they properly implemented? I have my doubts.

Rather than act once it has already occurred, how can human trafficking be prevented from occurring all together?

The line of the Commission is very clear on this. Our position is that trafficking does not happen because people are poor, although poverty may indeed increase vulnerability. People are trafficked because of profits and because of demand for the services of victims. Human trafficking is astronomically profitable for the criminals (as well as the legal sector sometimes), and people are trafficked because someone is making use of their services. I mentioned before the Nigerian girls, some only 13-14 years old. Somebody sells them in Nigeria to be bought in the European market. What about the demand? If we want to prevent the phenomenon, we need to go after the money involved in trafficking, reduce the demand that fosters all forms of trafficking, ensure awareness of the issue by the general public, and carry out training for judges, prosecutors, police officers and all front line officials who might be in touch with victims.

The Directive obliges Member States to take action to decrease demand. We need to ask difficult questions: Who profits from trafficking? Where does a supply chain come from? What can we do to stop trafficking? Focusing on prevention and on finding the people who profit

from trafficking is the only way to stop this crime. We need to determine who makes money from this industry.

Do you believe that it is easier to prevent trafficking before it has occurred, or to resolve the consequences created by trafficking?

I think, of course, it would be better to prevent the crime rather than address it after it has occurred. This should be our ultimate objective: ensuring that trafficking does not happen in the first place. It is a challenging mission, but ultimately, more respectful to potential victims. At the same time, we need to be prepared to support people who have already been victimized. As many victims have told me personally, they often feel that help comes too late.

Are the current mechanisms designed to prevent trafficking stronger than post-trafficking resolution methods?

We have excellent legislation in place at the EU level and we have an ambitious policy framework that has been endorsed by the EU Member States. As I mentioned earlier, what we do not see as yet is the full implementation of all the tools that we have in place in the EU. The EU legislation obliges Member States to take action to reduce the demand for all forms of exploitation. It obliges Member States to conduct training with frontline officials so that they are equipped and able to identify victims. Member States are also obliged to ensure awareness of the issue and to strive to prevent it as responsible citizens, customers, and users and buyers of products and services. At minimum, Member States must at least consider criminalizing those who are knowingly using the services of victims of trafficking. We must ask ourselves: if we do not criminalize

those who knowingly engage in the crime of human trafficking, are we sending a message of impunity? Of tolerance? Is this the message we wish to convey?

The EU Anti-Trafficking Coordinator, **Dr. Myria Vassiliadou**, is responsible for improving coordination and coherence among EU institutions, EU agencies, Member States, and international actors, as well as developing existing and new EU policies to address trafficking in human beings. She also monitors the implementation of the EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016) and provides overall strategic policy orientation for the EU's external policy in this field.



Dr. Vassiliadou is based in the European Commission. She holds degrees in Sociology and Social Research and a doctorate in Sociology from the University of Kent at Canterbury, UK. She has also been a Research Fellow at the Solomon Asch Center for the Study of Ethnopolitical Conflict, at the University of Pennsylvania.

Dr. Vassiliadou previously served as Secretary General of the European Women's Lobby, the largest network of women's associations across the EU. She was a founding member of the think tank Mediterranean Institute of Gender Studies and served as its Director for seven years and subsequently as the Chair of the Board of Administration. For over a decade, Dr Vassiliadou worked as an Assistant Professor of Sociology at the University of Nicosia. She previously worked in the European Commission as a Detached National Expert in DG Research. Furthermore, she has served as a member of various Advisory Boards, Expert Groups and acted as a consultant at the national and international level. She has worked extensively in the area of fundamental rights, as these relate to questions of trafficking in human beings, gender, migration, ethnopolitical conflict, and the media. She has been published in several books and journals, conducted workshops and seminars, and has been actively involved in various think tanks, EU wide research projects and both national and international non-governmental organizations. She is trained as a counselor on interpersonal violence against women and also as a facilitator and mediator on conflict transformation and negotiations.

Interview by Alexandra Gilliard

Interview with Matthew Friedman

The Mekong Club

In recent years, businesses involved in human trafficking and slave labor have come under fire. Could you elaborate on the issue of human trafficking in the private sector?

Human trafficking, which represents the recruitment, transport, receipt, and harboring of people for the purpose of exploiting their labor, affects almost all parts of the world. Globally, it is estimated that there are over 45.8 million men, women, and children in situations in modern-day slavery today, with over half in Asia alone. These victims, who can be found in factories, construction sites, fisheries, and sex venues, are forced to work for little or no pay, deprived of their freedom, and often subjected to unimaginable suffering.

While most people think that human trafficking focuses primarily on women and girls being forced into the sex industry, this represents only about 25 percent of the total cases. The remaining 75 percent of human trafficking cases fall under the heading “forced labor.” Out of this number, it is estimated that 60 percent of these victims are associated with manufacturing supply chains, which begin with a grower or producer and end with a finished product purchased by consumers in the retail market.

Over more than a decade, the international anti-human trafficking community has not come close to meeting its full potential. While individual, small-scale success stories can be found, many victims are never identified. For example, the *2015 Trafficking in Persons Report*

(TIP Report; US Department of State, 2015) was only able to account for 48,000 victims receiving assistance globally (0.1 percent helped). During the same time period, there were less than 4,000 convictions for an estimated 500,000 criminals engaged in human trafficking activity (0.8 percent). This number has remained unchanged for several years.

Why are these numbers so low? According to the United Nations (International Labor Organization, 2014), the profits generated from this illicit trade are estimated to exceed US\$150 billion annually. But despite the size of the problem, annual global donor contributions add up to only around US\$350 million, which represents 0.23 percent of total profits generated by the criminals. With this in mind, it is not surprising that the number of trafficked persons continues to increase. In fact, the UN has indicated that there are more slaves in the world today than at any other time in history (Power, 2013).

Why should the business world care about this? First, most forced labor cases have some direct or indirect link with the private sector. Unlike the UN and other civil society organizations, the private sector knows how to root out bad businesses and already has the necessary skills and capabilities to tackle the problem, for example, legal, compliance, accounting, communications, and financial expertise. Second, labor trafficking often undercuts the price of legitimate businesses, offering an unfair advantage to those involved. Third, when human trafficking conditions are found in a given

business sector, it can result in an entire industry receiving a bad name. This trend is emerging in the electronics, garment, chocolate, and seafood sectors. Fourth, this topic is becoming a growing public concern (similar to environmental issues), with more and more consumers asking questions about whether the products they buy are “slave free.” Fifth, with new legislation out of North America and Europe, it will be expected that most declarations of Corporate Social Responsibility address this topic. Finally, and most importantly, slave-like conditions have been and will always be incompatible with good business.

How can the private sector itself improve on approaches to fighting human trafficking?

Can the private sector provide a unique perspective in this area?

Yes, companies can play an important role in addressing the problem. First, they can look at their business to determine if there are any risk factors. Based on this risk, companies can take specific measures to maintain a slave-free supply chain, including these:

- Conducting investigative audits that illuminate the real conditions faced by workers throughout the continuum of the supply chain and describe them in qualitative and quantitative degrees to top-level corporate decision makers;
- Conducting migrant worker assessments focused on conditions at workplaces that employ foreign contract or migrant labor, with a goal of detecting potential risks for trafficking and forced labor;
- Conducting action-oriented training for staff in global corporations and their suppliers with the goal of expanding awareness and

helping reduce the negative impacts of global sourcing;

- Consulting at the points of maximum leverage on how to implement effective human rights protections within global businesses; and
- Facilitating multistakeholder initiatives that join private sector business, workers, labor, civil society, and governments to focus on both strategic and practical levels with the goal of achieving positive social change.

What are more effective alternatives to naming and shaming private companies involved in human trafficking?

While there may always be a need for naming and shaming when excessive labor violations are uncovered that are highly criminal in nature, or where companies repeatedly fail to address problems, there are also other options. A more successful approach might include engagement with the private sector in a positive and supportive manner. For example, if slavery-like conditions are identified, the first step could be for concerned organizations to work with the company to help them to correct the problem without it going public. This would change the approach from being confrontational to collegial.

Over the past three years, I have met with countless private sector managers and directors from many major companies who really do care about ensuring that slavery and exploitation are not found within their value chain. They share the same world that we do and worry about the future for their own offspring. They also understand that an increased attention to the plight of workers in their companies' supply chains means that addressing these problems is both a business and moral imperative.

We are not winning the fight against human trafficking.

The private sector has extensive human and financial resources that could be brought to bear to help eliminate slavery conditions. It knows how to identify and root out bad businesses if it looks for them. It has the skills and capabilities to tackle the problem, including legal, compliance, accounting, communications, and financial expertise. Thus, if the private sector were to become more active in the fight, it could play a pivotal role in significantly reducing the number of human slavery victims, improving the lives of countless others along the way. This means working with them to bring about a positive change.

What can companies do to reduce their risk of involvement in this industry?

Our experience working with the private sector has demonstrated that with a little investment, victims of forced labor can be identified and helped without having to raise non-governmental organization (NGOs), UN, or government resources. In fact, the return on investment can be as much as five to one (compared to traditional interventions). With the right operational plan, companies can do the following:

- **Manufacturers:** With targeted training and technical assistance, manufacturers can better assess their supply chains, identify forced labor, and then address it. We are seeing the outcome of this process in our work across Asia.
- **Banks:** The profits generated from human trafficking are estimated to be US\$150 billion.

Since this money is raised through illegal activities, if any of it goes into a commercial account, the bank can be fined for money laundering. With this in mind, many banks are developing big-data filters to red-flag suspicious transactions. This use of forensic accounting will protect banks from being fined for money laundering and allow more traffickers to be identified and arrested. This process has already begun. Since the main motivation among traffickers is money, “chasing the money” could have huge impacts.

- **Hospitality industry:** Hotels and restaurants are places where trafficking can be an issue. This includes forced prostitution, forced labor in supply chains, and forced labor in the service industry. In several locations, the hotel industry has come together with the government and NGO community to spearhead a united front. Industry-specific training is often provided to allow hotel and restaurant workers to better understand potential trafficking scenarios they might come across so that they can report them to the local officials.
- **Retailers:** With targeted training and technical assistance, major retailers can motivate their vendors and suppliers to assess their supply chains and address forced labor. We are seeing some of the major global retailers stepping up and getting more involved in multistakeholder efforts to identify and address this problem.

With the rising value of the human trafficking industry and with so many victims, what are potential long-term impacts of human

trafficking around the world?

We are not winning the fight against human trafficking. With less than 0.2 percent of the victims being helped, we are not even close. While NGO and governmental organizations have the skills to address a portion of the response, they also have limitations: Their understanding of forced labor is often lacking. Even if we double or triple our funding for traditional human trafficking programs, we will not have a tangible impact until we increase our understanding and conceptual clarity (through research and evaluation), refine our relationship with the private sector, and increase our overall collaboration.

Thus, we are at a very critical juncture. Whatever efforts are put in place to address this problem must be able to show that as a result of this work, human trafficking has been reduced to some extent. This victory is needed to help maintain support for the coming years. Without this, donors will lose interest and begin to go elsewhere. We are already beginning to see this happen.

The bottom line is this: We will continue to see the number of forced labor cases increase if we do not find a way to bring the private sector into the mix. For this to happen, we need to change the way we relate to the business world, finding ways to work with it in a positive, supportive manner.

Has the ability to address and fight the issue improved in recent years?

Yes, we are seeing significant improvements in a number of areas, including these:

- Data collection and analysis: There appears to be more emphasis on comprehensive

research and data collection programs that invest in both research methodologies and the researchers. This information will help us to better understand the issue in order to determine the best way to address the problem.

- Monitoring and evaluation: There are more comprehensive monitoring and evaluation programs focusing on project activities to evaluate and track the progress of counter-trafficking organizations. Understanding what works and what does not work helps to increase the overall impact and cost-effectiveness within the counter-trafficking community.
- Embracing technology: More technological companies are stepping up and offering support. Contests, one-off technical builds, and the application of technical tools are all increasing our ability to use technology to solve problems.

There are many estimates that place the number of victims at upwards of 45 million, with a vast proportion coming from South and Southeast Asia. With your unique perspective from Hong Kong, do you think there is a particular reason for this?

Out of the 45.8 million trafficking victims, it is estimated that over 30 million (about 66 percent) are in Asia. There are two reasons for this. First, many people live in Asia. When you add up the populations of Asian countries like India, China, and Indonesia, they represent about 60 percent of the world population. Second, in many of these countries, remnants of feudal systems exist to this day. Even in this modern age of ours, these forms of labor exploitation have never been completely dismantled.

What is missing from the current fight against human trafficking?

Two important factors are missing from the fight against human trafficking. If these were to be improved, our overall response could be more efficient and effective.

- Engage new sectors and stakeholders: Understanding that this issue requires skills and experience that are not always available in the traditional NGO and UN world, we need to bring the private sector into the mix. This includes working with private companies to help them look at their own supply chains to identify forced labor cases and address them; working with banks to help them put in place accounting systems and procedures to identify trafficking and close it down; and using the skills found within the technology and communications world to come up with new and innovative solutions.
- Packaging of interventions: Many anti-human trafficking efforts are done in isolation. Instead of working in collaboration, organizations do their own thing. The main reasons for this lack of collaboration often include fear that collaboration will help other organizations to get a funding advantage; interagency differences in perspective and approach; and a lack of understanding of the importance of collaboration. One of the best ways to increase the efficiency and effectiveness of a counter-human trafficking effort is to link the efforts of different organizations together.

Can you elaborate on the “business-to-business” approach that your organization, the Mekong Club, uses in combating human trafficking?

The Mekong Club is one of the first not-for-

profit organizations of its kind in Asia to use a business-to-business approach to fighting slavery. Bridging the gap between the public and private sectors, the Mekong Club helps companies of all sizes to understand the complexities of human trafficking and to reduce their vulnerability within their supply chains. Together with business partners, we are spearheading innovative and strategic projects to achieve a slave-free world. Our organization comprises leading experts in slavery and human trafficking, as well as a broad coalition of private sector consultants who are committed to helping other businesses eliminate slavery from their supply chain.

The Mekong Club uses a membership structure that includes organizations from four working groups: Banking and Financial Services, Apparel and Footwear, Hospitality, and Retail. Each of these groups meets four times a year to identify what is needed within their sector to address the problem. We offer a supportive business approach that includes the following measures:

- Educating the business community about the prevalence, brutality, and consequences of slavery and how human trafficking impacts businesses of all sizes;
- Providing a full range of technical and logistical services to aid businesses in their efforts to address slavery, including awareness training, crisis and issue management, research and data analysis and best-practice sharing, stakeholder relationship management, and campaigns within the private sector;
- Delivering targeted training and technical assistance on how to identify risk and ensure slave-free supply chains;
- Connecting the private sector with leading

counter-trafficking resources, tools, and expertise to help companies understand and address potential threats to their business;

- Implementing innovative technological solutions to identify and stop the practice of slavery;
- Helping to instill a sense of responsibility and accountability within the private sector;
- Mentoring businesses to leverage their resources and their comparative advantages to bring about meaningful changes to the way they do business; and
- Disseminating information about positive initiatives within the private sector to help offset the disproportionate emphasis on “naming and shaming.”

When working on your book, *Where Were You? A Profile of Modern Slavery* (2016), you interviewed many victims of human trafficking. In your opinion, what were the biggest issues these victims faced once they were freed? Can they be rehabilitated?

Many human trafficking rehabilitation efforts are done in isolation. Instead of working in collaboration, organizations do their own thing. One of the best ways to increase the efficiency and effectiveness of an anti-human trafficking effort is to link the efforts of different organizations together.

For example, to get the most out of a *protection response* in a given country, it is essential to establish a program that addresses the needs of a person from the point of leaving the exploitation to the time of settling into a stable living situation. In Cambodia, the United Nations Inter-Agency Project on Human Trafficking set up a program

that linked four NGOs together to address the needs of a trafficked person. One NGO offered a shelter to help the victim to receive healthcare, counseling, food, shelter, and an opportunity to decompress. Once this process was completed, another NGO offered to cover the costs and travel with the victim to their home or community. This helped the person to transition back into a normal village situation. Another NGO provided regular follow-up care to identify the trafficked person’s sustained needs. This helped to offer a support system to the person. And yet another NGO then provided job training and job placement.

Through this united approach, each victim was given an opportunity to address the vulnerabilities that resulted in his or her trafficking outcome. If these services were not connected, many victims might miss these steps and become vulnerable to re-trafficking. The seamless transition between services helped to reduce that outcome. This is the most effective way to rehabilitate a trafficked person.

You have given many presentations on the dangers of human trafficking to private sector companies and will be giving many more in a 70-day tour around North America this summer. What are the main points that you communicate to businesses about what they can do to help fight human trafficking?

I begin with a comprehensive overview of the issue of human trafficking and how it relates to the private sector. This helps businesses to understand why it is an emerging issue. I then talk about how this issue is a potential business risk and offer practical suggestions about how a corporation can protect its business. I end with a call to action to invite the organization to step up and become a partner in helping to address the problem.

During these presentations, I have learned the following:

- Within most corporations, only the compliance and legal personnel appear to know anything about this problem. But even their understanding is limited. They know the legal basis, but do not understand the overall context.
- The corporate leadership tends to have a very superficial understanding. I met one CEO who said he was shocked that he did not know more about this topic. Most of the leadership appears to be sincerely interested in helping.
- Business risk continues to be the emphasis of most discussions.
- After listening to the information, some companies said they would like to do more, but they are afraid to “put themselves out there with this kind of sensitive issue.” They are afraid of being “named and shamed.”

The good news is that companies are interested in working on the topic, but would prefer to do it in collaboration with other companies. What they want is a clear, practical approach to using the comparative advantage of their organization. They said they do not have time for a lot of meetings and discussions.

In summary, there appears to be a leadership and organizational void within the business world. Although there is good leadership within anti-human trafficking organizations working on this topic, there is no mechanism of combining all aspects from the business and NGO worlds. If this could be developed, there would be a great opportunity for much more impact. There is so much potential for good that is being lost. In our small way, we have been able to improve collaboration and involvement, without much effort. A mechanism to set this up would be simple: Someone just needs to step up and make it happen.



Matthew Friedman is an international human trafficking expert with more than 27 years of experience as an activist, program designer, evaluator, and manager. He is currently the Chief Executive Officer for The Mekong Club, an organization of Hong Kong-based private sector business people who have joined forces to fight human trafficking in Asia, which he also co-founded. From 2006 to 2012, Friedman was the Regional Project Manager of the United Nations Inter-Agency Project on Human Trafficking (UNIAP) in Thailand, an inter-agency coordinating body that links the United Nations system with governments and civil society groups in China, Cambodia, Lao PDR, Myanmar, Thailand, and Vietnam. Prior to this (1991-2006), Friedman worked for the United States Agency for International Development (USAID) in Thailand, Bangladesh, and Nepal. During this period, he designed and managed both country and regional human trafficking programs, helped to establish a counter-trafficking regional training center, and participated in resource mobilization and production of two award-winning international films about sex trafficking in Nepal and India.

Interview by Alexandra Gilliard

The Potential Correlation Between Migrant Discrimination, Human Trafficking, and Smuggling

Dr. Erin Denton

London School of Economics and Political Science

This article is an exploratory discussion of implicit bias and in-group preferences that have marred the contemporary humanitarian migrant crisis. This article's primary scope is the potential correlation between migrant discrimination, human trafficking, and smuggling. Trafficking and migrant narratives are often presented as pejorative generalizations of the population in question. Such generalizations bolster conceptions of "Otherness" as tangible continuums of space and time, perpetuating societal modalities that foster inequality. This article addresses issues inherent to implicit bias, the praxis of defining the migrant as the "Other", the creation of heterotopic migrant spaces, and the potential for migrant victimization.

The current economic, legal, political, and social context of the European Union has seen an increase in the number of migrants arriving as asylum seekers and refugees. During the summer of 2015, the unprecedented surge in the number of asylum seekers arriving at the European territory resulted in diverging state and public responses. This humanitarian crisis revealed that state and public security often veiled notions of state and public insecurity. Also, this humanitarian crisis revealed issues inherent to principles of *non-refoulement* as described in the 1951 Refugee Convention. The migrant as *Other* is exemplified by the onto-praxis of internment camps and confined segregation. He or she is unwelcome; he or she is uninvited. Why?

Article 33 of the 1951 Refugee Convention is the primary legal instrument employed to protect refugees from policies of *refoulement*. It states, in part:

No Contracting State shall expel or return ("*refouler*") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

The provision proscribes sovereign states from returning a refugee to a territory where his life or freedom is threatened for one or more of the aforementioned conditions in the Convention's Article 33. This proscription, however, is muddled. Contracting states "bound" to the Convention have employed various interpretations of the policy of *non-refoulement*. In essence, Article 33 grants asylum seekers a *de facto* right to enter or be admitted to host territories. From the individual migrant's perspective, the issue is not entirely that of the right to be admitted into a territory: His concerns start long before he reaches a host territory, his issues begin with fearing a threat to their lives, and his anxieties are deeply embedded in their experiences of discrimination in their country of origin. They do not seek a better life: they seek a life free from threats and persecution. Migrants are the *Other* long before their

journey to asylum. It is that specific journey to the unknown that entrenches the migrants in a position of vulnerability, especially with regard to human traffickers and smugglers.

In order to better understand the functionality and structure of human trafficking rings, my previous research incorporated the study of networks (Denton, 2016). Using six years (2006-2011) of successfully prosecuted human trafficking legal cases in Australia, Britain, Canada, and the United States, I cultivated a database of characteristics of traffickers and trafficked individuals. Because investigations of disaggregated data of human trafficking are rare, my research sought to uncover who does what to whom and how often. In doing so, I analyzed the importance of social ties, chains, and bonds as facilitators of the trafficking offense.

This framework of analysis led to cultivating data that suggest traffickers traffic and smuggle those with whom they have existing connections: The network is the root of the trafficking act. Why would someone traffic a person he or she knows? Simply put—it is because most crime is that of opportunity. Thus, transnational trafficking is often the ken of the migrant as both victim and offender. It is the precise lack of *Otherness* that cultivates potential trafficking connections among individuals. The network connection does not imply personal closeness or proximity between trafficker and trafficked individual; rather, the network connection is rooted in a connection to a similar community of people. This connection can be self-defined, or it can be dictated by other characteristics of race, religion, sex, gender, political affiliation, and so on.

Ruggerio (1995, 1996) argues that immigrants in developed nations often lack access to conventional criminal enterprises, meaning that their network structures do not contain ties that allow them to navigate into the dominant criminal economy of the host nation. With their network structures strongly tied to their home nations and those in the host nation with similar ties, it could be argued that migrants have a greater likelihood of becoming traffickers because they have the most important network ties for the act: ties to individuals who wish to migrate. Although migrants may not possess the criminal skills and techniques necessitated by the trafficking act, they do possess the pivotal network ties that present the opportunity to create new ties to the underground trafficking economy in their host nation. This notion may explain their lack of involvement in regional sex trafficking (Denton, 2016).

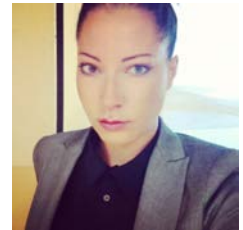
Sassen (2000) posits a restructuring of globalized markets in the (un)employment realm that has led to conditions that promote “revenue-making circuits developed on the backs of the truly disadvantaged” (p. 503), as well as informal labor markets. Conceptualizing these circuits as “counter-geographies of globalization” (p. 503), Sassen states that these shadow economies operate informally but invoke portions of the typified institutional infrastructure of licit economies. Migrants involved in shadow economies are navigating these alternative circuits for survival and profit making. Essentially, Sassen suggests that females, especially female migrants, are the “systemic equivalent of the offshore proletariat” (p. 510), emerging as a service class for those in developed nations whose profit margins are large enough to incorporate the offshore proletariat’s wage. Sassen views trafficking as profitable in former Soviet republics and Asia, though she does not explore the argument in its potential entirety. She addresses globalization and poverty as motivators for human

...migrants are susceptible to trafficking because they often lack protection in their countries of origin, and their desperation leads to the potential for victimization.

trafficking—focused criminal gangs in the developed and developing worlds, but she does not connect her concept of cross-border ethnic networks as pivotal to the sustainability of the human trafficking industry.

The existence of human trafficking offenders who are migrants does not negate issues of victimization. Regardless of offender characteristics, migrants are susceptible to trafficking because they often lack protection in their countries of origin, and their desperation leads to the potential for victimization. Migrants are embedded in a heterotopia that is neither here nor there. They have space, but no place. Their relationship to the global community is tethered to notions of their status as migrants. Their entrenchment in a heterotopia is not itself problematic. Lacking a place, however, is a fundamental human rights issue. To deny an individual a place is to take a position of intolerance fixed in *Otherness*.

Having recently completed her Doctoral degree at McGill University, **Dr. Erin Denton** is interested in developing statistical representations of human trafficking for the purpose of analyzing data through a social network framework. Her additional research interests include definitions of deviance (historical and modern) and the various modes of social control implemented to mitigate “deviant” cultures and/or individuals (including legislation, crime control, and media representations). Dr. Denton’s most recent work at the London School of Economics explores the sociological and technological framework of contemporary White Power movements.



Between Criminal Justice and Human Rights: Protecting Human Trafficking Victims in Italy Under International and European Frameworks

Dr. Florinda Monacò
Bar Association of Naples

Trafficking in human beings is a complex transnational phenomenon that benefits on the one hand from globalization (open borders, free markets, and increasingly sophisticated technologies), and on the other hand from stricter immigration policies, which have contributed over time to create an illegal market and economic opportunities for organized crime. Human trafficking is rooted in countries of origin that face such critical issues as: wars; poverty; violence and cruel practices against women; child labor; discrimination; and an absence of democratic cultures, social integration, access to education and opportunities for employment. These factors motivate affected persons to migrate in search of better living conditions, and this can make it easy for potential victims of human trafficking to fall prey to criminal organizations. Trafficked persons are usually illegal migrants who are moved across national borders, exploited, and enslaved. They are victims of terrible violations of fundamental rights. The majority of human trafficking victims are women and children, trafficked for forced and exploitative labor, including for sexual exploitation. According to estimates, trafficking in human beings currently represents one of the biggest sources of profit for organized crime after drugs and weapons. Trafficked people are forced to live as “invisibles” out of fear of being arrested and expelled by national authorities due to their illegal statuses. They may even accept exploitation and violence to prevent retaliations on their families, who are often still in their country of origin. It stands to reason that human trafficking is an issue not only of criminal law, but above all, of human rights law, and it is important to tackle it through an integrated and proactive policy at national, international, and European levels. A proactive policy would involve not only policy-makers, but also civil society and non-governmental organizations both in countries of origin and in host countries. From this point of view, it is necessary to both prosecute traffickers under stricter guidelines, and to render effective assistance and protection to victims in order to allow them to recover.

Before analyzing the Italian system of protection for trafficking victims, it is useful to briefly analyze the extensive international and European frameworks on human trafficking. Both the European and international frameworks seem to adopt a three-pronged approach, the so-called “Three Ps” approach, focusing on the three main aspects of prevention, prosecution, and protection. Great attention is given to prosecution—we find mandatory obligations only with regard to criminal justice aspects—but not as much to protection and preventative measures (for which states are free to decide applicable conditions).

At the end of a long legislative evolution which led to the signing of the 2000 United Nations

Convention against Transnational Organized Crime in Palermo, all state signatories had agreed to adopt effective measures against organized crime at a national level as well as through international and intergovernmental cooperation. The Palermo Convention included three specific protocols, two of which represent an important step to better address the issues of human trafficking and trafficking of migrants (“smuggling”): The “Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children” and the “Protocol against the Smuggling of Migrants by Land, Sea and Air”. We should consider that in most cases people who are trafficked, if they do not come from European countries, are also illegal migrants. In both cases, it is important to strengthen international cooperation in the area of international migration, providing migrants with humane treatment and full protection of their rights.

When we talk about trafficking in human beings, we deal with a serious criminal offense that states must prosecute. In Italy, for example, the criminal offense of trafficking in persons was recognized in 2003¹ in Article 601 of the Italian Code of Criminal Law, along with other new offenses²

With regard to the European framework, we should refer to the Council of Europe framework³ as well as to some Directives that deal with this topic.

The European Court of Human Rights, in the emblematic case *Rantsev v. Cyprus and Russia* (application No. 25965/04, sentenced on 7th January 2010), explained that there is a violation of Article 4 of the European Convention on Human Rights if national authorities do not take appropriate measures and do not cooperate to crack down on the phenomenon of human trafficking. Additionally, trafficking in human beings is specifically prohibited by Article 5 of the Charter of Fundamental Rights of the European Union. Since the 1990s, the European Union has launched initiatives and funded programs against human trafficking, but a key step was the adoption of the Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims; this directive replaced the framework decision 2002/629/GAI (whose main aim was the harmonization of Member States’ internal legislations on trafficking as to judicial cooperation in criminal matters). Directive 2011/36/EU adopts a comprehensive, integrated approach that does not only focus on law enforcement but also aims to prevent crime and ensure that victims of trafficking are given an opportunity to recover and to reintegrate into society, while respecting victims’ fundamental rights.⁴ The Italian State adopted the directive in 2014⁵, placing emphasis on the vulnerability of trafficking victims and on the concept of the right to information. Moreover, the Italian directive introduced a right to compensation for trafficking victims, and it also provided for the establishment of a national Action Plan against trafficking.

Because Italy (together with other European countries along the Mediterranean) represents a “door to Europe”, the country is very aware of the human trafficking phenomenon. According to the 2013 Eurostat-European Commission Report on trafficking in human beings, Italy was the European country with the highest number of identified or presumed victims of trafficking in 2008, 2009, and 2010. In most cases, the majority of identified trafficking victims originated from Eastern European countries such as Romania, as well as African countries like Nigeria. As a result of the high rate of human trafficking that occurs in and around Italy, the country has taken a particular approach to combatting human trafficking, exemplified by a national legislation that establishes a residence permit

As a result of the high rate of human trafficking that occurs in and around Italy, the country has taken a particular approach to combatting human trafficking...

on humanitarian grounds, the so-called “*permesso di soggiorno per motivi di protezione sociale*” —a residence permit for reasons of social protection—which was introduced in Article 18 of the Italian Consolidated Act on Immigration (Legislative Decree No. 286/1998, better known as “*Testo Unico sull’Immigrazione*”). A detailed examination of Article 18 demonstrates the potential of the Italian system of protection for trafficking victims.

Italy’s national approach to combatting trafficking can be contrasted with existing international and European legal frameworks. One important distinction centers on the demands of international and European frameworks: Although most European states have adopted measures to fight trafficking, these same measures (in most cases) demand that trafficked persons cooperate with national authorities in prosecuting identified traffickers in order to be admitted to a comprehensive protection and assistance program, wherein trafficked persons have the possibility to obtain a residence permit. This demand for cooperation is present not only in European measures, but in America’s anti-trafficking measures too, and it limits the actual protection intended to be provided by the very same measures. For example, the residence permits afforded by these measures are not automatically permanent; in many cases, such permits are not renewed after the end of a trial against an identified trafficker or if the outcome of the trial is not favorable.⁶

By contrast, Article 18 of the Italian Consolidated Act on Immigration does not stipulate that victims’ protection necessarily depends on their cooperation with national authorities in anti-trafficking cases. It is not a reward policy. Article 18⁷ provides for more protective measures for trafficked persons, giving them the opportunity to be admitted to a full assistance and protection program and to obtain a residence permit. An important amendment to Article 18 was introduced in 2006⁸, and this amendment extended the provision of Article 18 to not only victims that were identified as third-country nationals, but also to citizens of the European Union who find themselves in a situation of “serious and present danger.” The provision of Article 18 deals with one of the several existing typologies⁹, provided by the Italian legislation on immigration, of issuing a residence permit¹⁰, in those particular cases where national authorities or local institutions verify violence and serious exploitation situations toward foreign people, and there is a real danger for their safety. Article 18 tries to balance different interests, such as the protection of victims’ rights (according to Article 2 of the Italian Constitution) on one hand, and the need to prevent and control crimes in keeping with safety and public order on the other hand. The social protection offered to the “foreigner” (victim of violence and exploitation) is aimed at social integration. In order to ensure full protection and social integration, Article 18’s residence permit must be issued as “a residence permit on humanitarian grounds”, thus protecting victims’ privacy. The provision of Article 18 is rather complex, because it introduces two different procedures to obtain a residence permit: a judicial path and a social path.

With regard to the first procedure, the judicial path to obtaining a residency permit necessarily involves judicial authorities. Article 18 describes those cases in which violence and serious exploitative situations have been verified during police operations, investigations, or criminal proceedings for those crimes related to prostitution or for which arrest *in flagrante delicto* is mandatory. This procedure applies when trafficking victims are already cooperating with national authorities, as evidenced by statements made by a victim during a criminal investigation or a trial. In this case, the special residence permit is issued by the police superintendent (*Questore*), at the Public Prosecutor's request or with his favourable opinion, to allow the foreigner to escape further violence and conditioning by criminal organizations, as well as allowing the victim to participate in a program of social assistance and integration. In the case of the social path to obtaining a residency permit, social workers and local institutions play an important role in verifying violence and exploitative situations during their care interventions, and they are also involved with the assistance and integration programs. According to related case-law, private associations, not enrolled in the public register mentioned above, cannot verify the conditions required for the issuance of an Article 18 residence permit because they have not been evaluated as adequate to safeguard reliability and impartiality¹¹.

Unfortunately, the Italian legal framework still demonstrates several contradictions due to a structural gap between the national policy on immigration and overall regional regulations and implementations of the access to welfare and public and social services for migrants; the consequence of this structural gap is that the treatment of trafficked migrants differs from region to region within Italy. The reality of residence permits issued under Article 18 is complex because, in most cases, administrative tribunals have insisted on the need for victims' cooperation with national authorities, going against the spirit and the letter of Article 18. As a result, some *Questure* apply only the judicial path to obtaining a residency permit and, in some cases, apply it only if it is "judicially useful". In doing so, Italian authorities run the risk of rendering ineffective the whole measure and all policies of prevention and suppression of crimes related to trafficking, to the detriment of victims' rights and needs.

The intended purpose of Article 18 is to allow trafficked immigrants to integrate regularly in their host country and to provide them social assistance in the fields of education, health, and work. The residence permit issued under Article 18 lasts six months, with the possibility to renew it for one year or longer. The permit allows victims of trafficking to study, work, and have access to care services. Once the residence permit expires, it can be converted into a work or study permit. It can be withdrawn if the program is interrupted or if the recipient's behavior is not compatible with the permit's requirements. In this sense, Italian Administrative Tribunals¹² have explained that it is absolutely lawful to deny a residence permit for reasons of social protection if the potential applicant has interrupted the protection program by again falling into an exploitative situation. From this point of view, we should consider whether protection programs are really able to protect victims of exploitation because, otherwise, these measures come to naught. We should also consider that often the network of exploitation is the only "social network" accessible to trafficked persons in the absence of real opportunities for social and economic recovery.

A decision by Administrative Tribunals has clarified that, regarding Article 18, "*the particular public purposes of the protection measure, related to the residence permit for reasons of social protection...*

do not allow the foreigner...to set conditions of the protection programme, from where the one-sided desertion of the protection project entails the loss of all benefits related to the admission to the project itself."¹³ This decision seems too strict, because in this way the protection program becomes rather similar to a detention measure that restricts personal freedom. People admitted to a protection program under Article 18 find themselves in a condition of exploitation or serious danger and are victims, not criminal offenders; the focus of pieces of legislation like Article 18 should be on protecting these victims from further violence and exploitation. If the aim of the provision of Article 18 is to allow social integration, it is contradictory to introduce administrative decisions that by *de facto* restrict freedoms. We should also consider that before applying for a residence permit for reasons of social protection, migrants often receive several expulsion orders because they are considered illegal immigrants. Concerning this, the Ministry of the Interior has explained that these expulsion orders should be withdrawn if migrants meet all requirements for the issuance of a residence permit under Article 18. The administrative case law has also addressed the problem of the risk of retaliations against the trafficked victim's family members still living in the country of origin, which is a strong deterrent preventing victims from seeking access to the protection system introduced by Article 18. Thus, national authorities should evaluate the risk of retaliations against the victim and his/her family in their host country as well as in their country of origin, if the victim is repatriated.¹⁴

In conclusion, an analysis of the existing international and European framework and the Italian framework for combatting human trafficking reveals that there are critical issues that still need to be addressed. A continuation of strict immigration policies and protection programs that mainly address prosecution is not the best way to prevent trafficking-related crimes; these approaches do not satisfy the aims established by anti-trafficking laws. National governments should focus on the protection of fundamental rights, assisting victims and informing them about their rights, as well as on prevention, using prosecution and criminal law methods only in truly necessary cases.

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Human Trafficking Around the World: Perspectives from Sub-Saharan Africa

Tseliso Thipanyane
Safer South Africa Foundation

Recent media images and reports of hundreds of migrants getting rescued in the Mediterranean Sea (mainly by European ships and patrol boats) and of thousands of other migrants drowning in the process do not highlight the adverse socioeconomic and political conditions that force many of the migrants to leave their home countries in search of a better life across the seas.

These images and reports do not emphasize the plight of many of these migrants. Many of them are victims of human traffickers who, while appearing to be angels of mercy for those desperate souls, abuse them and profit from their misery. These human traffickers have little consideration for the migrants' safety, leading to the thousands who drown in the process—many without life jackets and in rickety and unsafe boats that are nothing more than boats of death.

Most global and national media images and reports do not expose the plight of thousands of African men, women, and children who are trafficked within the African continent for sexual activities (commercial sexual exploitation and forced marriages) and labor practices (manual labor and drug trafficking) akin to slavery. Their plight rarely makes prime time news on BBC, CNN, and other global media networks. It is hardly an issue in their countries of origin as well, save for the usual speeches that politicians make during important days and occasions such as the Africa Day celebrations (May 25), the International Day for the Abolition of Slavery (December 02), the World Day Against Trafficking in Persons (July 30), and independence day celebrations.

According to the 2016 Global Slavery Index, out of the estimated 45.8 million victims of modern slavery, 6.2 million or 13.6% are in Sub-Saharan Africa. The majority (53%) of trafficked persons in Sub-Saharan Africa are used mainly for sexual exploitation, with children constituting the highest component of trafficked persons (62%).

The 2014 Global Report on Trafficking in Persons of the United Nations Office on Drugs and Crime (UNODC) indicates that the Sub-Saharan region has a higher proportion of child trafficking than any other region in the world. Besides being victims of commercial sexual activities, panhandling, criminal activities, and other forms of manual and harmful work, trafficked African children are used as child-soldiers in many conflict-ridden areas such as South Sudan, the Democratic Republic of Congo (DRC), Somalia, and Nigeria.

The DRC, Sudan, Tanzania, Uganda, Nigeria, South Africa, and Ethiopia are among countries with

the highest number of trafficked persons in the region, according to the *Global Slavery Index*, with Nigeria leading at an estimated 875,500 trafficked persons. The Democratic Republic of Congo follows with an estimated 873,100 trafficked persons and South Africa is estimated to have 248,700 trafficked persons. As stated by the UNODC *2014 Global Reporting on Trafficking in Persons*, trafficking of young women from Nigeria for sexual purposes in Europe is one of the most prominent transregional trafficking flows, with 10% of these victims detected in Western and Central Europe occurring between 2007 and 2012.

Despite the challenge of trafficking in persons and its impact, especially the trafficking of children, several countries in the Sub-Saharan region have been slow to ratify or accede to relevant international instruments designed to address this problem and to adopt and implement national legislation in this regard. While the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, entered into force on December 25, 2003, some countries in the Sub-Saharan region took a long time to ratify or accede to the Protocol. Ghana, Burundi, and Swaziland adopted the protocol in 2012. Zimbabwe followed in 2013. Eritrea, Sudan, and Sierra Leone did so in 2014. Although Uganda, and Congo signed the Protocol in 2000, both countries have yet to ratify or accede to it. Also, Uganda and Zimbabwe have serious challenges with trafficking of persons.

While the majority of Sub-Saharan countries, following a slow start in 2003, now have national legislation regarded to be in line with the international Protocol on Trafficking in Persons, the implementation of these laws has been a challenge...

While the majority of Sub-Saharan countries, following a slow start in 2003, now have national legislation in line with the International Protocol on Trafficking in Persons, the implementation of these laws has been a challenge due to ineffective implementation mechanisms, inadequate funding for such mechanisms, and limited public awareness of such laws and their implementation mechanisms. The low number of convictions against traffickers (despite the large number of victims of trafficking in persons in most African countries) attests to these challenges.

Even with having the largest number of estimated victims of trafficking, and passing its national antitrafficking legislation in 2013 (the Trafficking in Persons Law Enforcement and Administration Act, which was tightened in 2015), Nigeria only reported 30 trafficking convictions in 2014 and 42 in 2013. Also, Nigeria did not allocate sufficient funds for the implementation of its antitrafficking legal framework and its enforcement mechanism. The National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) allocated only \$13 million in 2014. The Civilian Joint Task Force (CJTF), funded by the Borno State government, is said to be recruiting child soldiers, sometimes even by force. Despite these challenges, Nigeria is regarded as one of the best

performing African countries in the prevention and combating of trafficking in persons.

South Africa, another leading country in the region, is reported to have had only three trafficking convictions in 2014. In one instance, a businessman was convicted for trafficking five girls into the country from Mozambique for commercial sex activities and was sentenced to eight life terms. The country's comprehensive antitrafficking law, the Prevention and Combating of Trafficking in Persons Act 7 of 2013, only came into operation in August 2015, and a lot of work has yet to be done in the implementation of the legislation and in raising public awareness about its provisions.

While resource constraints cannot be discounted regarding the implementation challenges of antitrafficking laws in Sub-Saharan Africa, general apathy for the plight of thousands of victims of human trafficking and the lack of political will among many leaders in the region are the main challenges. The failure by several countries to ratify the UN Trafficking Protocol, adopt national laws in accordance with its provisions, and effectively implement these laws is a clear example. There is no reason why countries like Uganda and Swaziland have not yet ratified the Protocol. Additionally, there is no reason why a country like South Africa would take many years before adopting a comprehensive national human trafficking law and then take another two years before bringing that law into operation. Also, there is no reason why most countries in the region have not adopted the recommended antitrafficking national action plans (NAPs) necessary to coordinate efforts to prevent and combat trafficking in persons.

This apathy is also seen in Africa's regional human rights mechanism, the African Commission on Human and Peoples' Rights (ACHPR). Nevertheless, that mechanism has made an important contribution to the advancement of human rights in the African continent and in Sub-Saharan Africa in general. However, in the context of trafficking in persons, the African Commission (other than occasional speeches on slavery and trafficking in persons on international days) has not prioritized the prevention and combating of trafficking in persons in the region. While the Commission's special mechanisms address key human rights issues in the continent such as freedom of expression and access to information, there is neither a special rapporteur on trafficking, nor a committee, or a working group on trafficking in persons.

The same applies to the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), the leading regional mechanism for the protection of the rights of the African child, which has not focused on the trafficking of African children very much. In its December 2014 mission report on the situation of children in the conflict in Central Africa, the Committee, while recognizing the recruitment, exploitation, and usage of over 10,000 children by warring groups in the country, did not refer to the importance and need of antitrafficking laws and their compliance with the provisions of the UN Protocol on human trafficking in its recommendations.

In the same vein, the Network of African National Human Rights Institutions (NANHRI), which represents over 40 African national human rights institutions, does not focus in its thematic areas—which include business and human rights, torture prevention, conflict resolution, and peace building—on trafficking in persons as a separate and distinct thematic or subthematic area and does not appear to be addressing this matter in any significant manner.

Subregional political and economic mechanisms such as the Southern African Development Community (SADC), the East African Economic Community (EAEC), and the Economic Community of West African States (ECOWAS) have also not done much to tackle the problem of trafficking in persons in the region beyond laws, policies, plans, and declarations adopted by heads of governments in some of these structures.

For example, heads of government in the ECOWAS, adopted the Declaration on the Fight against Trafficking in Persons (2001) and the ECOWAS Initial Plan of Action against Trafficking in Persons (2002–2003). One of the things the ECOWAS Declaration called for was the preparation and adoption of a subregional convention against trafficking, with a special focus on trafficking in children and women. However, very little was done by ECOWAS to give effect to these instruments in preventing and combatting trafficking in persons in the region. Despite this, the 2002–2003 ECOWAS Initial Action Plan was replaced by the 2008–2011 Action Plan against Trafficking in Persons, and in June 2009, ECOWAS leaders adopted the Regional Policy for Victims of Trafficking in Persons.

A joint study was conducted by regional offices of the UN and the UN High Commissioner for Human Rights in West Africa to look at the implementation challenges of measures adopted to prevent and combat trafficking in the West African region. It found that 10 years after the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons came into operation and 8 years after the adoption of the 2002–2003 ECOWAS Action Plan against Trafficking in Persons, and a host of national measures, most West African states have not effectively implemented measures they have adopted to fight trafficking in persons.

The lack of focus and effectiveness in the prevention and combating of trafficking in persons by these regional human rights mechanisms and the subregional political and economic mechanisms seems at odds with the position of the African Union—unless the African Union is itself just paying lip service to this issue. In this regard, the African Union chose the Day of the African Child (June 16, 2009) to launch AU Commit, an initiative to fight human trafficking in Africa—a priority on the development agenda of the continent—and called on African states to build on the 2006 Ouagadougou Action Plan to Combat Trafficking in Human Beings, which guides African Union member states in developing and reforming their national policies and laws on trafficking in persons.

While the number of countries in Sub-Saharan Africa that have adopted legislation criminalizing trafficking in persons now stands at over half of these countries, the region still suffers from inadequate public awareness on trafficking and poor implementation of legislation designed to curb and penalize trafficking. This is seen in the low conviction rates pertaining to human trafficking and inadequate information systems needed to address this phenomenon.

What is required in response to the plight of thousands of victims of trafficking in persons is the exertion of more pressure by civil society organizations and other stakeholders in the region on their governments to get them to take the issue of human trafficking more seriously and allocate necessary resources to addressing this phenomenon. Regional, subregional, and national human rights mechanisms should also prioritize this matter in their plans and activities.

Factors that lead to many people falling victim to human trafficking, the so-called push and pull factors, include poverty, unemployment, drug addiction, abuse, and coercion. These factors need to be addressed urgently and decisively. In addressing these factors, raising necessary and appropriate public awareness about human trafficking and its implications will go a long way towards successfully combating this phenomenon. The most important factor in this regard, however, is the effective implementation of antitrafficking laws and the successful prosecution of human traffickers. Securing national borders without unduly affecting the movement of people and goods in the region would also be important, as would the establishment of a Sub-Saharan African Trust Fund for Victims of Trafficking, which would address some of the resource constraints challenges.

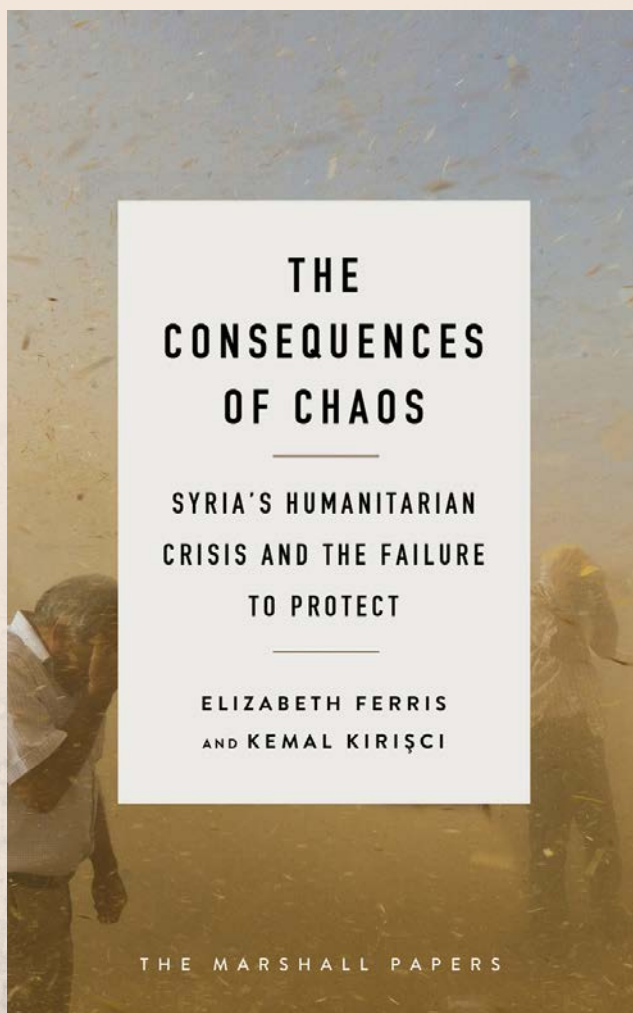
At the international level, the various UN human rights treaty monitoring bodies should prioritize this matter, and the universal periodic review mechanism (UPRM) of the UN Human Rights Council, which looks into the human rights record of UN members states, should be used to look into how all governments, particularly Sub-Saharan states, address this phenomenon. The UPRM should put states on the spot that are merely paying lip service to the challenge of trafficking in persons. Governments of countries in North America, Western and Eastern Europe, and the Middle East—recipients and beneficiaries of trafficked people from the Sub-Saharan region—should do a lot more to curb this flow. They should make a clear distinction between undocumented migrants and victims of trafficking and should create a legislative and policy environment that is more conducive to the detection and support of victims of trafficking in their territories. Many of the factors that lead to human trafficking and that render African women and children vulnerable and susceptible to human trafficking have a lot to do with socioeconomic and political factors and circumstances that these governments cannot, for historical and contemporary reasons, absolve themselves from.

Sub-Saharan governments and their people should also do more to address the push and pull factors behind the high levels of trafficking in persons in the region. The trafficking in persons, including those trafficked out of the African continent, has a major impact on the economic development of the region and continent as a whole. It should be fought at all levels and in all its forms. This phenomenon and its causes constitute a threat to regional and global security.



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THE MASSIVE DIMENSIONS OF SYRIA'S REFUGEE CRISIS—AND THE SEARCH FOR SOLUTIONS



THE CONSEQUENCES OF CHAOS

SYRIA'S HUMANITARIAN CRISIS
AND THE FAILURE TO PROTECT

ELIZABETH FERRIS AND KEMAL KIRISCI

Interview with Dr. Osei Bonsu Dickson

SMC University and Faculty of Law, Wisconsin University

What is the effect of human trafficking on West African countries? In particular, what kind of effects are associated with human trafficking in Ghana?

In West Africa, internal trafficking of children constitutes a huge problem. In Ghana, for example, many children are trafficked from their home villages to work in the fishing industry. Living in dire conditions and working long hours each day, these kids are exploited by fishermen desperate to feed their families and eke out a living along the banks of Lake Volta. Trafficking in West Africa occurs in varied forms such as forced marriages, prostitution, child labor, and sexual violence.

The problem of human trafficking in West Africa is reflected in the fact that almost all fifteen West African States fall under all three OTD (origin, transit, and destination) classifications in the trafficking supply chain. As usual, victims are recruited or abducted in an originating country characterized by poverty, unemployment, or conflict. Then, they are transferred through transit countries often marked by lax institutions, weak legislation, corruption, and porous borders. Finally, they are exploited in destination countries with booming sex industries and a demand for cheap labor.

In Nigeria, human trafficking has substantially affected interstate and foreign commerce. Trafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on nationwide employment and the labor market. Despite being the second most profitable criminal activity, human trafficking impedes national and international economic growth. These examples drawn from the nation-states of Ghana and Nigeria actually hold true for several West African states.

Do you think the cultural landscape of a country determines the types of human trafficking that occur there? If so, is Trokosi a culturally-derived form of sexual slavery in Ghana?

Trokosi is a system under which young females, sometimes as young as five years old, are rendered slaves to a fetish shrine for offenses allegedly committed by a member of the girl's family, like stealing or improper sexual relations. Originally, the girls were killed as a sacrifice to appease angry gods or to ensure success in war. Eventually, the system evolved to a state whereby priests agreed to keep the girls as slaves—"mainly to work the land of traditional religious shrines, perform housekeeping services for the priests, and share their beds with him." This ritual servitude can best be described as a

...victims are recruited or abducted in an originating country characterized by poverty, unemployment, or conflict.

culturally-derived form of sexual slavery.

The cultural disposition of people contributes to the perpetration of certain ill practices that denigrate liberty, rights, and human dignity. That position holds true in the context of Trokosi, a camouflaged form of sexual slavery. It is a type of slavery that may include single-owner sexual slavery and ritual slavery. Sometimes, this ritual slavery is associated with certain religious practices. In my view, the bondage, indignities, and denial of freedom that Trokosi girls go through is nothing short of slavery.

Would you say the legal framework in Ghana adequately deals with human rights violators and traffickers?

Like several other West African countries, Ghana has adopted some legislation to prevent human trafficking and punish offenders. These include the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), The Universal Declaration of Human Rights (1948), The ILO Abolition of Forced Labour Convention, The ECOWAS Protocol on Free Movement of Persons, Residence, and Establishment, The ECOWAS Declaration on the Fight against Trafficking in Persons, The Multilateral Cooperation Agreement to Combat Child Trafficking in West Africa, and a lot more international treaties and conventions.

Beyond this, Ghana has gone ahead to develop a national legal framework in the form of the Human Trafficking Act, 2005. Its memorandum introduces the act as “An Act for the prevention, reduction and punishment of human trafficking, for the rehabilitation and reintegration of trafficked persons and for related matters.” One can confidently say that the legal framework is a robust one and that when it is

duly implemented and enforced, the menace of human trafficking will be addressed.

How do you determine victims of human trafficking in Ghana? Also, how often are victims rescued in Ghana?

Everyone has the potential to discover a human trafficking situation. While the victims may sometimes be kept behind locked doors, they are often hidden right in front of us: For example, construction sites, restaurants, elder care centers, nail salons, agricultural fields, and hotels. Traffickers’ use of coercion—such as threats of deportation and harm to the victim or his or her family members—is so powerful that even if you reach out to victims, they may be too fearful to accept your help. Knowing the indicators of human trafficking and some follow-up questions will enable rescuers to act on their gut feeling that something is wrong and to report their concerns as appropriate.

While not an exhaustive list, the following offers some red flags that alert authorities about a potential trafficking situation:

- Person is living with employer.
- Living conditions are poor.
- Multiple people live in cramped space.
- You are unable to speak to the individual alone.
- Answers appear to be scripted and rehearsed.
- Employer is holding identity documents.
- Signs of physical abuse appear.
- Person is submissive or fearful.
- Pay is very little or nothing.
- Person is younger than 18 years old and in prostitution.

Are initiatives being taken by the government and civil society to curb the incidence of human trafficking in Ghana?

According to the *2016 Trafficking in Persons Report*, Ghana is a Tier 2 Watch List country, meaning that the government does not fully meet the minimum standards for the elimination of trafficking in persons. It also failed to provide evidence of increasing efforts to combat severe forms of trafficking in the past year. This notwithstanding, the government has continued to play a role in curbing the menace. Among its efforts is the passage of the Human Trafficking Act, 2005.

In what has been described as a swift response to the damning *2016 Trafficking in Persons Report*, The Ministry of Gender, Children and Social Protection is set to train security officers along the border towns to help curb child trafficking activities. Civil society also continues to play its role in curbing the menace of human trafficking in Ghana through partnerships with government and other institutions, as well as self-initiated projects and programs.

What efforts are being made by the government of Ghana to train law enforcement to deal with human trafficking? Do you think these efforts are adequate?

The recent announcement by the Ministry of Gender, Children and Social Protection about the training of security officers in border areas is among a few of such interventions. The findings of the *2016 Trafficking in Persons Report* indicate that these training programs are not adequate. According to the report, “the government did not provide anti-trafficking training to prosecutors despite acknowledgment that such training was needed.”

Can you share your ideas on the measures that can be put in place to curb human

trafficking in Ghana and other West African countries?

Information sharing and joint operations with other West African Countries must be at the top of the agenda of eliminating human trafficking. If this is done in addition to realizing the following recommendations in the *2016 Trafficking in Persons Report*, considerable gains will be made in curbing the menace of human trafficking:

- Increase funding and support to police and immigration services for investigative efforts.
- Increase funding to the police and attorney general prosecutors to prosecute trafficking offenses (especially internal labor and sex trafficking of children). This will assist them in their efforts at convicting and punishing trafficking offenders.
- Develop and implement systematic methods of collecting and reporting data on investigations, prosecutions, victims identified, and assistance provided.
- Develop and implement systematic procedures for law enforcement, social welfare personnel, and labor inspectors to proactively identify trafficking victims among vulnerable populations—such as women in prostitution, migrant workers, and children working in agriculture, mining, fishing, and pottering—and refer them to protective services.
- Provide government funding for the Human Trafficking Fund.
- Finalize and implement the National Plan of Action against Trafficking.

- Provide training to prosecutors and judges on the appropriate implementation of the Anti-Trafficking Act.
- Increase efforts to ensure Attorney General's Department prosecutors review human trafficking case dockets and lead the prosecution of human trafficking cases.
- Provide support for government-operated shelters for children and adults and training of staff in victim care.
- Increase efforts to regulate the activity of licensed and unlicensed recruitment agencies and to investigate and prosecute agencies suspected of participating in human trafficking of Ghanaian migrant workers.

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Interview by Sheritha Brace

State-Sponsored Slavery: Migrant Labor in the GCC

Mr. Husain Abdulla

Americans for Democracy and Human Rights in Bahrain

The prevalence of human trafficking and forced labor in the Gulf Cooperation Council (GCC) member states is a result of governmental inaction and negligence. Although the Governments of Saudi Arabia, Kuwait, the United Arab Emirates (UAE), Oman, Qatar, and Bahrain have all pledged to actively combat human trafficking in recent years, they have not adequately addressed key factors contributing to modern slavery. Millions of South Asian, East Asian, and African workers who migrate to the Gulf are highly vulnerable to exploitative conditions amounting to forced labor. Many are often abused within this system, and those who attempt to escape can find themselves further trafficked; women who flee abuse are especially vulnerable to being forced into prostitution and sex trafficking. The governments of the GCC states sponsor this exploitation of labor and perpetuate the cycle of abuse. All Gulf states still maintain the *kafala* system of sponsorship-based employment, despite the Bahraini government's claims that it has dismantled it. Many states have not reformed their inadequate labor laws, and none have followed through on anti-trafficking initiatives. Human trafficking, forced labor, and sexual exploitation will never be successfully eradicated in the Gulf if the GCC states continue to sanction such abusive practices.

All Gulf states utilize the *kafala* system of sponsorship-based employment that delegates responsibility for foreign workers to private citizens. Under the *kafala* system, a migrant worker's immigration status is legally tied to a citizen sponsor, who oversees a migrant's work and residency permits. Tying an employee's visa status and mobility to his or her employer strips the worker of his or her autonomy and personal rights. GCC governments give considerable power to the sponsor, rendering migrant workers entirely dependent upon their sponsors throughout their employment periods. A worker cannot change and/or leave jobs without employer permission, and employers often confiscate workers' passports and identity documents, as well as withhold their wages. As the International Labor Organization (ILO) affirms, the *kafala* system favors the rights of employers as it fails to provide for the protection of the rights and welfare of migrant workers.

The *kafala* system also restricts the mobility of migrant workers. Passport revocation is rampant within the GCC. Most employers take their workers' passports immediately upon arrival. As employers control migrant laborers' passports, they effectively control their movements. Passport revocation is frequently the first in a long string of labor abuses carried out by employers. In some states, migrants are forced to obtain permission from their employers in order to receive an exit visa. The particularly strict exit visa regulations in Qatar and Saudi Arabia mandate that foreign workers obtain permission from their employers to exit the country. This system, especially in its Saudi Arabian and

Qatari forms, contravenes the stipulations of the Universal Declaration of Human Rights (UDHR). Article 13, for example, enshrines the right of movement. It states that, “Everyone has the right to freedom of movement and residence within the borders of each state”, and “Everyone has the right to leave any country, including his own, and to return to his country.” These rights are also found in the International Covenant on Civil and Political Rights (ICCPR), of which Bahrain and Kuwait are the only signatories in the GCC. The UN Special Rapporteur on the Human Rights of Migrants has stated that the exit visa is a source of abuse and that “there is no valid justification for maintaining this system.”

As a result of the pervasive *kafala* system, unscrupulous recruitment practices, and weak enforcement of insufficient labor laws, the GCC governments are effectively maintaining a state-sanctioned trafficking network—one that forces its victims to endure conditions which amount to forced labor. The abuse that migrant workers suffer under the *kafala* system begins in the source country during the recruitment process. Although many GCC countries prohibit workers paying their own recruitment fees, this ban is poorly enforced, and laborers often feel compelled to take out large loans in order to pay the exorbitant fees. Being indebted upon arrival forces migrant workers to accept lower wages from their employer, as they cannot afford to pay additional recruitment fees for a new placement or to return home. Taking further advantage of migrant workers, employers often practice contract substitution. This means that the nature of the laborers’ work, as well as their promised salaries as stipulated in the original contracts signed during recruitment, often changes upon arrival to the Gulf.

Gulf countries try to mitigate recruitment abuse by signing agreements with source countries. For example, GCC member states and source countries with large numbers of emigrants often enter into Memorandums of Understanding (MoUs). India recently signed MoUs with Bahrain and the UAE in the hope of mitigating human trafficking and implementing best practices for migration. Saudi Arabia has struck similar agreements with Cambodia and Somalia. Still, while such agreements may represent an attempt to address the problem of human trafficking, none of them are legally binding. These MoUs are purely aspirational. None of the GCC states have drafted or passed legislation to reinforce the content of these agreements.

Initial rights violations such as contract substitution and passport revocation do not constitute the only abuses faced by migrant workers during their time in the Gulf. Employers exercise extensive oversight of their workers, and the lives of migrant laborers are highly regimented as a result. Workers generally receive accommodations, but many of these facilities are overcrowded and unsanitary. Companies also arrange for transportation to and from the worksites and the migrant workers’ accommodations. While they work, migrant laborers are often subjected to physical abuse at the hands of their employers. Most are expected to do harsh physical labor with few—if any—breaks for long hours in extreme weather conditions.

As the mistreatment of migrant day laborers continues, the GCC states have also taken little action to protect migrant domestic workers. Domestic workers remain entirely excluded from the labor laws of Oman, Qatar, and the UAE, and receive minimal protection in the labor laws of Bahrain, Kuwait, and

Saudi Arabia. While Kuwait became the first GCC country to proffer enforceable rights to domestic workers, its legislation falls short by failing to stipulate enforcement mechanisms such as labor inspections; specify fines for employers who retain identity documents; and grant collective bargaining rights such as the right to strike and form unions. Bahrain's law fails to provide basic protections such as a minimum wage, weekly rest days, and limits on working hours.

The lack of governmental protection for domestic workers leaves them open to abuse and exploitation. Due to their positions in private homes, domestic workers are largely isolated, and their employers regularly take advantage of them. Employers often restrict them to the home and force them to work as long as 21 hours a day. Domestic workers are also highly vulnerable to sexual and physical abuse, and employers often use threats of abuse and rape to force domestic workers to obey them.

Physical and sexual abuse of domestic workers is so rampant that many source countries have banned workers from obtaining visas to GCC countries. Indonesia has placed a ban on female domestic workers from working anywhere in the Gulf, and Uganda has banned its citizens from specifically working in Saudi Arabia.

Given their lack of legal protections and the abuse that they endure, some domestic migrant workers resort to fleeing from their employers. Those who successfully escape are often left without passports, without money, without in-country contacts, and illegally in the country. Many domestic workers do not know Arabic or English, leaving them unable to read street signs or even identify their current address. Employers often confiscate domestic workers' phones with their passports upon their arrival at the home, further isolating them and making it extremely difficult for them to contact their embassies—assuming they know how. Such intense isolation in a foreign location leaves them especially vulnerable to exploitation and sex trafficking.

Prostitution, whether in hotels, private apartments, or massage parlors, is the primary manifestation of sex trafficking in the Gulf. Domestic workers fleeing abusive environments are often further trafficked into prostitution. Their experiences are almost identical to those of women who are directly sex trafficked from their home countries, lured by false promises of better jobs and wages. Traffickers subject their victims to tight physical control, regularly threatening both physical and sexual abuse. Many women are kept locked in small, cramped apartments while they wait for their next appointments with clients, which are usually set up by their traffickers. If the women are forced to work in hotels, they often operate under the strict supervision of their traffickers, who ensure the women meet with enough men to keep their profits high. If at any time the women do not follow orders, their traffickers usually beat or starve them into submission. If women do happen to escape

While all six GCC countries have passed anti-human trafficking legislation, the laws generally lack adequate definitions of the term “trafficking”, as well as appropriate punishments for traffickers.

their traffickers, they are likely to continue being trafficked, perpetuating the cycle of abuse.

While all six GCC countries have passed anti-human trafficking legislation, the laws generally lack adequate definitions of the term “trafficking”, as well as appropriate punishments for traffickers. Governments also frequently fail to properly identify victims of human trafficking. Without proper identification, many victims who flee their abusive environments are prosecuted for crimes they have committed that are directly related to their having been trafficked. For example, prostitution is a common indicator that a woman has been sex trafficked and subjected to abuse. However, prostitution is illegal in every GCC state, and women caught engaging in the practice are subjected to criminal charges and formal prosecution. Absconding—a common response to employer abuse—is also illegal.

While the GCC states insufficiently deal with victims of potential human trafficking, there are some investigations into potential trafficking crimes. Nevertheless, these investigations are rare, and, when they do occur, they regularly result in lower prosecution and conviction rates. The UAE, Kuwait, Bahrain, Qatar, and Oman each investigated and prosecuted less than 25 cases of human trafficking during 2015. Even when they have properly identified victims of human or sex trafficking, GCC authorities often treat them as criminals, especially women who abscond from sexually abusive domestic positions. In many cases, security forces will lock victims in jail cells while they await their trials because the government is unable to take care of them.

Upon arrival in the GCC, migrant workers’ lives are no longer their own; employers confiscate their passports, their mobility is restricted, and their schedules are regimented. Employers often physically and sometimes sexually abuse migrant workers; victims are unable to leave due to restrictive government policies and the *kafala* system tying them to their employers. Authorities treat victims as criminals for offenses that are the direct result of their having been trafficked. Simultaneously, governments fail to utilize anti-human trafficking laws against the traffickers themselves, and conviction rates remain extremely low.

Ultimately, GCC states need to examine their culpability in an extensive trafficking network that adversely affects the lives of the millions of migrant workers within their borders. The international community must do more to push these actors to both implement new legislation and properly enforce existing laws protecting the rights of migrant workers. Larger crime and conviction rates would not necessarily indicate more crime or trafficking, but rather government willingness to fix a broken system and eradicate systemic abuse.

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Child Trafficking in China: Who are Female Perpetrators?

Dr. Anqi Shen
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Abstract

Trafficking in children is a long-lasting social problem in China. While evidence shows that the majority of child trafficking incidents in the country involve women as perpetrators, females' involvement in the illicit trade is underrepresented. This short essay focuses on women perpetrators in child trafficking in China. It intends to explore who female traffickers are, what motivates women to engage in child trafficking, how they access children, and what role they play in the trafficking processes. By examining female child traffickers, this essay hopes to look deeper into the child trafficking trade and to gain an in-depth understanding of the problem so as to help find better solutions to respond to it.

Introduction

Trafficking in children is a long-lasting, nationwide social problem prevalent in China's history. Traditionally, children are placed in a subordinate social and familial position in China, and it is culturally accepted that adults hold a superior position over children. In pre-liberation China, children were regarded as the property of their parents and subjected to abuses. Domestic abuses against children were justified under parental authority. Despite increasing emphasis placed on child protection in policy and practice since the founding of the People's Republic of China (PRC), children's status is still discounted, especially in the country's underdeveloped rural areas.

Causes of child trafficking in China are complex, and the social ill is the product of the interplay between multiple deeply rooted traditional, cultural, and socioeconomic factors, as well as some negative effects of public policy. Child trafficking remains a social problem in the reform era. Often, the Population Planning Policy (*jihua shengyu zhengce*), formerly known as the "One Child Policy", is believed to be the cause of child trafficking in China. However, given the long history of the problem in the country, the population control policy certainly is not a root cause of child trafficking, although it has facilitated the child trade by creating further demand for children in the criminal market.

Trafficking in children, like human trafficking as a whole, is a complex and variegated social phenomenon. This short essay focuses only on one dimension of child trafficking in China – female perpetrators. It intends to explore who female child traffickers are; what motivates them to engage in the child trade; how they access children; and what role they play in the trafficking processes. Understanding perpetrators' – in this case, female traffickers' – motivations and operational behaviour

...the majority of trafficking incidents involve women as perpetrators, and women appear to play a recognizable role throughout the trafficking process.

helps us to gain deep insights into the illicit human trade and helps to work out how the problem can be better tackled at both policy and practical levels.

Who are female child traffickers?

Official documentations, news reports, and academic studies (e.g., Shen et. al., 2013) all indicate that the majority of trafficking incidents involve women as perpetrators, and women appear to play a recognizable role throughout the trafficking processes. Who are female child traffickers, then?

Existing research (e.g., Ren 1996; Shen 2015, 2016; Zhao 2003) consistently suggests that female human traffickers in China are often poorly educated rural women, many of whom are illiterate. They are typically mature women, with a narrow vision, and limited life experiences. In a recent study I conducted of female perpetrators in child trafficking (Shen 2016), the majority of the women traffickers were originally from impoverished, remote, mountainous regions in Yunnan and Guizhou provinces, who were either rural migrant workers in the city or peasant farmers residing in their birthplaces prior to their arrests. The study forges a link between these women's poor education and lack of life experiences and their involvement in child trafficking. Two interpretations can be offered.

First, poor education limits the rural women's ability to judge right from wrong, especially in areas with moral ambiguities, such as the child trade. Traditional Chinese culture values family ties. In this cultural context, enabling a full family unit with parents and children (sons and daughters) is traditionally viewed as a social good. It is, therefore, difficult for poorly educated individuals to understand that trading children as commodities is the wrong way of valuing them. My research (Shen 2015) shows that female child traffickers commonly failed to recognize that trafficking in children violates the fundamental rights of those children as human beings and is thus unacceptable.

Second, illiteracy and inadequate education prevent people from gaining knowledge as to the nature and consequences of their wrongdoing, which would otherwise have enabled better informed decision-making. While information about human trafficking – detailing such things as the illegality of the child trade and its legal consequences – is widely available in the popular media, ironically, the populations who most need this information are unable to access it through these media channels. Public education does not seem to reach the populations who most need the awareness of human trafficking and trafficking laws – those who live in the remote, mountainous areas where there are technical difficulties communicating with the villagers; rural migrants who are highly mobilized from one place to another in the city are also excluded. As demonstrated in my 2015 study (Shen 2015), quite often the female traffickers were first-time offenders, who were unaware, for example, that taking a baby from one place to another for others could amount to trafficking and result in a long-

term prison sentence.

What are women's motivations for trafficking in children?

Evidence in official, journalistic, and academic discourses indicates that women (and men) are typically driven by economic incentives to engage in child trafficking, although their circumstances vary and direct causes differ.

China's economic reforms in the past few decades have led to unprecedented economic growth, as well as a highly polarized society: a small number of super-rich at the top, and a sizable number of impoverished citizens at the bottom. This impoverished population subsists merely on the agricultural produce from the small pieces of land they own. Money-making opportunities are considerably constrained for peasant farmers in the remote, underdeveloped regions of China.

Since the start of China's economic reforms, rural labor surplus – men and women – have been encouraged to go and find jobs in the city. At the same time, the rural-urban divide that was institutionalized in the Maoist era remains unchanged. It means that under the household registration scheme (*hukou zhidu*), the rural population does not enjoy state welfare such as social housing, medical care, and other social security provisions to which their urban brothers and sisters are entitled. With the existing patchy social security system, people of rural status (e.g., peasant farmers and rural migrants), including women, are left on their own to deal with their life problems.

My research into female child traffickers (Shen 2016) shows that there was a general shortage of money among the women who were involved in the child trade, and these women often committed the crime in exchange for just a little bit of cash. On some occasions, there were urgent financial needs; in other cases, the criminal proceeds of female perpetrators were spent on day-to-day household expenses, such as food and groceries. While financial gain through participating in child trafficking was not guaranteed, the convicted female child traffickers admitted that their motivation was simply to earn money and they had little alternative choice. Clearly, due to a lack of social and financial resources, these women had limited opportunities to generate wealth and turn their lives around. However, the doors to the criminal markets were wide open to them. Child trafficking is one illicit route to money generation, and the aforementioned female perpetrators chose to take it. But how do women gain access to the trafficked victims? What role do they play in child trafficking?

What role do women play in the child trafficking processes?

The existing evidence shows that the supply of children in the illicit market comes from a variety of channels: illegal adoption, abduction by deception, and kidnapping. Illegal adoption appears to be common in child trafficking cases in China. It is not unusual that parents are found to give away their unwanted children or even sell them for illicit gain. According to a 2015 study conducted by *China's Southern Metropolis Daily*, over 40 percent of the court cases in their study involved trafficked children who were sold by their own biological parents.

With a few exceptions, women typically play various supplementary roles in the child trafficking processes. My study (Shen 2015) suggests that female participants were largely involved in handling new-born babies who were abandoned, given away, or sold by their own parents. Apparently, accessing these children did not require significant capital investment or the use of violence. Therefore, there were virtually no barriers for women to enter the child trade. Sheltering and transporting babies was certainly unchallenging for the female traffickers who were mothers and had brought up their own children. However, the sale of children is rarely a one-person job in the criminal market, and “middlemen” are often needed to go between buyers and sellers. These middlemen can be professional traffickers or opportunistic one-off merchants known to one or both parties of the transaction. Again, women are not barred from playing a role in this stage of the trafficking processes, and even illiteracy is not a barrier (Shen 2015, 2016).

Generally, the child trade is profitable. However, not everyone involved in it can be guaranteed to make a fortune. There is not any current evidence to indicate how many traffickers are financially successful or how much an individual trafficker can make from the buying and selling of children. I found that the women traffickers who participated in my study (Shen 2015) were typically “unsuccessful players” in child trafficking. Even those who obtained children independently had to rely on others to complete the transactions, and they had little say about how much they could get paid. And not everyone had a fair share of the proceeds in the criminal market of the child trade: Often, uneducated and inexperienced rural women were the unlucky “losers” in the transaction and tended to be bullied by sophisticated, professional traffickers. At times, these same women became easy targets for law enforcement (Shen 2015, 2016).

The popular media tends to depict child trafficking as an organized criminal enterprise. In many journalists’ analysis, traffickers are described as “sophisticated”, and terminology such as “criminal gangs” tends to be used (e.g., *BBC News*, 11 March 2015). However, the extent to which child traffickers are organized is an empirical and theoretical question that requires robust academic inquiries in order to find answers. My research (Shen 2015) shows that among criminal partners in the child trafficking business, women tend to rely on only one or two personal contacts – brothers, sisters, brothers/sisters-in-law, cousins, and acquaintances from their same village or known through occasional work. They might not have formed any “structure” as such. Women traffickers identified in that study were amateur, uncalculated, and unsophisticated. In general, these female traffickers were ordinary women living at the bottom of society in reformed China. While it is this category of women traffickers who are often arrested, convicted, and incarcerated, there exist better organized professional traffickers with the skills and sophistication that allow them to remain undetected.

Conclusion

Undoubtedly, child trafficking is a hideous crime. It violates the fundamental rights of children by selling them as commodities in the markets. Also, the child trade in which children are goods on sale gives rise to abuses and degrading treatment of those vulnerable victims by adult traffickers. However, rather than offering a general account of the various dimensions of child trafficking in China, this essay pays attention to women who are involved in child trafficking as perpetrators to look deeper

into the illicit trade and gain an in-depth and more nuanced understanding of the problem so as to help find better solutions to respond to it.

Female traffickers, as the evidence shows, are often peasant farmers and rural migrants, who are typically members of China's marginalized and disadvantaged social groups. These women are, of course, criminal offenders under the trafficking laws, but at the same time, they are also victims of rapid social changes and of social and gendered inequalities in an increasingly marketized China. Because legitimate money-making opportunities are not readily available to them, some of these women turn to the criminal markets and engage in an illicit trade that they can manage to access and function within.

Hence, child trafficking in China is essentially a problem of social inequality. The continuation of this social evil should also be attributed to the criminogenic effects of the capitalist practices in post-Mao reform era. Toughening trafficking laws and imposing harsh sentences on child traffickers are not solutions to this problem. Describing female child traffickers as ruthless and sophisticated women is unhelpful, too, as it does nothing but make harsh penalties palatable for women who, like men, are already subject to long-term imprisonment under the existing criminal law.

In order to tackle the historical problem of child trafficking in China, public policy should be reviewed, and radical reform in certain areas may be inevitable. For example, emphasis should be placed not only on law enforcement crackdowns, but also on creating opportunities for disadvantaged women and the disadvantaged Chinese population as a whole. Efforts must be made to develop the state welfare system so that it applies equally to everyone in the country. All of society must work together to tackle poverty and find ways of diverting individuals belonging to disadvantaged and marginalized social groups from drifting into the criminal markets. Furthermore, it is vital to widely promote cultural and legal awareness about human trafficking, while at the same time reforming the country's adoption services to reduce the demand for illegal adoptions. In addition, government-sponsored research on human trafficking in general, and child trafficking in particular, is urgently needed in China. Continued research is an important tool in addressing fundamental questions about human trafficking, as well as playing an essential role in the design of countermeasures against this persistent social evil.



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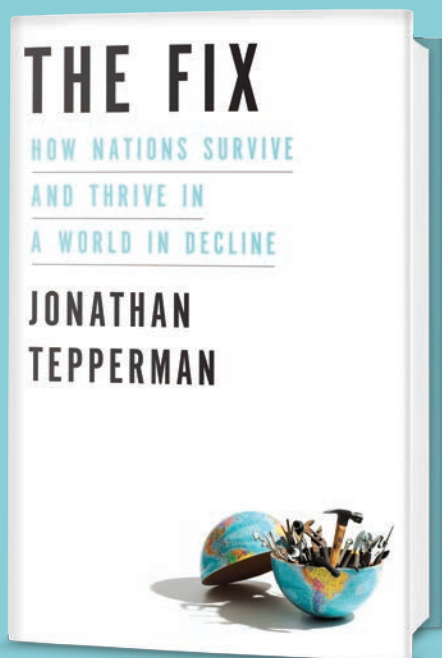
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Interview with Dr. Robert Lawson

Southern Methodist University

What drew you to a career in the study of economics?

I toyed with the idea of studying political science with an eye toward politics or law, but the analytical rigor of the field drew me toward economics. Policy-making is frequently driven by emotions and serious mistakes happen often as a result. For example, the natural desire to help people who lose jobs to foreign competition leads to protectionist policies that make the nation poorer. The serious, cold-hearted calculus of costs and benefits embedded within economics offers a useful counterbalance to such policies.

How have you applied your study of economics to the topic of human trafficking?

This is a relatively new area of interest for me. I have published one study on the topic: “Is Human Trafficking the Dark Side of Economic Freedom?” in *Defence and Peace Economics*, coauthored with Lauren Heller (Berry College), Ryan Murphy (SMU), and Claudia Williamson (Mississippi State). The paper uses data on human trafficking at the country level to examine whether freer markets exacerbate or attenuate the incidence of human trafficking.

What are some examples of economic phenomena that could result in problems like human trafficking?

One argument is that developed countries demand cheap labor in order to produce the quantity and variety of goods wealthier

consumers desire. In addition, developed nations tend to have more open borders, increasing the flow of goods and people, which may lower the costs to traffic. These arguments place the emphasis on the demand side of the market, blaming human trafficking on first-world consumers’ thirst for cheap goods. For some commentators, human trafficking is just another example of the exploitation associated with “neoliberal” markets everywhere.

I am skeptical of this argument myself.

An open market economy will certainly expand opportunities for exchange, increasing the overall scale of economic transactions. However, a more free economy with fewer labor market restrictions should decrease the incentive to traffic labor, as voluntary labor is readily available for purchase on the open market at a variety of prices.

It is also well established that economically freer societies have greater potential for growth. Hence, economic freedom may decrease the quantity of human trafficking victims supplied.

Does human trafficking occur more often in nations with underdeveloped or corrupt economies? If so, why do you think this happens?

One of the purposes of our work was to distinguish the impact of development from economic freedom on human trafficking. This is difficult to do because more economically free countries also tend to be more developed.

After controlling for both effects, we found that income per capita is the largest predictor of the destination of trafficked persons. Richer, more developed countries are indeed receiving more trafficked people. Economic freedom as such had no impact here.

In contrast, when looking at the country of origin data, we found that income levels did not matter and economic freedom did, but not in the way opponents of “neoliberalism” would imagine. Countries with less economic freedom, meaning more taxes, protectionism, and government regulation, were greater suppliers of trafficked persons.

Democracy, press freedom, and legal origins did not exhibit a robust association with trafficking in any way.

What are the best economic practices to combat human trafficking?

We did not find much evidence that policies directly aimed at stopping human trafficking are reducing the actual incidence of human trafficking. Economic development, especially if driven by economic freedom, seems to be the best approach to combatting human trafficking. Although development can fuel the demand for trafficked persons in recipient countries, it also can serve to dry up the supply from source nations.

What other black market goods could potentially be trafficked in addition to humans (or have been in the past)?

We should be careful not to equate human trafficking, which necessarily involves physical or serious psychological coercion, with run-of-the-mill black markets. Black markets for illegal products like drugs, sex, untaxed cigarettes,

or adult pornography do not necessarily involve coercion. It is a categorical mistake to assume that all prostitutes are victims of human trafficking. The buyers and sellers in most black markets are operating completely voluntarily and there is no force involved per se.

With that said, human trafficking is frequently a direct response to the many government-imposed restrictions on free commerce. Migration restrictions, work-visa rules, anti-prostitution laws, etc. frequently push people into the hands of human traffickers because legal means of migrating and working are closed off.

More generally, economically free countries experience less crime, fewer black market transactions, less organized crime, and afford less opportunity to carry out illicit transactions without discovery. As Supreme Court Justice Louis D. Brandeis once argued, “Sunlight is said to be the best of disinfectants”. Economically freer societies may offer more “sunlight”, exposing traffickers and decreasing incentives to engage in such behavior in the first place.

Are there economic costs associated with human trafficking? If so, what are they?

There are certainly costs, but there are also benefits. Almost by definition, however, human trafficking generates more costs than benefits. Given that human trafficking victims are not voluntarily agreeing to the market exchanges in which they are forced to participate, the costs certainly exceed the benefits in their eyes. It is not that people are moving from place to place with the assistance of “coyotes” or the unsavory nature (in some people’s eyes) of the work involved that is the problem of human trafficking. The problem is that people are being forced to move and work against their will.



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Interview by Emily Luense

Interview with Professor Susanne Lundin

Lund University

As an expert on organ trafficking, could you evaluate the scale to which it is a global issue?

Background. Worldwide, transplantations should be altruistic donations. Commercial transactions are not allowed: The organ should be a gift. One exception is Iran. Since 1988, Iran has operated the only government-sponsored paid living donor (LD) kidney transplant program.

Transplants from deceased donors involve solid organs, including the heart, lungs, liver, kidney, and pancreas. It is also possible to receive transplants from living individuals: A living person can donate a single kidney or a piece of his or her liver. Most living transplants involve the kidney, since a human being has two kidneys and is able to live with only one. In many countries worldwide, the demand for organs from both deceased and living donors far outstrips the supply. This can be caused by many things, including poor dissemination of information to citizens regarding transplantation and donation, poor organization in healthcare, and political and cultural reasons. The latter may be due to the fact that in many countries donation from the deceased, normally the largest donation group, does not exist because of cultural and religious reasons.

While the increased availability of organs resulting from living donation is beneficial, the possible subsequent trade of organs is disadvantageous. Another double-edged benefit

is the immunosuppressant drug, Cyclosporine, which was introduced in the early 1980s. Until then, a problem in transplantation medicine was that the body often rejected foreign body parts, a process that changed dramatically with the help of immunosuppressant drugs and meant that the recipients of organs had significantly better chances of keeping an organ than before. However, this also meant that there were more opportunities to use organs from people whose blood type did not necessarily match that of the sick recipient. This was and is one of various important factors that facilitate trade in organs and make it easy for individuals to become victims of coercion.

Illegal trade. There are numerous cases where the so-called “informed consent” document, necessary for all transplantations, lures disadvantaged people into a commercial transaction in which they usually get only an insignificant amount of money, or nothing at all. Poor and vulnerable people can become victims of wealthy patients who require organs to stay alive. The exploitation and vulnerability of the organ suppliers are manifested by the fact that they receive little or no payment at all. Organ selling does not lead to long-term economic benefits since selling a kidney is associated with a decline in health status and a diminished ability to return to labor-intensive work. In fact, selling a kidney may worsen the seller’s economic status.

Buyers. They pay between US\$100,000 and US\$250,000 for a kidney.

Over the years, organ trafficking—or rather, the illicit trade with organs—has become more complex because new types of buyers and sellers are turning up.

Sellers and suppliers. The payments that suppliers receive vary worldwide. Individuals from India, Pakistan, Bangladesh, Colombia, and the Philippines have, over the past five years, received between US\$1,000 and US\$2,500 for a kidney or part of a liver. Iran has a regulated organ procurement system only for Iranian citizens where the standard amount from the government is US\$1,219. Sellers from Romania reported having received about US\$5,000, and sellers from Brazil reported having received about US\$3,000. Sellers from Israel and Turkey reported having received between US\$7,500 and US\$20,000.

Profit. Organ brokers and organ syndicates make money. The illicit organ trade is estimated to generate profits between US\$600 million and US\$1.2 billion annually.

Have any trends in organ trafficking evolved over the years?

Over the years, organ trafficking—or rather, the illicit trade with organs—has become more complex because new types of buyers and sellers are turning up. The buyers are not always wealthy. They may be seriously ill people who scrape together the money for a new organ with the help of their relatives. Nor are the sellers exclusively poor people who need food for the day. There are people who sell a kidney or a piece of their liver to pay for university studies or even to buy an iPad. The trade in organs has become permeated with cultural ideas about the body as commodity.

Are there specific regions or countries where the issue is more prevalent? Do certain characteristics of a nation or population contribute to the prevalence of organ trafficking?

Organ trafficking is found throughout the world. This commerce, just like other businesses, is carried on within the framework of a market system. The trade is governed by a short supply and an increasing demand. The selling of organs primarily exists in countries marked by corruption, war, and social or economic hierarchies. The global organ economy follows a geographical and social flow. The organs come from poor countries in Eastern Europe, the Middle East, South America, Asia, Brazil, and various countries in Africa. The recipients are inhabitants of richer countries such as Israel, the United States, Germany, Great Britain, Saudi Arabia, Australia, and Japan, as well as smaller countries such as Sweden. There is little surprise that the individuals from wealthy social groups are the buyers and that the most vulnerable people in poor countries are the sellers. It is a complicating factor that the operations are often performed in another country, such as the Philippines, Latin America, or an Eastern European country.

Signs have been appearing in recent years that people in Northern Europe too are dealing in organs. In the summer of 2012, for instance, the head of the transplant clinic in Göttingen, Germany, was suspended for supplying wealthy patients from Russia with organs. At the same time, one of the chief physicians at Franziskus

Hospital in Berlin was charged with involvement in international organ trafficking in connection with the Medicus Affair, named for a clinic in Kosovo where patients with kidney disease went to buy organs from poor Eastern Europeans. In countries including Serbia, Latvia, and Romania, an increasing number of people are attempting to sell their own or other people's body parts. In Southern Europe, too, the illegal trade is intensifying.

What power does the international system have in preventing or tracking down organ trafficking? Are these methods effective, or is organ trafficking better addressed at a national level?

Organ trafficking must be addressed at the international level *and* the national level. Interdisciplinary research is necessary to discover what is going on, how it's done, and who is involved. This includes research in ethnography, criminology, law, medicine, and so on. Close collaboration between various worldwide organizations and prosecutors is vital.

In your new book, *Organs for Sale* (2015), you focus on the proliferation of organ trafficking in Moldova, Israel, South Africa, and the Philippines. What is the significance of these four countries?

As mentioned in one of my previous responses, organ trafficking is found throughout the world and is carried out within the framework of a market system. The trade primarily exists in countries marked by corruption, war, and social or economic hierarchies. This is especially true for Moldova, South Africa, and the Philippines. Israel is characterized in a slightly different way.

Like many other countries where the organ trade is occurring, including India and Egypt,

South Africa and the Philippines have historically been characterized by cultural and ideological patterns where distinctions are made between individuals by race, social class, and so on.

Similarly, countries that have been colonized and left with a strong impression of such historic and exploitative experiences have experienced organ trafficking. Individuals belonging to the so-called underclass of society (because of race, social class, or gender) are easily seen as commodities and objects. Historically speaking, people of color have been deemed to lack "natural" human emotions or feelings of pain. Those ideas were used to legitimize the idea that the people at the top (the elite, those in power, whites, etc.) can exploit certain groups of people and use them as slaves, serfs, or organ banks. In these postcolonial environments, poor people are historically familiar with being victimized, and therefore it is a well-known path they tread when they make their bodies available for others and accept very little payment. Thus, organ sellers in these countries are not primarily ashamed of the sale of kidneys. In fact, it has in many parts developed into a proper trade where families and villages more or less officially offer their organs. Consequentially, no one wants to report to the police if the promised money from the broker is not paid, because they would risk their own business being revealed.

This situation differs from that of Moldova. In Moldova, I've found quite different cultural and ideological patterns that are important to how organ trafficking works. Organ sellers in Moldova feel shame. Moldova is a former Soviet nation with persistent ideas about equal rights—far from the colonial experiences. Even if the Soviet state exploited the citizens, it was done in terms of "equality", "democracy", and so on. Organ sellers, who are cheated out of their promised payment, do not complain to the police. They are too ashamed. In both cases, South Africa and

the Philippines versus Moldova, the organ trade remains invisible.

Israel is a country with social and ethnic differences. However, its historical patterns differ from those of the postcolonial countries. What has driven the trade in organs is the view of the human body. As in many other countries, the Jewish view and perception is that the body must be buried intact. This complicates diseased donation, and means that individuals are directed to living donors. Israel is a rich country (for some of its inhabitants) and has, for a long time, had a healthcare system that gives citizens the right to receive paid transplants abroad that are impossible to receive in the home country. It opens up possibilities for a grey area in organ trafficking. Today, legislation is entirely different.

Ideology and cultural patterns are always important to the development of the idea of unethical transplantations. Such patterns include those around the view that death is a process and does not happen in an instant. It counteracts diseased donation and opens in some cases the victimization of weak or unwanted groups in society. This is seen in China where cells, tissues, and organs mainly come from prisoners sentenced to death, who, in their capacity as convicts, are deprived of the right to human dignity as well as the right to citizenship.

Should organ buyers and participants in “transplant travel” be held accountable? If so, are there methods in place for this at the national or international level?

Should organ buyers and participants in the trade be held accountable? Yes. Most countries criminalize the selling and buying of organs. The problem is that only a few countries have extraterritorial jurisdiction over the crime of organ trade. As a result, if someone buys an

organ in a foreign jurisdiction, he or she will only be accountable in that country. The home country may not be able to prosecute the case upon return. Currently, as far as I know, Spain, Germany, and Israel possess extraterritoriality. Internationally, there are many discussions (see, e.g., <http://www.declarationofistanbul.org>) about how patients who purchase organs should be treated legally. Opinions are divided, but the majority believe that we should have an extraterritorial jurisdiction with penalties for those who purchase organs and those who sell organs. Penalties can be financial payments, the inability to receive follow-up medical care at home, or imprisonment. I consider it wrong to withhold medical care, since we don't withhold healthcare from individuals who commit crimes.

How would you manage the system of organ trafficking prevention?

Organ trafficking is not a uniform phenomenon, but different actors drive it. It can involve global highly organized networks and pyramid schemes, ad hoc groups, and individual brokers (e.g., licensed doctors, former kidney suppliers, or governmental officials). A strong link seems to exist between brokers and hospitals (I've found this in many countries, including Israel, the Philippines, South Africa, Kosovo, and Pakistan, where brokers worked closely with hospitals). Other actors are patients or buyers who contact vulnerable people willing to sell a kidney or a part of the liver through extensive networks, the Internet, the Dark Net, advertisements in newspapers, and so on. This practice is difficult to deal with, since many patients travel to different countries in order to obtain their organ—even if it is illegal.

The complexity and diversity of illegal structures, as well as the desperate need of those seriously ill people requiring new organs, make it difficult



to propose one single model for how to prevent the trade in organs. As mentioned above, an important building block in such a model would be to find international agreements regarding the patient's (purchaser's) legal status. We need extraterritorial jurisdiction to strengthen the enforcement of existing laws governing transplant-related crimes across national boundaries. It is also necessary to ensure that adequate information is provided to everyone involved in the healthcare process. Healthcare professionals must be able to inform potential transplant travelers about the risks of trade, risks to the sellers, and, most importantly, the risks that patients expose themselves to in possibly receiving a defective organ or becoming infected.

As a member of an international organization, The Declaration of Istanbul, I recommend the brochure that the organization has produced to educate patients who plan to buy a kidney. The brochure is available in many languages.

What do you think should be learned from the current proliferation of the organ trade, and the international community's response to it?

The Declaration of Istanbul best summarizes the development of the organ trade with the following information:

In 2004, the World Health Assembly urged its member states to protect the poor and vulnerable individuals from the sale of organs. The year after the Transplantation

Society, TTS, become WHO's technical advisor in the development of guiding principles of practice that could curtail the tide of organ trafficking. The WHO was seeking leadership on this issue from its NGO (Non-governmental Organization) professional societies. In 2008, TTS partnered with the International Society of Nephrology, INS, to convene a summit of medical professionals, ethicists and legal scholars from 75 countries—in Istanbul, Turkey—to address the issue of organ trafficking and transplant tourism. The outcome was the Declaration of Istanbul. The Declaration of Istanbul, subsequently published in the *Lancet* in 2008, defined clearly the dimensions of transplant tourism and commercialism and called for a prohibition of organ trafficking (Steering Committee of the Istanbul Summit, 2008). The DOI also set forth a framework of ethical principles and a proposal that countries strive to achieve self-sufficiency in organ donation by providing a sufficient number of organs for residents in need from within the country or through regional cooperation. These DOI principles became an important reference for the adoption of a World Health Assembly Resolution in 2010 calling for a prohibition of organ sales that targets the marginalized of society: minors, the illiterate and impoverished, undocumented immigrants, prisoners, and political or economic refugees.



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Interview by Alexandra Gulliard

Organ Trafficking During Times of War and Political Conflict

Dr. Nancy Scheper-Hughes
University of California, Berkeley

Organ Trafficking in War and Peace

Most networks of human trafficking for the purpose of organ procurement are run and controlled by international traffickers, some of whom are surgeons who operate with the complicity of government bureaucrats, blood-matching technicians, public health officials, hospital administrators, medical insurance agents, and immigration officers. The victims include the most vulnerable populations: immigrants, undocumented workers, political and economic refugees, the poor and desperate, as well as the mentally or cognitively challenged.

These same criminal practices and tactics are also deployed strategically during the context of political conflict, civil wars, and ethnic cleansings. Medicated executions for the purpose of organ procurement for transplantation and sale for commercial uses represent the universal worst-case scenario and a collective human nightmare: the fear of being cannibalized while living or dead.

In each of the cases documented by Organs Watch—bearing on disappeared bodies, illegal dissections, and the harvesting and stockpiling of organs, tissues, and other body parts on the bodies of enemy—fact and fiction, the social imaginary, and the hallucinatory sometimes do harden into cold, forensic medical facts.

The motives attributed to each case range from race hatred to retaliation, national interests, the desire to display power and authority, and “ordinary” greed and corruption. Cases documented by Organs Watch include: the plunder of dead bodies of Palestinian enemies at the national forensic institute of Abu Kabir in Tel Aviv; the National Psychiatric Hospital for the mentally and cognitively “deficient” whose bodies were used alive and dead as blood, cornea, tissue, and organs suppliers during the Argentine Dirty War and afterwards until 2000; blood taken from the death camp of Montes de Oca sold to private hospitals and sent to the military during the Falkland War for any military officials who required blood infusions. (Scheper-Hughes, 2015); police mortuaries (during the anti-Apartheid struggle in Cape Town, South Africa) piled up with the bodies of young black men killed by police, which were used as sources of tissues and other bio-materials for White South Africans; and organ theft by KLA militants from Serbs remaining in Kosovo and Albania at the end of the Kosovo War in 1999.

In times of instability, severe rights abuses are conducted through the theft of illicit organs and tissues from prisoners of war, mental patients, and the unwanted dead bodies of the poor. Organs

and tissues are harvested from socially and politically dead nonpersons, the *Homo Sacer* of the postmodern era. These acts are so abhorrent that they fall under the moral-political category of crimes against humanity; that is, evil crimes.

Trafficking Syrian Refugees in Detention Camps

Until fairly recently, anthropologists liked to describe the new globalized world as one in which extreme mobility, flexibility, the free circulation of people, technologies, and capital, are all regulated by world banks and world courts and aided by Doctors Without Borders. Today, however, we face a very different world, resulting from the chaos of unresolved—or unresolvable—warfare in the Middle East producing the tragedy of political asylum seekers in the Middle East, Africa, and Europe, alongside a rising tide of Neo-Nazism in countries and places that we can hardly fathom: Denmark, of all places, Hungary, and Poland. The US has its own “great migration”, as refugees from Honduras, one of the world’s most violent and dangerous countries, and those escaping the drug wars and vigilantes that control large swaths of Mexico, are being hunted for their kidneys.

Since the beginning of the war in Syria, religious and cultural minorities in ISIS-controlled areas have made the trek now known as the “Great Migration” across the borders of Syria to Turkey, Lebanon, Italy, and Scandinavia by foot, bicycle, taxi, and, most notoriously, by dinghy, rafts, and “boats of wrath.” It is the bodies of the meticulously dressed toddlers washed up on the sandy shores that move the world’s indifferent citizens. Stateless people are nobody’s primary concern, not even in nations we came to think of as cosmopolitan, secular humanist states, including Denmark, Hungary, Italy, and Germany. Now, even the civilized world talks like the angry politicians in the United States: Something there is like a wall, to turn Robert Frost’s lyrical verse that begins “something there is that doesn’t love a wall, upside down.”

Man is Wolf to Man: An Organ Trafficker Among the Sheep

In December 2015, a man named Boris Wolfman (or Volfman) was arrested in Istanbul where he was contacting Syrian refugees to recruit them to sell their organs to foreign transplant tourists who would be transplanted in one of the several private transplant units in Turkish hospitals. Wolfman was a fugitive, wanted in Israel where he was indicted for having set up illegal transplant operations in shadowy clinics in Kosovo, Azerbaijan, Sri Lanka, and other locations for international transplant patients willing to pay upwards of \$100,000 for an illegal transplant with a kidney from an anonymous trafficked person.

Wolfman was known among both kidney sellers and transplant tourists alike as ruthless. He was part of an international organized crime network that spanned the globe. In the beginning, it was fairly easy to recruit new immigrants to Israel, mostly refugees from economically devastated countries like Moldova, the Ukraine, and Romania, eager to settle in Israel but needing help. Brokers, like Wolfman, met immigrants on arrival and promised them help in getting residency and even citizenship if they were willing to serve the country by selling a kidney in a foreign clinic for several thousand dollars. With the passage of new laws in Israel making kidney brokering a crime, Wolfman saw another

option: the great migration of political refugees from Syria. They would be easy targets—dazed and disoriented, willing to do anything to get their children to safe ground. Parting with a kidney would be the least of what they had had to suffer in getting to the West or at least as far as Adana or Istanbul in Turkey.

Poor and ethnic minority Syrians had long been exposed to kidney trafficking inside Syria. Before the wars that have wrecked the country, kidney selling among the poor was a last resort—an ugly but familiar one. Today, Syrian refugees are being trafficked and welcomed in detention centers by kidney smugglers. A nineteen-year-old Syrian refugee named Raïd fled with his family of six siblings from Aleppo to Beirut in Lebanon. There, he was contacted by a kidney hunter, Abu Hussain. Like Boris Wolfman, Hussain sent out kidney runners to locate freshly arrived refugees and offer them money and help with immigration authorities if they agreed to sell a kidney. A kidney for a temporary visa, what could be better than that? Lebanon, like Turkey, has long been a facilitation site for illegal transplants, one serving thousands of transplant tourists, with many coming from the Persian Gulf. Before Syrians began filling this niche, Palestinian refugees in Jordan and Lebanon provided the kidneys desired by transplant patients. Today, Syrian refugees are new bait, cheaper and more desperate. Raïd told *Der Spiegel* that he sold his kidney to help his family survive in the detention center, but was defrauded of the money he was promised and deposited on the curb after his painful surgery, without even pain medication or antibiotics. “I don’t care if you die”, his broker told him.

At the beginning of the latest political conflict in Syria, I was contacted by a political refugee in the Bay Area of California to obtain political asylum following a kidney removal at the famous Cleveland Clinic Transplant unit. Salah X. was a bonded servant to a royal family in Qatar, who, in the last year of his bonded servitude, was taken to the United States without his knowledge of what he would be doing there for the family. Upon arrival, he was told that he would be providing a kidney to a member of the royal family related to his boss. The Cleveland Clinic paid no attention to Salah’s panic and his attempt to leave the hospital surgical ward. The kidney removal proceeded without the man’s consent. He refused to return to Qatar and, with the help of a lawyer, filed a petition for political asylum based on his fears of retribution from his employer and his status in Syria as a political minority (a Druze cleric). I wrote a deposition based on copies of Salah’s medical records. He was, however, denied political asylum and he disappeared from the radar.

As for Boris Wolfman, I am told from inside sources that he is in custody in Israel. Syrians continue to be targets of other brokers from other countries, even in the United States. Boris’s unfortunate surname evokes the ancient Roman Latin proverb, *Homo homini lupus*: “A man is a wolf to man.”

ISIS and Allegations of Organ Trafficking

In March 2015, I was bombarded by telephone calls from CNN and other international news services to comment on allegations by the Iraqi ambassador to the UN, Mohamed Alhakim, who, at a special meeting with the Security Counsel of the UN, called on the Counsel to investigate the deaths of twelve doctors in Mosul, Iraq. He said they were killed after refusing to remove organs from the bodies of captives held by ISIS. “Some of the bodies we found are mutilated ... and [body] parts

are missing.” According to the UN ambassador, bodies were exhumed from shallow graves in an undisclosed location in Iraq, and were missing kidneys and other organs. “We have bodies”, he said. “Come and examine them.” These allegations followed earlier international reports that ISIS had opened a medical school in its main stronghold in Syria and that doctors there had been forced to remove organs from prisoners of war, including Iraqis across religious and ethnic divides: Sunni, Shia, Christian, and Turkman. There were also reports of medicated executions by ISIS during which transplant organs were taken. This would be similar to the medicated executions of prisoners (many of them allegedly political prisoners) in China who continue to be harvested. Reports that ISIS/ISIL was using organs as an additional source of income and simultaneously as a display of power (like beheadings) were also being considered.

When asked by CNN to comment on these reports, I took a deep breath, thinking that this was perhaps one battle in which I did not wish to be involved. Nonetheless, I told CNN that ISIS was not the first militant organization or state to exploit the bodies of political prisoners for organs or tissues for the purposes of transplantation, research, or power: “The demands for organs and tissues”, I said, “was insatiable.”

Similar cases today include the allegations by the Council of Europe (Marty, 2010) of kidnapping, murder, and medicated executions with kidney removal in secret detention camps in Kosovo and Albania of political prisoners—Serbs and other minorities in Kosovo—at the end of the Kosovo War. During initial United Nations Mission in Kosovo (UNMIK) investigations, witnesses testified that kidneys were removed during executions and flown to Turkey. Some witnesses were murdered, forensic data was lost or destroyed, and the investigations interrupted. In September 2011, the Chief Prosecutor, Clint Williamson of the Special Investigative Task Force (SITF), concluded that a small number of these cases could be substantiated. Today, EU prosecutor, David Schweindeman, is poised to lead a bicameral Tribunal (with the government of Kosovo) on war crimes committed by the KLA, including harvesting organs from prisoners of war.

Trafficking for organs is not uncommon in war zones...

Dangerous Rumors

Trafficking for organs is not uncommon in war zones, areas dealing with political conflict, transitional states, as well as regions suffering through natural disasters, like the earthquakes in Turkey and Haiti. These conditions create public chaos that provides a cover for illegal harvesting and plundering of the bodies of the dead. However, at the same time, these conditions can stir up rumors of organ harvesting, without any forensic evidence. Of course, some of these allegations are false, based on moral panics, post-traumatic stress disorder, and the anxiety and “worst fears” of vulnerable populations and ethnic groups. For many marginalized populations across the world—who have

experienced the disappearances of their loved ones, and to whom almost anything could be done to them, even the theft of organs—their fears are based on a real sense of existential insecurity. There were, for example, allegations of illegal organ harvesting by the Israeli humanitarian field clinic set up in Haiti following the 2010 earthquake. A spokesperson for the UK Liberal Democratic Party called for a parliamentary investigation of the allegations, which were later dismissed as political propaganda from Iran and Palestine. However, the rumors were actually fueled by the presence in Haiti of both US and Israeli religious organizations that proposed airlifts and adoptions by foreign families of the alleged "tens of thousands of Haitian children" orphaned by the earthquake. Organ theft and child theft are often linked in rumors. In this instance, speculation was fueled by humanitarian interventions to rescue children whose parents were wrongly presumed to be dead in the initial chaos.

Rumors of organ stealing have led to mob lynching of foreigners suspected of adopting poor and disabled children for their organs. Several of these rumors led to violence and international diplomatic problems in Central America and Moldova in the early 2000s. But, as recently as 2014 in Sao Paulo, Brazil, a woman was attacked and killed by a mob after her photo was posted on Facebook alleging that she was kidnapping stray children with the intent to kill them for their organs.

US-Mexico Borderlands and Drug and Organs Trafficking

Along the US southern border with Mexico, there is a string of barrier fences that were signed into law by George W. Bush. It is almost 700 miles long. If it can be said that there is a great migration from war torn countries in the Middle East into Europe, there are also war-ravaged refugees in Baja, California from the drug cartel infested states of Sinaloa and Michoacán. In 2010, I contacted FBI agents about a private hospital in Baja, California where illegal transplants for North Americans were taking place. I also told them about a Mexican refugee, Adriana Gil, who contacted me through her partner for help in filing her complaints of kidnapping, torture, sex slavery, and child trafficking for organs at the hands of a brutal drug cartel. Then living in Riverside County in Southern California, we agreed to meet on the campus of UC Riverside. The story seemed outrageous, one that, under ordinary circumstances, I would have rejected at the outset. Perhaps the woman was suffering from recovered memories of some kind of trauma, but what would be her motive in calling Organs Watch? She said that she wanted the horrendous crimes to stop. She wanted to speak with police, the FBI, or whomever I could contact. So, accompanied by my daughter, a historian of Mexican colonial and contemporary religious studies who had herself been forced to leave one of her field sites following threats from the local cartel, we spent a day in the company of Ms. Gil and her protective companion. Her story began when she was a young mother used as a sex slave for several years by a drug cartel. She said she was hand delivered to the cartel by her current boyfriend. She had been raped repeatedly and was tortured. She showed me her scars, including burns from cigarettes and cigars. She decided to escape across the border into southern California after a drug lord named "Juan", had groomed her to scout for children in poor schools and day care centers and to abduct them for kidney trafficking. Although most of Adriana's story was validated by immigration officials and by the trauma center where the vigilantes had treated Adriana for her PTSD resulting from her torture, they could not validate her insistent story that she was asked to scout and to kidnap small children for the cartel

to use as they wished. Both the UN Office on Drugs, Crime and Human Trafficking and the Vatican and Pope Francis have recognized organ harvesting from war refugees and from enemy combatants as crimes against humanity, but there has been little empirical and grounded research on this topic.

After my interviews with Adriana Gil, I contacted FBI agents assigned to cover the California and Mexico borderlands for human trafficking by drug cartels. I shared with two young FBI agents (with Adriana's permission) the story of Mexico-US borderland drug cartels involved in organ harvesting from children. The investigators said that they did not have the tools, the support team, or the resources to investigate Adriana's gruesome testimony. They were convinced that this was a likely scenario but they did not have any preparation to tackle it. So, instead, I worked with a Hollywood Film company that produced a second-class social thriller, the film "Inhale", starring Sam Shepard, which was based in part on Adriana's allegations. In the Organs Watch project, the real, the unreal, and the uncanny often collide.

In March 2014, Manuel Plancar Gaspar, a member of a drug gang known as the Knights Templar (*Los Caballeros Templarios*), was arrested and detained by Carlos Castellanos Becerra, the head of Seguridad Pública, in the state of Michoacán on charges of kidnapping children for the purpose of selling their organs. Gaspar, he says, is the leader of the cartel's organ trafficking ring.

ISIS Decrees on The Right and The Duty to Kill and to Cannibalize the Body of the Enemy, the Infidels and Apostates

In the wake of allegations of executions, beheadings, and organ harvesting of kidnapped persons by ISIS forces in Iraq and Syria, one of our UC Berkeley anthropological graduate students, Khashayar Beigi, came across the website of *Jihadica* last February (2014) where a number of fatwas bearing ISIS insignia have been collected by a team of academicians and researchers.

Mostly originating from Yemen, many of these fatwas were circulated by cell phones and Twitter. These fatwas informed ISIS combatants that harvesting the organs from the bodies of the enemy-infidel or removing organs from living apostates, even if this might cause their death, was permissible. The fatwas neither prove nor disprove the allegations made by the UN ambassador, but they do cast light on ISIS militants' use of ancient and classic Islamic texts in fatwas bearing on the current wars in the Middle East. Fatwas are traditional religious decrees delivered in response to a pressing question or problem without precedence in Islamic jurisprudence. Many of the ISIS fatwas seem to deal with the administration and adjudication of a vast range of everyday life matters, such as marital arrangements, inherited property, and the permissibility of sports. However, some of the fatwas clearly show a direct engagement with inquiries specific to exceptional circumstances in the context of current wars and struggles.

Among the fatwas posted online were many that are concerned with medical circumstances during war, such as the shortage of doctors and the use of enemy bodies and organs for life-saving measures. A partial translation of the ISIS fatwa on organ transplant shows that, in addition to bodies held captive in the current wars in the Middle-East, medical, moral, and theological teachings on life

and death are being re-shaped forcefully. In contrast to secular courts of law, fatwas are not binding rules unless a Muslim chooses to follow them. So, rather than seeing ISIS fatwas as enforcing individual actions or moral judgments by the religious authorities who release them, fatwas can be studied as religious expert pronouncements that can shed light on the social, historical, and political circumstances in which ancient religious traditions and reasoning are applied to current social and political realities. For example, terms such as "the constrained person" (*modhtar*) or a "person living in exceptional times and circumstances" (*idhtar*) are used in fatwas to convey that the person or the subject of the fatwa is concerned with emergencies that might require a new religious decree. The application of these terms to organ harvesting during the current wartime violence and medical needs in ISIS-ruled territories shows the way in which analogical reasoning and ancient precedents drawn from traditional Islamic jurisprudence can justify cannibalizing the bodies of infidels and apostates.

The violence and chaos of war, parallel to the unleashing forces of death and destruction on the ground by the states, ripples into the centuries-old fabric of Islamic medical practices—ancient codes of warfare and religious reasoning. These fatwas are forensic pronouncements on medical practices, religious traditions, and wartime conducts from the perspective of moral, theological, and military institutions. The fatwas seeped into the desolate wartime landscapes of amputated limbs, extracted organs, bombed residences, and beheaded corpses scattered in the battlefields of Iraq and Syria. What is being held captive in these ISIS fatwas, in addition to the bodies of political prisoners, is the normal spaces of intelligibility, moral reasoning, and moral conduct of Islamic jurisprudence. Fatwa No. 68 is translated by *Khashayar Beigi* (below):

Fatwa No. 68

Question: Is it permitted to take organs of the captive apostate for those Muslims in need of it?

Answer: "There is no doubt that Muslim hospitals are overwhelmed with illnesses and diseases of heart, kidney and all similar intractable conditions that threaten the afflicted with fatal and degenerative conditions, harm and death.

"God Almighty knows best about the rewards of transferring the healthy organs of the apostate to the body of the Muslim to save his life or remedy the loss of organs, as there is evidence in all bodies of sacred religious texts and rulings.

"God Almighty says, "and whoever saves one—it is as if he had saved mankind itself", and the context of this verse is general and includes all forms of saving lives including organ transplant. The duty to save a Muslim soul from sickness and death is a religious obligation necessitating all legitimate available means. When a given means is the only way for a religious obligation to be accomplished then that means is itself obligatory.

"Accordingly, the experts of the Shafi'i and Hanbali schools of Islamic jurisprudence permitted killing of the warring infidels or apostates under the constraining circumstances of eating their flesh to stay alive. Imam Alnawawi says "....There is permission to kill the warring party, the apostate, and moreover to eat their flesh carries no sanction."

“If the experts of jurisprudence have allowed under war conditions believers to eat the flesh of the infidel in order to prevent harm and loss of life, these apply as well to the transplant of organs from the apostate to the Muslim. The life and organs of the apostate are not protected by Muslim jurisprudence.”

In short, the cannibalization of the infidel is permissible in times of war when destroyed bodies and limbs are scattered on the fields. War is hell, and under these extreme conditions when Muslim soldiers are famished in the desert, losing blood, and needing surgery, the right to life means that the body of the enemy—the apostate or the infidel—can be used to supply food, blood, and organs. It is an argument that resonates with the demands made by those individuals of all religions who travel abroad to purchase “spare” kidneys from the poor, the destitute, the displaced, the wretched of the earth, to make themselves whole. I have applied the word “neo-cannibalism” in all illicit transplants based on the exploitation of strangers who in the minds of the buyer are mere “things” (organs) from the bodies of people who don’t count, and who might as well be “infidels.”

The Body of the Terrorist-Biopiracy at the Israeli Forensic Institute at Abu Kabir, Tel Aviv

There was trophy collecting of skinned tattoos taken from the bodies of new Russian immigrants and from prisoners. Tattoos were an oddity in Israel where they are still associated with the Shoah. But, there was also a taint of suspicion about the new immigrants from the former Soviet bloc states, who were privately suspected of being economic rather than cultural refugees, claiming a tenuous-at-best Jewish identity. As explained by Dr. Hiss, the director of the Israeli Forensic Institute, eye globes and sheets of skin were taken from the backs of Palestinian combatants whose bodies would be returned to their family members in tightly bound sheets and with eyes glued shut to avoid detection. But some family members carefully uncovered and inspected their “war” dead and were horrified at seeing the second death to which their loved ones had been subjected.

The moral collapse at Israel’s National Forensic Institute at Abu Kabir led by the director and state-appointed senior pathologist, Jehuda Hiss, and his staff was complete, lacking any vestige of human decency in their official stewardship and protection of the bodies of the dead. The abuses were facilitated by the military conflict during and between the two intifadas, which produced abundant supplies of dead bodies from Palestinian militants, Israeli Defense Force (IDF) soldiers, and victims of suicide bombings and military-civil emergencies.

There was a hierarchy of bodies and a confusion of motives that ranged from the banal to crimes against humanity. The abuses could be arranged along a continuum, from the stockpiling of hearts, glands, long bones, and brains (even heads) for profit, for “science”, for recreation, and for power, patronage, and reputation. The stockpiling of tattoos skinned from the dead bodies of new immigrants was an act of hostility toward new immigrant refugees from former Soviet states, although linking it to a nascent form of race hatred might be going too far. A knowledgeable source from within the forensic institute pointed out that the man responsible for the tattoo collecting was himself a Russian and a Jew. The desecration of the dead bodies of Palestinian combatants is toward the far end of the medical human rights abuse continuum: a crime against humanity.

For more than two decades, the Israeli government and Ministry of Health denied "blood libel", accusing the government's state pathologists of harvesting organs and tissues from the bodies of "enemy" combatants, terrorists, and teenage stone-throwers from the occupied territories. In August 2009, another organ-trafficking story broke, one that linked Rosenbaum's US-Israel organ-brokering and money-laundering schemes with much older allegations of organ and tissue stealing from the bodies of Palestinian "terrorists" and stone-throwers following autopsy at Israel's National Forensic Institute in Abu Kabir, a neighborhood of Tel Aviv.

A Swedish journalist, Donald Boström, in a banner headline story, "Our Sons Plundered for Their Organs", in a left-leaning Swedish tabloid, *Aftonbladet*, reopened these allegations dating back to the early 1990s on August 17, 2009. The story was a mix of organ theft accusations, seemingly far-fetched connections to the arrest in Brooklyn of an orthodox rabbi and transplant broker, and a dash of political rhetoric. The story, based on Boström's earlier research in the Occupied Territories during the first intifada, and published in his 2001 book, *Inshallah*, repeats the story of family members whose dead sons and husbands were harvested at the Abu Kabir Forensic Institute, where they were brought for autopsy only. Boström argues that Palestinian bodies were being harvested as the "spoils of war." The *Aftonbladet* story, instantly translated into Hebrew and English, created a firestorm of international protest that included a libel suit by anti-defamation lawyers in New York City and a boycott of Swedish industries. Boström was labeled an anti-Semite and the story he dredged up from the sewer was labeled a despicable "blood libel" against Israel and the world's practitioners of the Jewish faith.

I read these news reports with mounting horror.¹ The only question that was not being raised in the avalanche of articles, editorials, and news columns published in Israel, Europe, and the United States was: "Is the story true?" I knew the answer. I was in possession of the proverbial smoking gun: an audio-recorded interview with the director of the National Forensic Institute, Dr. Jehuda Hiss. The interview was conducted at the Institute in July 2000, when I was in Israel investigating the growth of organized transplant tours and organs trafficking by underworld brokers. A human rights lawyer in Bethlehem asked me to investigate complaints by Palestinian families about illegal harvesting of eyes, solid organs, and skin at the National Forensic Institute. I was given the photo and files of a young man whose autopsy appeared to end in dissection.

In his interview with me, Dr. Hiss was open, energized, and brazen in defending his method of "informal" procurement of organs and tissues from the bodies of the dead brought to the Institute for autopsy. He did so, he said, as a patriot and to serve the needs of his country. When he first arrived at the Institute in 1987 as chief pathologist, there was no organ or tissue harvesting. An absurdity, he called it. He instituted his own version of "presumed consent" for organs and tissue harvesting. That is, he presumed to know what was best for his country without the knowledge, backing, or consent of the victims, the Israeli population, or the law. It was justified behavior, he said, for a war-torn and traumatized country such as Israel. From his medical perspective as a state pathologist, little harm was done to dead bodies by the careful removal of skin, tissue, bone, and organs that would never be missed by the deceased and which could be hidden from the families of the dead. "We were very careful in peeling the skin", he said, "it wasn't like skinning a rabbit—we took only from the back and

the back of the legs.”

Special care was taken with the harvesting of Palestinians and Arab-Israelis, Christian and Muslim. Hiss explained to me without any embarrassment that his team was very careful to sew the empty eye sockets shut so the families could not see that the eye globes had been removed. When hospital pathologists were brought into Abu Kabir to assist with the organ harvesting and refused to comply, Hiss recruited plastic surgeons, and at least one was hired.

Hiss was not so much "above the law", as representing a higher law, *his law*, which he felt was supremely rational and scientifically correct. The country was at war, blood was being spilled every day, soldiers were being burned, and yet Israelis refused to provide tissues and organs needed. So, he took matters into his own hands. While I discussed the interview with a lawyer for the Ministry of Health, I never published it. Fearing the unintended political consequences of making it public, the tape sat, more or less untouched, in my archives for ten years. But after the Boström firestorm in 2009 and at the request of some Israeli colleagues who knew about the interview, I released the tape to Israeli TV journalists who used it as part of their own investigative report that aired in December 2009.

After segments of my interview with Professor Hiss were aired on the Israeli national nightly news on Channel 2 TV, government officials for the army and the Ministry of Health admitted that organs and tissues had been harvested (without consent) from dead bodies throughout the 1990s, but that the practice had ended in 2000 (the date of my interview). Dr. Hiss, however, publicly denied everything on tape, including his words to me. Today, he says that he denies it all: the stockpiling of body parts, the perjury in autopsy reports concerning enemy combatants and Palestinian civilians, and organ harvesting. He denied everything. He says that everything was done according to the law, and that all the families consented to harvest for transplantation. No organs were taken for research, and none were ever sold. However, the Segalison Committee determined that Hiss had lied to the police investigators and that he knew that the harvesting of organs and tissues without consent was illegal.

Hiss's denials were passionately rebutted at an Organs Watch Conference in Combating the Traffic in Organs in May 2011 by a former associate of Dr. Hiss at Abu Kabir Forensic Institute, Dr. Chen Kugel, a retired military officer and a distinguished pathologist. Kugel reported that the situation was far worse than what Hiss had told me. Kugel worked as one of Professor Hiss's younger assistants who, as soon as he arrived at the Institute in 1999, pointed out to his superior that his behavior was deviant. Kugel dared to tell his boss said that it was wrong to harvest organs and tissues without permission, and that "giving false evidence in court about autopsies conducted there" was also "not okay." Kugel and three other doctors from the Institute wrote a letter of complaint to the Ministry of Health, outlining the illegalities. The Ministry of Health reacted with alacrity: they fired the three residents and punished Kugel who, as a military officer working for the IDF, could not be fired. Then the four told the entire story to the media. In other words, the story of criminal behavior at the Abu Kabir Institute was an old story, long known to the population, and the false alarm about the Boström report was disingenuous. Organ theft at the Institute was a dirty, public secret, and one to be kept inside the borders of Israel.

According to Kugel: "The organs procured there were sold to anyone; anyone that wanted organs just had to pay for them." While skin, heart valves, bones, and corneas were removed and sent to hospitals to be used for transplants and other medical procedures, solid organs (hearts, brains, and livers) "were sold for research, for medical presentations, and for drills (training) for medical students and surgeons." There was a low price for these organs—just \$300 for a femur, for example—and should a client want all of the organs from a body, or a full range of solid organs taken from several different bodies, that too could be arranged, Kugel said, for about \$2,500.

From whom were the organs taken? They were taken from everyone, from Jews and Muslims, from soldiers and from stone-throwers, from terrorists and from the victims of terrorists, from tourists and from new immigrants. There were only two considerations: the physical condition of the body and its organs, and the ability to conceal what they were doing. Some victims were not even subject to autopsy, they were simply harvested. Organs removed with the sole purpose of distributing them for use in medical research—hearts, for example—were in great demand, and had to be complete. Dissection of the heart for the purpose of autopsy would render it useless for medical research. According to Kugel, any hearts that were retained (and stockpiled for sale and distribution) were removed illegally in each case. The forensic team hid the damage by putting pipes, glass eyes, broomsticks, toilet paper, and plastic skullcaps to cover the place where the solid organs or the brain was removed. The Institute, Kugel said, was counting on one thing: that most Israelis do not view the body after death except once, to verify that the body is the correct one. The body is wrapped in a winding sheet, or might be wrapped in plastic sheets for the burial company to come for it. In that case, the staff would warn the burial employees, who were not well educated, not to open the sheet because the body was contaminated with an infectious disease. It was more difficult to take organs from soldiers, because their bodies were supervised by the military, which was more difficult to fool. "But even so, organs were taken from soldiers", Kugel said. It was easier to take tissues and organs from the new immigrants, and, needless to say, easiest of all to take from the Palestinians. They would be going back across the border, and "if there were any complaints coming from their families, they were the enemy and so, of course, they were lying and who would believe them?"

The motives had nothing at all to do with science. According to Kugel, the illicit harvesting was about power and immunity. In the end, the hoarding and trading in body specimens, the stockpiling of organs, long bones, sheets of skin, and solid organs turned the National Forensic Institute into a factory of bodies. It was motivated, Kugel argues, by a traditional authoritarian paternalism of the kind that says: "We know what's good for you, we can and we will decide what happens to you, the dead person doesn't know anything. We alone will decide." Chen Kugel asserted that the organ theft did not end in 1999, the time of my interview with the director of the Institute. Rather, the practice was routinized and continued through 2011 when the police finally raided the Institute.

Among the dozen civil lawsuits that have been filed against Dr. Hiss, some concern the desecrated bodies of Israeli soldiers. These suits are given the greatest attention because, in Israel, the body of the soldier is at the top of a hierarchy of bodies in the nation as in the forensic Institute. There are, as of yet, no suits from the Occupied Territories against the Institute. Perhaps the families have other concerns about the dead and their offspring that are more pressing. Among the victims are both Israeli and Palestinian soldiers, Israeli citizens who were killed in suicide bombings, and the body of

an American activist from Oregon, Rachel Corrie, who was crushed to death on March 16, 2003, by an IDF Caterpillar bulldozer. She was killed while demonstrating in Gaza against the demolition of Palestinian homes when the tank plowed into her. Her body was taken to Abu Kabir and subjected to autopsy during which “body samples” and organs were taken and “misplaced” according to Dr. Hiss's testimony in court.

In 2012, government investigators and police descended on the Institute of Forensic Medicine at Abu Kabir and discovered 8,200 body parts stockpiled. Finally, the government recognized that the illicit and free-for-all harvesting had become a norm and that it was criminal, unethical, and had to be acknowledged; that families had to be compensated; and the bones, tissues, organs, and other body parts had to be identified and returned to the victims' families. Jehuda Hiss, who was once praised and rewarded as a national hero and paid the highest federal salary in the nation, was suddenly recognized as a criminal. Finally, Hiss was forced to retire, though he kept his full pension, if not his reputation. He was forced to leave his position as director of Abu Kabir. Today, Hiss's lawyers are actively defending him in dozens of individual and collective lawsuits by Israeli families of his victims. Most are the parents of soldiers killed on duty who were subject to what Boström thought was only the plunder of the enemy. He has not, however, been prosecuted by the state for fraud, deceit, organs trafficking, violation of Israeli organ and tissue laws, or any other federal crimes. Like the complicit and corrupt Pope Benedict XVI (see Scheper-Hughes, 2015) Hiss was allowed to go silently into the night with his pension, but who knows how well either of these two men are able to sleep at night.

Such was the case at the Israeli National Forensic Institute at Abu Kabir. The elegant building housed a genetics and DNA lab on the top floor that was clean, pure, and completely segregated from the morgue in the basement. Those of the third floor did not know what crimes were being committed beneath the clean scientific labs of which they were so proud. What explains the complicity of the medical technicians and possibly even medical surgeons and pathologists? Perhaps, during the worst times of political conflict, there is a moral dispensation and even a belief that the desecration of the prisoner of war or the dead body of the enemy combatant is morally justified or even necessary. One thinks of many other similar cases, such as the behavior of US soldiers in the prison at Abu Ghraeb.

The Israeli government initially dismissed the allegations against the Israeli Forensic Institute as blood libels perpetrated as anti-Semitic and political propaganda against the state of Israel. It is still a sensitive issue, and Israeli transplant surgeons and prosecutors tend to undermine the painful history at Abu Kabir to this day. When I began my independent investigations of the Forensic Institute based on files I was given by the lawyers at the St. Ives Institute in Bethlehem that contained forensic files and photos of young men who had been killed during and between the two intifadas known as Abu Kabir in 2000, I was unaware that Swedish journalist Donald Boström and an independent internal whistle-blower, Dr. Chen Kugel, had also been working independently and behind the scenes. Boström worked with family members of the dead in Gaza, while Kugel worked with younger pathologists at the Forensic Institute to end the criminal plunder of the dead and the stockpiling of body parts at the Institute. These perversions, at the National Forensic Institute filled Dr. Kugel with righteous anger at human rights abuses of the dead by public officials whose obligation was to be the dead person's final guardians. Kugel paid a heavy price for his interventions. He was forced out of his position at the National Institute and was treated as a traitor and a social leper, he told me. But, in the

end, the constrained but necessary sharing of information among us resulted in a difficult and unlikely collaboration between a Swedish journalist, a “militant” American anthropologist, and the Israeli Zionist pathologist and military officer.

The turnabout began in mid-December 2009, when I called Donald Boström in Sweden. He picked up the phone and heard the voice of a stranger saying, “My name is Nancy Scheper-Hughes, and your story in the Swedish newspaper is true.” “Who is this person that is speaking?” Boström asked. When I qualified who I was and said, “I have the evidence, an hour taped interview with Dr. Jehuda Hiss admitting that he was harvesting organs, tissues, skin, long bones and other body parts that were stockpiled and sold that will play tomorrow, December 1, on Channel 2 news in Israel”, Boström said that he collapsed with relief. Subsequently, Dr. Kugel and I presented a scientific paper in Vienna, and Jared Cohen invited Kugel, Boström and me to a Google Ideas conference on Illicit Networks.

Meanwhile, the Ministry of Health and the Israeli government concluded their own internal investigations that led to the forced retirement of Dr. Jehuda Hiss and the unanticipated appointment of Dr. Chen Kugel as his successor.

One Body

“The dead body has rights and a dignity of its own”, Kugel said firmly as he took my Israeli colleague, anthropologist Meir Weiss, and my research assistant, Zvika, on a private tour of the “new” Forensic Institute and Ministry of Health, including a visit to the forensic morgue in the basement of Abu Kabir in 2013, now under his direction. “Other mistakes or bad things may happen here, as in any forensic institution”, Kugel said as he rolled out a dead body from its refrigerated cubby. “But these bodies under my care will be safe from illicit harvesting. It won’t matter if they are Jewish bodies, Muslim bodies, Christian bodies, Israeli bodies or Palestinian bodies, foreign guest worker bodies, or Russian bodies. There is only one body here and they are all treated in the same way.”

The body of the dead is not nothing, Kugel said. A dead body is not simply an evacuated object. Kugel often substituted the word “person” for the body of the dead and never used the words corpse or cadaver. “Dead bodies matter” could be his political slogan. The dead body was, in his view, a precious “someone” to his parents, siblings, partners, and other loved ones. The body had a history and a life. The dead bodies had grieving relatives. There are no hierarchies of dead persons. He said that the choice to practice forensic pathology meant that the pathologist and the dead were joined at the hip, joined at the heart, the lung, and the skin. What happened during those two decades of corruption at the morgue was a violation of the body politic. It was an evil, a term most secular Israelis reserve for the Shoah, for terrorist bombings, and for suicide attacks. Translated into secular language, the dismemberment, disarticulation, distribution, and stockpiling of skin, bones, organs, genitals, and tissues of the dead were, indeed, crimes against humanity.

The violations of the bodies and illegal extraction of organs and tissues of political prisoners, the mentally disabled, and the enemy derive from a mix of a militarized and contested interpretation of ancient religious beliefs, corruption, indifference, greed, and the violation of civil and medical human

rights. Despite our attempt to maintain a neutral position, one may be an anthropologist to the bone and still reserve the right to protest.

The allegations against ISIS may be false, based on rumors and the worst fears of what can possibly happen to the enemy-combatant. They may have even been invented by the ISIS propaganda machine. Nonetheless, the wanton harvesting of the dead bodies of the enemy is not only a war crime or a crime against humanity in which normative morality is suspended. It may signal a dangerous time for humanity when, in the words of Jan Gross (2001) writing about the systematic butchery, torture, and burning alive of 1,600 Jewish men, women, and children in the Polish town of Jedwabne on July 10, 1941, “the devil enters history.”

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Dr. Nancy Scheper-Hughes is the Chancellor’s Professor of Medical Anthropology at the University of California, Berkeley where she directs the doctoral program in Critical Studies in Medicine, Science, and the Body. In 1999, Scheper-Hughes co-founded Organs Watch, an anthropological medical human rights research and documentation project, with Professor Lawrence Cohen. Their goal was to map and study as field anthropologists the spread of global illicit networks of “transplant tourism” involving human trafficking of persons for organ removal. Working closely on site with local medical and anthropological field assistants, investigative journalists, documentary film makers, human rights workers, police and prosecutors, Scheper-Hughes collaborated with governmental investigations and prosecutions of international trafficking schemes in several countries. She was a member of the Bellagio Task Force and the Asian Task Force on organs trafficking, as well as a consultant with the WHO, the UN Office on Drugs, Crime and Human Trafficking, a member of the Istanbul Summit, and co-signer of the Istanbul Declaration on Organ Trafficking and Commerce. She has written over 50 medical and scholarly chapters, articles, and essays on the topic of human trafficking for organs from the living and the dead, its structures of violence and its consequences applying anthropological, theoretical, psychological, and human rights perspectives. She is the co-editor of *Violence in War and Peace* (Wiley-Blackwell), *Commodified Bodies* (Sage), of *Medical Migrations* (Body and Society), and *Violence at the Urban Margins* (Oxford University Press). She is the recipient of several book awards and prizes.

Interview with Ms. Taina Bien-Aimé

Coalition Against Trafficking in Women

Your organization, the Coalition Against Trafficking in Women (CATW), is one of the oldest organizations in the world to fight human trafficking and the commercial sexual exploitation of women. Could you briefly describe CATW's practice areas: legislative advocacy, education and prevention, and ending the demand for human trafficking?

CATW is one of the oldest international anti-trafficking organizations to look at trafficking in women as gender-based violence and discrimination. This involves looking at commercial sexual exploitation, including prostitution, as a form of violence and discrimination against women and girls. We are a very small organization, and our New York office focuses mostly on legal advocacy and raising awareness about these issues. Our partners in Latin America, more specifically in Mexico, and in the Philippines work with victims and survivors, and also focus on prevention by exploring positive masculinities with men and boys. Additionally, our partner organizations focus on preventing trafficking in situations involving natural disasters or conflicts.

CATW's efforts to end sex trafficking and prostitution may resemble the efforts of early abolitionists to end the slave trade. In what ways, if any, is combatting sex trafficking a continuation of the earlier abolitionist tradition?

Anyone who works in the human rights or civil rights fields should be, by definition, abolitionists because we are not working for the

accommodation of violence and discrimination, but for its elimination. Whether a person is working in areas related to the death penalty or abuses in the mining industry, all practitioners in the human rights or civil rights fields are working toward the abolition of a harm. Within the context of our work, we strongly believe that harm reduction policies are critical. But you cannot invest continuously in harm reduction without looking at harm elimination, because otherwise what you are doing is facilitating the continuation of violence and abuse. It is a two-pronged situation wherein we acknowledge that it is critical to provide comprehensive access to medical, educational, economic, and legal services to people who are sex trafficked and prostituted. But parallel to that should also be efforts vis-à-vis the government, law enforcement, the medical community, and other stakeholders to really look at where the essence of this harm stems from and to address it. Gender analysis is critical here, because women and girls have additional vulnerabilities related to their sex and gender; the same vulnerabilities that play a role in such crimes as domestic violence, female genital mutilation, child marriage, and other harmful cultural practices that treat girls as second-class citizens. One cannot properly address sex trafficking and commercial sexual exploitation, including prostitution, without a clear framework on violence and discrimination against women and girls.

Which groups are the most at-risk for sex trafficking? Are there particular indicators or factors that might make someone at-risk?

The Palermo Protocol, which is also known as the UN Trafficking Protocol, synthesizes the ingredients that lead to trafficking, which include abuse of power and a position of vulnerability. These are the two main pillars that lead to commercial sexual exploitation and sex trafficking. If you look at the population of women in prostitution, for example, more often than not they come from very precarious and vulnerable situations. Within the United States, in a city like New York, the majority of US-born prostituted girls are, racially and ethnically, primarily African American and Latina. Then you have the trafficked women who come from the Global South. In Canada, the majority of those sole into prostitution are First Nations Indigenous women and girls. In New Zealand, it is the Maori, the Pacific Islanders, and the Polynesians. In Australia, it is the Aboriginal women, or women who are trafficked in from countries where women have very few opportunities, like Thailand and rural China, etc. It is a common thread that the people who are the most vulnerable to pimping and sex trafficking are girls who have no other options and who come from disenfranchised communities.

There is another indicator of risk: the vast majority of prostituted women were sold into the sex trade when they were well under 18 years of age. The typical age [of a sex trafficked girl] is anywhere between 12 and 16, depending on the country, but always well under 18. The problem is that there is this unchallenged assumption that all of a sudden at 18 a girl becomes a “consensual ‘sex worker’”, a term that CATW does not use because we believe that prostitution is neither sex nor work. This unchallenged assumption fails to recognize a critical question: How old [was the girl] when she was first sold into the sex trade? A person does not miraculously turn from a legally defined sex traffic child into an adult “consensual ‘sex worker’” on her 18th birthday—it does not

happen. But that is not the kind of question that our governments and law enforcement and our opponents are asking, unfortunately.

In addition, another component that increases vulnerability to sex trafficking is sexual violence in childhood. The majority of women in the sex trade in the United States will tell you that they have suffered some form of sexual violence, whether it was incest or rape by a known figure like a mother’s boyfriend, or a stepfather, or a neighbor, etc. Sexual violence in childhood is prevalent even in the case of so-called “glamorous” call girls. [In 2008], then-governor of New York, Governor Eliot Spitzer, was found in the middle of a prostitution ring. Although Spitzer reportedly spent \$80,000 in prostitution among several escorts, the one woman whom the media showcased was Ashley Dupré. She was showcased as a consenting, high-end escort who lived lavishly in Greenwich Village and really enjoyed her job. But by her own account, she was raped at a young age by a man in her home who was supposed to take care of her, ran away from her home, and was homeless by the time she was 17 years old. At a time when she needed shelter, food, and other necessities, she met the producer of the TV show *Girls Gone Wild*, who then allegedly sold her to porn magazines. Only five years later, she was depicted as a sexy escort by the media. But really, that is the typical profile of a prostituted or sex trafficked woman. As a culture, we have not yet identified the sordid realities of prostitution behind the optics.

Our society also focuses solely on the prostituted woman. The kinds of questions that are asked in the wake of discovering an act of sexual exploitation are: Who is she? Did she consent or not consent? Is she 18 years of age or under? Is she trafficked? Is she foreign? What we need to do is really focus on the other side of

the equation, the sex buyers. Who are they? In our cultural narrative, sex buyers are depicted as lonely guys who want a date and such. But in reality, these men purchase violence. They purchase sexual harassment. They purchase power, control, domination, and degradation. So called consensual adult prostitution is rarely consensual as we understand it; there is no equal power of negotiation on the prostituted woman's side—one party has money, power, and control, and the other party lives a precarious life financially, psychologically, and medically.

You mentioned previously the case of Ashley Dupré, and the media perception of her life as a high-end escort or call girl. Is that the typical image of sex trafficking within the US? What does sex trafficking actually look like within the United States?

It is a misnomer, but the typical image of sex trafficking in the US is a young, foreign woman chained to a radiator in a basement. When you talk about sex trafficking, people do not look at the sex trade as a whole, but pimping is sex trafficking. By its international definition, anyone who transports, procures, entices, or controls another person in order to use them for commercial sexual exploitation is engaging in sex trafficking. CATW and our partner organizations aim to emphasize that sex trafficking is the means through which an exploiter brings his victim into the sex trade. That is the link. Without the sex trade as the ultimate goal of sex trafficking, there would be no sex trafficking. It is simple economics: Supply and demand. If you take the buyer out of the business, there would be no business at all, and there would be no one to sell. Our organization, like others, focuses on the demand side of the sex trade; we focus on the individuals who are fueling this multibillion-dollar industry. Not all men purchase sex, but studies show that, depending on the country, between 15% and 20% of a

country's male population has purchased sexual acts. From the limited surveys that we have on sex buyers, we know that these are men who have a tendency to be violent against women in other spheres of their lives; they have very little regard of women as human beings; and have a propensity to objectify and dehumanize the women they purchase. Examining Johns' boards (online "communities" of sex buyers who share information about new brothels, they rate women on their features, smells, performance, etc.) has been very telling, and the kind of information we learn from doing so helps us to identify who buyers are, shedding light on an otherwise totally invisible population.

In the last five to six years, law enforcement has started to focus on the demand side of sex trafficking. Last year (2015), President Obama signed a federal law, the Justice for Victims of Trafficking Act of 2015 (JVTA), which redefines the US definition of trafficking and focuses on demand. The JVTA aligns the penalties for buyers of children for sex and human trafficking victims with the penalties for traffickers, because the harm done was found to be equivalent to the harm done by traffickers. This legislation shows that we are moving in the right direction inch by inch. However, the resistance [to reform] is still fierce, and the media, especially progressive platforms—such as the *Daily Beast*, *Huffington Post*, or even *Feministing*—have showcased the reframing of exploitation in terms that are very evocative of our societal values, such as "freedom", "agency", "consent", "liberation", and sexual autonomy. We need to separate those concepts from exploitation. We are not saying that women do not have a right to do what they want with their bodies, but prostitution and sex trafficking (and human trafficking, generally) are complex issues that do not exist in a vacuum. There are so many other actors that are much more powerful than the women we often focus on in this debate—the pimps, the strip club owners,

the whole sex trade. These are the actors on which we must focus; follow the financial structures of exploitation.

Could you expand on the link between sex trafficking and gender-based violence? For example, does a history of prior sexual violence, including domestic abuse, increase an individual's susceptibility to becoming a sex trafficking victim?

The links between sex trafficking and gender-based violence are clear. The majority of prostituted individuals are women and the majority of sex buyers are men. The same applies for prostituted men and transgender people—the sex buyers are 99.9% men, so the premises of gender-based discrimination, power and control remain the same.

We must also look at the medical implications of prostitution. Studies show the traumatic impact and stress disorders caused by a single incidence of sexual assault on women. That psychiatric and psychological damage of sexual assault is compounded in cases where the victim has a history of experiencing repeated sexual violence by one perpetrator, such as would be the case in incest situations. The damage is further compounded by repeated and serial sexual invasion by multiple strangers. The physical and psychological trauma prostituted women endure is significant and lifelong.

Unfortunately, because prostitution is examined as an equal exchange of sexual acts for money, that money is seen as consent for the sexual invasion, inherent violence, and dehumanization. In addition, the majority of women sold in the sex trade are controlled by a pimp or trafficker, and sometimes that pimp is the woman's intimate partner, family member or the father of her children. The parallels between domestic

violence and prostitution are numerous.

Troublingly, some psychiatrists have found that when women are sexually and psychologically traumatized, they start to lose certain essential characteristics, like self-esteem and imagination. A lack of imagination is what may keep people in their current situation, because they cannot imagine themselves outside of the condition in which they live on a daily basis. Without the ability to imagine a different existence, it is very difficult for a woman to exit the sex trade or a domestic violence situation unless she gets intensive support by local direct service providers. Trauma experts and other medical professionals report that prostituted women typically experience suicidal ideation, psychosis, depression, and food disorders. We don't even know how many don't survive the ordeals of the sex trade

We currently face an ideological war on whether to classify prostitution as exploitative or as job like any other job. Sometimes, I think: how long is this question of classification going to last? In many cases, some organizations that promote prostitution as a form of work are so set in their ways that they are not willing to look beyond the edge of their noses to ask any further questions. They may say the same about us. For example, I was recently in Geneva and talking to a "sex worker" direct service provider whose organization focuses solely on harm reduction; her organization believes that prostitution is legitimate work and just like any other job. When I asked about the harmful aspects of the "work" her clients engage in, she basically stated that her clients needed to work in order to pay off their debts, so I asked to whom were they indebted? She said she didn't know, didn't ask and it was really the clients' business. In a small country like Switzerland that has among the most stringent immigration laws in the world,

how could you not ask a woman from a small village in Nigeria or China how she landed on the streets of Geneva and who is keeping her in debt bondage? It is the most essential of questions and not asking it simply enriches and empowers the sex trade, not the women sold into it.

All of this is to say, I think there are two avenues that will help us out of this ideological quagmire: The first is the survivors' movement, which is growing and getting stronger as survivors of prostitution and the sex trade make their harrowing stories public. Their narratives are reaching policymakers and government officials and forcing them to start thinking about the unspeakable violence women face in the sex trade. The second avenue is the medical community, which is critical to furthering our understanding of the health effects endured by victims of the sex trade. Currently, we have extremely limited data on the psychological and physical effects of serial sexual invasion and exploitation at the hands of sex buyers and pimps. It is a very difficult population to target. Prostituted women and transgender people do not have regular medical care and often do not trust the medical system. Moving forward, research conducted by the medical community will provide useful tools in evaluating the impact of the sex trade on people's health and in demonstrating that the sex trade's foundation is steeped in gender-based violence.

The International Labour Organization (ILO) estimates that approximately 20.9 million people are victims of human trafficking at any given time. And the United Nations Office on Drugs and Crime (UNODC) has reported that human trafficking is the fastest growing criminal activity in the world. How large a space does sex trafficking occupy in the general statistics of human trafficking?

The answer to this question depends on with whom you speak. First of all, no one knows how many people are trafficked in actuality, and the figure of 20.9 million people encompasses both the labor and sex trafficking fields. The UNODC, as well as most other related entities, agree that the majority of people who are trafficked are women and children, comprising approximately 79% of all human trafficking victims. Of this percentage, the majority of women and girls find themselves trafficked in the sex trade or in domestic servitude, where there is also a very high risk of sexual exploitation and sexual violence (men and boys are often victims of labor trafficking instead, being forced to work in industries or in agriculture, such as fisheries or on farms). The important thing to remember about these figures is that the numbers are likely underestimated. The ILO's estimate, for example, does not factor in prostitution, because the organization views the sex trade as legitimate work.

The reality that belies these estimates gives rise to two questions: How many millions of human trafficking victims do we need before we address the situation comprehensively? And why are human trafficking cases so underreported and under-prosecuted when various reports have clearly confirmed sex trafficking businesses in specific countries and cities? A report just came out that San Diego—a relatively small city in the United States—reaps approximately \$800 million from sex trafficking each year. Likewise, Switzerland—a country with a population of 8 million people and extremely stringent immigration laws and work permit laws—somehow manages to reap \$3.5 billion a year from the sex trade. In May 2014, the ILO released a report stating that illegal profits from human trafficking have reached \$150 billion, \$90 billion of which comes from sex trafficking. Again, that number is undoubtedly underestimated

because the ILO excludes everyone working in “legal commercial sexual establishments.” The traffickers themselves are on a wide spectrum, ranging from small-time pimps (local brothel owners, for example) to multinational organized crime networks. Whatever the size of a trafficker’s business, the payoffs are the same: very low risk with high profits. While the sale of illegal drugs runs the risk of many years in prison, pimping has a very low risk of arrest. And unlike drugs, which can only be sold once, sex traffickers can sell their victims over and over again.

Are these extremely high profits the results of globalization and free market policies on sex trafficking?

These high profits are the result of a combination of things. Certainly, globalization has a large role in creating the kinds of environmental factors that contribute to human trafficking. Millions of people are being displaced from their rural environments (whether due to the construction of dams, or natural disasters, or rising sea levels) and suddenly finding themselves impoverished in crowded cities. Countries with porous borders, such as in Europe, also make trafficking easier. But the other factor that contributes to the rising business of sex trafficking is the acceptance of gender-based violence. Women are not seen as full human beings; rather, they are seen as commodities. Some mainstream publications like *The Economist*, a news magazine, promote prostitution as legitimate work; in this view, women are lumped together with other commodities like coal, fruit, and refrigerators. There is a foundational problem with this view, and as a result sex traffickers facilitate the treatment of women and girls as commodities that can be sold by sex buyers on the marketplace with impunity.

You mentioned that there is an ongoing ideological disagreement on how to contextualize prostitution, either deeming it acceptable or unacceptable and framed in terms like “consent” and “work”. How do you distinguish between prostitution and the reproductive and sexual rights of women?

The Universal Declaration of Human Rights [adopted by the United Nations General Assembly in 1948], although not binding, has served as a blueprint and a platform for many international conventions. Critically, the principles of the Universal Declaration of Human Rights were founded on the inalienability, universality, and indivisibility of human rights; this means that governments the societies they govern cannot cherry pick fundamental human rights. Fundamental human rights are given to every human being by virtue of their birth. They cannot be given up, or sold, or taken away by any government, and you cannot consent to their violation. These fundamental rights include, among many other rights, the right to live a life of dignity, and the right to live free of violence. For many decades, human rights organizations have based their work on the principles enshrined in the Universal Declaration of Human Rights.

More recently, however, some human rights organizations have taken a different approach to their official stances on certain human rights issues. Amnesty International is one such organization. The concept of women’s rights as human rights was coined in 1993 at a United Nations conference; before then, practices that are violative of women were deemed cultural, traditional, or religious and, therefore, outside the framework of the international human rights framework. But as our collective understanding of these practices as gender-based violence has developed, topics like female genital mutilation

(FGM) have been reconsidered and categorized as human rights issues. When Equality Now (of which I am a founding Board member) begged Amnesty International in the mid-1990s for its help during one of the Equality Now's first campaigns to address FGM, Amnesty refused, stating that it considered FGM as a religious practice, not a human rights violation. Thankfully, this has changed, but it took many years for other violative practices against women and girls, historically considered cultural or traditional—child marriage, widow burning, or breast ironing—to be deemed unlawful.

Governments have an affirmative obligation to protect all of its citizens, regardless of gender. Now, there is an understanding, from the United Nations to the World Bank, that economic development and peace, to name two issues, require women's participation. That recognition extends toward investing in empowering women at all levels— political, economic, educational, etc. Women's control over her reproductive health is also key to that empowerment. This includes the right to do own your body and that your body is your own. In the context of the sex trade, however, we need to make an important distinction: There is no right to prostitution. There is no male right to purchase another human being for sexual acts. On the contrary, women have the right not to be prostituted. So, in my view, you cannot bend fundamental rights to suit your own interpretational preferences, which is what a number of human rights groups are doing by putting prostitution under the category of sexual rights. Exploitation can never be a sexual right. Although women have the right to sell their bodies (although most national laws forbid the sale of organs), this practice cannot exist in a vacuum. It has to be examined within the socioeconomic and cultural framework of the sex trade, exploitation, and gender-based violence. Part of that framework is recognizing

that violence against women and girls—whether child marriage, female genital mutilation, rape, or prostitution—are about unwanted sexual access to women's bodies. When it comes to prostitution, unfortunately, in most societies including our own, money is seen as constituting consent to that undesired sexual access.

When people categorize prostitution under sexual rights, they are essentially framing prostitution as an exception to violence against women. They do not see it as exploitation or as violence, but rather as a very narrow, contractual transaction. And this narrow view is problematic—the Executive Director of Human Rights Watch, Kenneth Roth, once tweeted: “All want to end poverty, but in meantime why deny poor women the option of voluntary sex work?” It is this logic that is problematic. If you extend his argument, consider the following: children are often poor, why not let them work in factories? Men can be poor too, why not let them be debt-bonded? The answer is simple: Human rights groups have, or should have, a vision of a world in which human beings should live; exploitation and violence are not part of it. Degradation and dehumanization are not part of that vision, either. The sex trade should not be considered an exception to systems of oppression and violence and exploitation for profit, but a cause and consequence of it.

CATW clearly opposes the use of terms like “sex work” and “sex worker”. What terms should be used in their place? Something like “exploitation”?

Well, we fail in language, we really do. Terms like “prostitute” are not only stigmatizing, but prejudicial: up until the adoption of the Trafficking Victims Protection and Justice Act (TVPJA) last year by the New York State Assembly, the state's penal code used the term “prostitute”, which

was the only identifier of someone who had allegedly committed a crime. The Code doesn't say "robber", "thief", or "murderer" to describe the alleged perpetrator of the crime, and yet "prostitute" described the person whom the state charges with a crime. The terminology has now changed to "person for prostitution", not ideal, but an incremental change in the right direction.

The term "sex work" was coined by the sex industry to mainstream and normalize prostitution, which they have done brilliantly. The language that has been coopted by the sex industry is very evocative because terms like "empowerment", "agency", and "freedom" all resonate very deeply with our democratic principles. It is now very hard to find an American publication that does not use the term "sex work". There are few exceptions, like the Associated Press, which has stated that they do not use that term. But generally speaking, terms like "sex work" and "sex worker" persist, and we have to try and move past the terms and focus on the issues. More accurate and representative terms—"prostituted women", "women in prostitution", and "commercially exploited women"—are generally perceived as mouthfuls. We are not language gurus, but we do need to find terms that adequately show that the reality is not accurately represented by a term like "sex work" as it gives a false impression of active engagement and consent at all times, when the experiences of prostituted women are the opposite of these myths.

The distinction seems to be a question of agency.

Yes. We have to be very careful with the concept of consent because it is a very slippery slope which has been historically used to excuse crimes like domestic violence—"she *consented* to stay with him, so she *consented* to the

beatings"—and give an out to the justice system and society in general when it has failed to protect victims.

Touching on the role of consent and its intersection with law enforcement and the justice system, let's discuss an important difference between CATW and some other human rights organizations. The American Civil Liberties Union (ACLU) agrees with CATW that current criminal statutes related to the sex trade are misdirecting law enforcement resources and punishing the women who engage in sex work. But your two organizations have come to very different interpretations of what it means to frame prostitution or work within prostitution. The ACLU advocates the decriminalization of sex work as a solution to this problem, while CATW advocates for the penalization only of sex buyers or demand-focused legislation. How and why have these two organizations come to such different conclusions about the best approach to tackling the problem of commercial sexual exploitation?

I am not trying to be glib, but I do think that this analysis stems from the fact that the ACLU is a male-dominated organization, and that they have framed prostitution as an exception to violence against women. They simply do not view prostitution as gender-based violence and discrimination, which is unfortunate, because we are increasingly getting reports on the links between "sex worker" representatives and unions and their financial or other interests—whether direct or indirect—with the sex trade. You cannot cherry pick women's rights, and that is what organizations like Amnesty International, the ACLU, and the Open Society Foundation have done in terms of their policies on "sex work". If you look at the ILO's decision to call for the decriminalization of prostitution, you can trace

a profound shift in the organization's stance between 2007 and 2009. The ILO released a report in 2007 providing guidance on the topic, noting that the demand for prostitution is one of the contributing factors perpetuating the sex trade; that report also noted that in order to craft effective HIV/AIDS prevention measures, you have to look at the demand for prostitution. And yet in 2009, the ILO completely reversed that stance and essentially supported cultural attitudes that exonerate men who purchase sex.

These organizations are not doing proper research on the topic, and I believe that that has framed their current policies on the sex trade. Kat Banyard, a UK journalist and activist, found that the National Sex Worker Project (NSWP) was one of the advisors to the ILO working group, and the former vice president of the NSWP was Alejandra Gil—a convicted sex trafficker who is now serving fifteen years in a Mexican prison for sex trafficking. So-called “sex worker” unions are the only unions in the world where managers are members and those managers are generally brothel owners (also known as pimps). There was testimony before the National Ireland Assembly (prior to the 2014 passage in Northern Ireland of the Swedish Model to combat prostitution) from Laura Lee, a self-identified “sex worker” who is also a member of the “International Sex Workers Union”, and who admitted that pimps were members of that union, making it clear that the sex trade is involved in such so-called unions.

Throughout the years, I have had friends who worked at the ACLU, Amnesty, or Human Rights Watch. I would tell them how I did not understand why such prestigious organizations that otherwise do stellar work on promoting and protecting the human rights of individuals, would call for decriminalization and put aside the most vulnerable individuals on the planet—

marginalized women of color and Indigenous women—segregate them into the sex trade and deem it viable work. It makes no sense. You do not even need to be in the human rights field to understand that decriminalizing exploiters to protect the exploited makes no sense. These organizations try to make a distinction by saying that everybody is against sex trafficking and child sex trafficking, but that their policies focus on adult “consensual ‘sex workers.’” But what kinds of protocols could governments have in place to ensure that people in prostitution are actually “consensual ‘sex workers?’” It is impossible for governments to ensure that litmus test is passed.

How have the policies issued by Amnesty International or ILO affected the efforts of organizations like your own, CATW? Has it made it more challenging to reframe the conversation to the public? Has it affected CATW's work?

I think that it has made the work of grassroots activists harder. Because Amnesty International has, to my knowledge, never really invested in addressing sex trafficking, it was odd that [the organization] would go out of its way to develop a policy, not even on sex trafficking, but on prostitution. Even so, their policy has now served as a very powerful tool for people who want to promote decriminalization [of prostitution], because it has the Amnesty International “stamp of approval.” Even if Amnesty is not going to actively call on governments to decriminalize the sex trade, you have a number of stakeholders or interested parties who will continue to say: “Amnesty is promoting this, therefore, we are going to lobby governments to do the same.”

On the positive side, these campaigns by Amnesty, UNAIDS, and the ILO really highlight the ongoing debate on decriminalization of the sex trade. I think that Amnesty had probably

hoped that this policy would be voted on quietly, as a matter of procedure, with very little attention paid to it. However, CATW's international campaign really brought the issue to the forefront, and that has generated a lot of productive conversations. We are up against enormous powers, but the successes that we are witnessing—particularly at the legislative level and the grassroots, survivor-led movement—are the most significant in the last 20 years. The debates surrounding this issue are brutal and time-consuming, and we have limited resources to consistently engage in them, but I do think that it is a positive outcome that people are at least talking about these issues. People have at times asked me: "Who are you to go after Amnesty International?" My reaction is: "Who is Amnesty International to dismiss the Universal Declaration of Human Rights, related covenants, and the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)?" Our job is to ensure that governments abide by the laws and principles that they have committed to upholding. If other human rights organizations are calling on governments to violate international law, where and how can women and girls get protection?

Let's discuss national legislations and policies around the world. Currently, South Africa is considering reforming its existing law on prostitution, from one that criminalizes the act to one that would decriminalize it. Could you explain the three major legal international frameworks for tackling the sex trade on a national level?

One framework promotes full criminalization, meaning that you cannot buy or sell sexual acts, which framework is found in countries like the United States (with the exception of a few counties in Nevada). The second

framework in place promotes full legalization or decriminalization; this framework is found in countries like the Netherlands and Germany, as well as certain states in Australia. Some say there are four legal frameworks, as it separates legalization from decriminalization; however, my take is that decriminalization is simply a worse form of legalization. Finally, the third framework is the so-called Swedish Model, which was enacted in Sweden in 1999 after years of the women's movement petitioning the government to look at prostitution as a cause and consequence of gender-based violence and inequality. Norway and Iceland passed the Swedish a few years later, which is why that legal framework is also known as the Nordic Model. The Swedish Model recognizes that the majority of women involved in prostitution face unspeakable violence and an absence of choice. As a result, this model focuses on the buyers of sex acts—it decriminalizes prostituted individuals but penalizes buyers.

The first two frameworks each have their challenges. In countries with full criminalization of the sex trade, you tend to have a discriminatory impact on the application of these laws. In the United States, for instance, for every man who is arrested for buying a sex act or service, 4-10 women are arrested for engaging in the same sex act, depending on the jurisdiction. Women are overwhelmingly targeted in the implementation of full criminalization laws. Likewise, the second major legal framework in place—full legalization or decriminalization—has produced incredibly negative consequences. In countries that legalized prostitution, we see reports of just unbelievable horrors: Germany has been nicknamed the "Bordello of Europe" with nationwide chains of brothels; in the Netherlands, figures estimate that up to 90% of women in Amsterdam brothels are

A photograph of a forest path with sunlight filtering through the trees. A white network diagram with four nodes and connecting lines is overlaid on the path. The word 'Analysis' is written in large white letters, and 'ON THE DOT' is written in smaller white letters below it.

Analysis

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undocumented foreign women from the poorest countries in Eastern Europe and the Global South.

Simultaneous to the fall of the Berlin Wall in 1989 was the crumbling of economies in Eastern Europe, which prompted a sudden surge in human trafficking. The rapid increase in the amount of trafficked Eastern European women for the sex trade spurred a flurry of national and international laws in the late '90s and early 2000s: The Palermo Protocol in 2000; the Trafficking Victims Protection Act in the United States in 2000; the Swedish law in 1999; and the implementation of legalization of prostitution in countries like the Netherlands in 2000 and Germany in 2002. Everyone recognized that the surge in human trafficking was linked to violence and organized crime, but different countries opted to implement different frameworks in response to this problem. Whereas Sweden determined that demand needed to be targeted in order to combat trafficking, the Netherlands and Germany went another way, believing that legalization would permit women to register with the government and could have recourse in cases of violence. New Zealand is the scariest example of a country that has embraced the full decriminalization model, which dissolves the government's oversight or regulation of the sex trade. Mind you, out of the hundreds of thousands women in German brothels and in the sex trade, only 40 have actually registered with the German government. In New Zealand, essentially, anything goes—and since they've forsaken any type of registration, nobody even knows the number of prostituted women. Nevertheless, research shows that a majority of women in street prostitution are very young Indigenous women (such as Maori and Polynesian), and that there are an alarming number of girls who are sex trafficked. In the case of South Africa, we are all waiting

to see what kind of framework the country will ultimately enact. Our colleagues on the ground don't think the government will opt for either full criminalization the way it is now or full decriminalization of the sex trade, but I think variations of this model are under consideration. The South African Law Commission submitted recommendations to the Minister for Justice. The South African Parliament will need to go through hearings and deliberations on the issue, so it will take some time before the government makes a decision. This means that CATW will have an opportunity to work with our partners in South Africa to make sure that survivors' voices are heard. We hope that women's groups, domestic violence shelters, and other direct service providers for women in need will come together and provide the necessary gender analysis to this issue. Still, it is important to keep in mind that South Africa is a country where approximately 40% of women are victims of rape, so the level of sexual violence tolerated is high and women's social status is extremely low.

Considering the different attributes that all of these countries possess—whether it be porous borders or multi-ethnic populations—how can we best measure the effectiveness of each of these frameworks? Is it through a public health lens? Is it through the frameworks' respective successes in deterring the growth of the sex trade?

Even though there is still some needed reconciliation between immigration laws and prostitution laws in countries that have adopted the Swedish Model (also called the Equality Model, or Ubuntu Model in South Africa, or demand-focused legislation), it is still obviously clear that the Swedish Model is the right way to go [relative to all other available frameworks for combatting prostitution]. We know that in the last 16 years since the prostitution law was adopted

in Sweden, not one woman has been murdered by her “client” or “John”. The fact is that demand-focused legislation has made it safer for women and not one sex buyer has gone to jail either.

And research also shows that the reverse is true in countries that have adopted legalization or full decriminalization frameworks. Time has shown us the negative effects of legalization in Germany and the Netherlands. The mayors of cities like Amsterdam and Rotterdam have complained of the presence of organized crime found in brothels, but are unable to effectively combat the problem without elaborate, court-mandated investigations because the sex trade has been approved as a legal business. In response to increased crime and violence rates, the Netherlands has implemented “Band-Aid” measures, such as raising the age of women in prostitution from 18 to 21 years old or mandating language tests in brothels.

Would it be fair to say, then, that CATW favors—of the three frameworks—the Swedish Model, since it agrees with CATW’s vision of targeting the demand for prostitution?

[The Swedish Model] is the only legal framework that we can think of right now that really addresses sexual exploitation, the sex trade, and commercialized sexual access to women by regarding prostitution as a form of gender-based violence. In May 2016, France passed its own demand-focused law that aims to combat prostitution, based on the Swedish Model. I think the French Model, actually, is stronger than the Swedish Model in that the former is really committed to investing resources in housing and other services for prostituted and trafficked women as well as offering exit strategies for women who opt to leave the sex trade. Additionally, the financial fines for purchasing sex

acts are a lot steeper [in France] than in Sweden.

Nevertheless, the impact of the Swedish law has been incredibly impressive: Prior to its adoption, 72% of men believed that was acceptable to purchase a woman for sex. Seventeen years later, not only do 76% of men now think that purchasing a woman for sex is not okay, but these same men think that the sex trade represents a barrier to gender equality. There has been a fundamental change in men’s attitudes on this issue. So, there has been a cultural shift as a consequence of the implementation of demand-focused legislation; people now think twice about what it means to purchase another human being for sex. The Swedish Model is more than a law; it is a gateway to making us think collectively about the implications of the sex trade in our society.

Are there any recent laws or pieces of proposed legislation that address the trafficking of women and children within the United States?

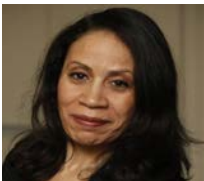
A lot of US states have trafficking laws, though some are better than others. I think New York has the strongest anti-trafficking laws in the country. We now have Safe Harbor Acts, which finally recognize sex trafficked children as victims as opposed to criminals, which, incredibly, was the case as recently as few years ago. There has been monumental change on a national scale within the US, such as with the approval of the Justice for Victims Trafficking Act that redefines the definition of sex trafficking, as well as incremental change advanced by small, non-profit organizations. One such organization, Demand Abolition, has been working with local law enforcement departments in eleven cities, educating officers on why they should stop arresting prostituted women and instead target the sex buyers. Organizations like Demand

Abolition are changing the way Americans think about prostitution by showing that it constitutes more than a nuisance or residential regulation issue for cities—prostitution is a human rights issue.

enough. But I do think that if state, national, and international governments start implementing some of the demand-focused laws that we advocate, then we will see a change. We will.

In what ways has CATW made progress in the fight against sex trafficking?

I think that our legislative advocacy, which is always done in coalitions, has been successful. At the state level, CATW partnered in 2005 with like-minded organizations to form the New York State Anti-Trafficking Coalition, and we also take part in national coalitions. Furthermore, we have international coalitions with whom we work. The work before us is arduous, but my colleagues here and abroad celebrate the legislative and cultural advancements we have achieved. These advancements are, at times, tiny, and we sometimes feel that they do not resonate widely



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Interview by Katherine Lugo

Lessons Learned by NGOs in the Fight Against Human Trafficking

Laura Skillen
University of Kent

Human trafficking is a worldwide problem. Estimates suggest that there are more people in “modern-day slavery”, than the entire population of slaves at the height of the trade in the 1700s. Twenty-seven million is the commonly recognized figure, with victims who are typically subject to forced labor or sexual exploitation.¹ While this problem is vast and increasingly recognized, it has been difficult to address at the state or intergovernmental level, given the crime’s poor visibility and transnational nature. The gap in services for victims and vulnerable groups, from addressing recruitment through to recovery and rehabilitation, has been partly remedied through the efforts of non-governmental organizations (NGOs), though such organizations face problems of their own. These problems, in addition to what NGOs have found “works” in fighting human trafficking, were investigated for the purposes of this article using an open-ended survey. The results are presented below. Most importantly, it is necessary to establish what human trafficking is, and the issues faced by groups working against it.

What is human trafficking?

Human trafficking is the transportation of people, internationally or domestically, for the purpose of exploiting them. It must be firmly distinguished from “migrant smuggling.” While both involve transporting persons over borders, there is an element of force, fraud or coercion associated with trafficking in persons (TIP)(Lo, 2016). Additionally, while TIP results in the forced extraction of services or labor, the end result of migrant smuggling is the person’s freedom and/or safety upon reaching their destination. An overlap occurs whereby, what ostensibly appears as migrant smuggling, may result in a coercive situation and/or a slave-like state at the destination, rendering it as TIP.

There are multiple forms of human trafficking. Sex trafficking is the most visible type, and is central to films such as Liam Neeson’s *Taken* franchise. However, TIP can also result in forced labor, or the storage and extraction of human organs. Examples of the former include the trafficking of young Indian and Pakistani boys to Middle Eastern countries, such as Saudi Arabia where they endure forced labor as camel jockeys. It can also include forced employment of Thai fishermen on boats off the coast of New Zealand or domestic servitude in countries such as the UK and USA.

There are forms of modern-day slavery, which do not involve trafficking people over international borders. These are situations such as sweatshops and labor camps. They may involve domestic or international TIP. The key elements are that the person is relocated, and that labor or services are extracted via force, fraud, or coercion. The purpose of trafficking is always exploitation.

Organizations working against TIP

There are several different groups working against TIP. These include celebrities such as Liam Neeson, journalist Nicholas Kristof, and Ricky Martin. It also includes state governments and law enforcement, international bodies such as Interpol, as well as intergovernmental organizations, such as the International Labour Organisation and the United Nations. The Office on Drugs and Crime (UNODC) plays a particularly large role. NGOs play a big role from community groups, to regionally-based organizations, such as Chab Dai in Cambodia, the National Freedom Network in South Africa, and Project Respect in Australia. It also includes organizations such as the Global Slavery Index, Stop the Traffik, Amnesty International, and Save the Children.

Each of these groups faces difficulties in addressing TIP. Criticism in relation to celebritization of the issue has been attributed to a lack of substantive results and to an imbalanced focus on sex trafficking over other types of TIP (Haynes, 2014). National legislatures and law enforcement have not made significant strides toward halting the flow of slaves, despite widespread implementation of and support for United Nations-mandated legislation (UN.GIFT, 2010; UNODC, 2009). Likewise, the UN as an intergovernmental body has been limited in its effectiveness. The vulnerability of such bodies to outside pressure is highlighted by the recent example of UN Secretary-General Ban Ki Moon dropping action against the Saudi Arabian military for its activities in Yemen, after Saudi Arabia reportedly threatened to cut funding to UN programs (Sengupta, 2016). This can present an issue where exploitative labor practices form an essential part of a country's economy.

A major problem for states attempting to address TIP is its transnational nature. Transnational organized crime is challenging to address, even in close alliances. With no unified intelligence, police or border force, tracking the movement of people across lengthy borders is difficult, as seen during the height of the European "migrant crisis" in summer 2015. These difficulties are compounded by the presence of organized criminal networks, which have systems to transport victims across borders.

Additional problems include the lack of public awareness (human trafficking as something that happens in other places, rather than in one's own country); lack of trust in law enforcement, particularly among people trafficked from countries with different laws or police cultures (a person expecting police to be subject to bribery by traffickers is unlikely to identify themselves as a victim. This belief is exacerbated and used by traffickers to control their victims. Additionally, victims may believe they will be arrested as prostitutes. There are also cultural issues, as perpetrators from eastern and sub-Saharan Africa use victims' belief in witchcraft to control their behavior and prevent them seeking assistance. Language issues are common and concordant problems in identifying victims, as victims may be trafficked to somewhere they do not speak the language and be unable to seek assistance. Likewise, sex tourists to Eastern Europe, Southeast Asia, or Latin America may not be able to identify a person as trafficked, or communicate it to law enforcement if they do.² Furthermore, the lack of supply chain controls among international and transnational businesses and the simple fact that victims of TIP may be physically trapped and thereby inaccessible. There has also been a dearth of successful prosecutions against perpetrators (UNODC, 2009).

Exceptionally, the Nigerian National Agency for the Prohibition of Traffic in Persons (NAPTIP) is a state-sponsored platform where governmental bodies and NGOs work together against TIP. It coordinates law enforcement and the “protection and prevention initiatives” of varying levels of governmental and non-governmental bodies (NAPTIP, 2015). This collaborative model presents a unique model for countering TIP.

NGOs addressing trafficking undertake different combinations of activities. These include shelter services, health, education and advocacy, hotlines and referral services, capacity building, lobbying, research and consulting. Several organizations have created international networks and referral processes, something which to date has not been implemented by state governments.³ Liberty Asia is a regional organization, which aims to improve case management and referral in Southeast Asia, among other activities. The US-based Polaris Project runs a national hotline in the USA, and provides logistical and training support to other regionally-based organizations (Polaris Project, 2016a, 2016c).

Counter-trafficking NGOs are in a position to address several of the limitations faced by state governments, while being potential recipients of public aid (as in the example of the EU-funded “TRACE” research project). Firstly, they have greater flexibility in operating internationally than state-based governmental organizations. They may not be subject to the suspicions associated with law enforcement. Linguistically, the Polaris Project’s National Human Trafficking Resource Center accepts calls 24/7, in over two hundred languages. Governmental organizations may not be able to furnish such capabilities, especially in poorer and smaller states, or in those experiencing conflict. However, NGOs are not part of sovereign power systems, and do not have the powers associated with national law enforcement. They face difficulties in countering human trafficking, whether it be addressing victim recruitment, transit, or exploitation.

Surveying Counter-Trafficking NGOs for “Lessons Learned”

An exploratory survey was administered to several NGOs and their staff, in order to begin establishing what lessons have been learned in countering trafficking. It was distributed via this author’s networks⁴ and the “Freedom Collaborative” anti-trafficking hub, that networks NGOs and researchers. Questions were open-ended and called for organizational and/or personal narratives.

Responses received represented the country-based outlet of an international NGO that counters TIP as one of its activities (Respondent A); a regional counter-TIP organization in Southeast Asia (Respondent B); an organization in the Benelux region that assists people leaving violent situations, including trafficking and particularly sex trafficking (Respondent C); a counter-TIP organization in South Africa (Respondent D); and a TIP research project based in the United Kingdom (Respondent E). The intention of this survey was to establish a starting point for further research into the lessons learned by NGOs in this area, leading to improvements in NGO capabilities. Responses are presented, trends noted, and some commentary⁵ provided in the following sections.

Lessons learned: what works?

Networking, good communication and trust-building

The strongest point of agreement among the survey respondents was that networking and the development of trust between organizations and stakeholders is the most important factor in achieving positive outcomes. Respondent C stressed “the importance of good communication and the power of networking”. Respondent A agreed that “[n]etworking and working on European projects together is important”, and Respondent D, working in South Africa, said that “[b]eing connected and forming solid trust-based relationships is key to seeing tangible results”.

Organization, openness to change, and improved access to information and technology

Respondents B and D addressed the importance of being open to innovation. B said that access to increasingly “[b]etter data, better technology and better equipment” will help NGOs working against TIP, while D stressed the necessity of organization in conjunction with openness to change. Provision of education and support to groups vulnerable to trafficking

Traffickers are most able to exploit vulnerable groups, including those with poor financial means, the isolated, unwanted children, people fleeing dangerous circumstances, and those with a poor educational background. As such, Respondent B described one of their organization’s strategies in Southeast Asia, and how it used to mitigate the risk factors associated with trafficking: “[w]hat works well is providing education and social support to vulnerable people, [thereby] presenting them with the tools [to]...make better educated decisions against a potentially dangerous migration process.”

Lessons learned: what presents a challenge?

“Trafficking” is a confused term, and further awareness is needed

The notion of “trafficking” is subject to contestation. Respondent B suggested that “the word ‘trafficking’ is a farse [sic]...and has been pushed by the US considerably...[out of] fear of losing economic weight”, emphasizing that “trafficking” is a contested concept. Meanwhile, Respondent D observed that “[a] lot more awareness is still needed” in relation to TIP, saying that many South Africans equate it with sex trafficking alone, or believe it does not occur in South Africa.

Access to vulnerable groups such as children is difficult

Thirty-three percent of identified TIP victims are children, and they comprise more than 60% of victims in the Middle East and Africa (UNODC, 2014). However, gaining access to these groups, whether for the purposes of preventative education or intervention, can be difficult. Participant A accordingly reported that, “[m]eaningful participation with children...is very important but very difficult to achieve.” Innovative strategies may be required in order to address these groups.

Overlaps in service provision is inefficient

Respondent C, in the Benelux region, highlighted the need to avoid overlaps in service provision, saying that their organization prefers to “fill in gaps”, rather than reinventing or replicating what is already being done. Developing collaborative multilateral platforms like that of NAPTIP, communication, networking and coordination, could help to reduce service overlap.

Influencing policy is a slow process

The difficulty of achieving substantive public action was noted by two respondents, with respondent A mentioning that “working to influence and support government policy does not produce immediate results.” Respondent D observed that, while there is a lot of talk around TIP, there is not always a lot of action. The paucity of results from governments may help explain the growth of NGOs working in the field.

The role of religious organizations in countering TIP is ambiguous

Two survey respondents mentioned the role of religious organizations in countering TIP. Respondent B stated that “[r]eligious based organizations are very dangerous and can often cause more harm than good... They are often proselytizing the clients...instead of providing them with the correct support.” They emphasized that regulation of the non-profit sector, religious or otherwise, is by donors. This lack of accountability may not necessarily lead to positive outcomes for TIP victims, and perhaps presents an area for legislative regulation.

Respondent C meanwhile described their organization as “connecting with” churches in the area, “bringing an awareness of human trafficking”, and working toward getting prevention messages into schools. Irrespective of the role of religion within NGOs, it is clear that churches are important social locations for many communities, and as such are an important site for promoting education in relation to TIP.

The role of the media is ambiguous

Respondent E described an ambiguous role for the media in TIP, writing that they “play a role in stereotyping by focusing on victim stories.” This reflects research carried out under the TRACE project, which confirmed that media reports focus predominantly on sexual exploitation and “conflates human trafficking with prostitution” (TRACE, 2014, p. 65). The focus is on “sensationalised victim stories”, rather than the nature of trafficking, or the socio-economic conditions that facilitate it. While the media plays an important role in raising awareness of the existence of TIP, and retaining it on political agendas, it has occasionally “harmed the privacy” of trafficked persons, rendering the media’s role ambiguous (TRACE, 2014). Engaging the media in relation to TIP may prove helpful in redressing this ambiguity.

Given the likely ongoing and prominent role of NGOs in the fight against trafficking, further and more extensive research in the area of “lessons learned” could help to promote knowledge sharing and reduce inefficiencies between organizations.

Staff turnover presents a problem for service continuity

Respondent D described how “[c]onstant staff turnover [and] changes (especially within law enforcement) hamper relationship[s] and also...forward momentum.” While staff turnover is not unique to the field of counter-trafficking, this suggests that documenting lessons learned, and instrumentalizing policies and procedures in order to ensure knowledge and relationships are captured and sustained, is likely to aid counter-trafficking efforts. At the same time, improving inter-organizational networks, rather than relying on one-to-one trust-based relationships, could help to maintain continuity.

Vigilantism can cause harm

There is an amount of suspicion in relation to organizations that carry out extrajudicial rescues of TIP victims, rather than relying on law enforcement. The well-publicized events associated with former Australia-based organization “The Grey Man” may have proven a turning point for this type of approach. The organization, which described itself as comprised of ex-Special Forces staff and police officers, was found to be operating fraudulently. Eventually, it was found that the twenty-one children the organization claimed to have rescued were in no danger and had never been trafficked, and The Grey Man was declared a hoax (Drummond, 2012; McCulloch, 2012). Respondent B said in this context that “[b]reaking down doors doesn’t work, is out dated [sic] and should be banned... ‘Rescuing’ victims is often so un-ethical it is ridiculous.” Additionally, vigilantism is a crime. International TIP cannot be stopped until border policies are improved

Respondent B pointed out that “rescues” do “nothing to change global migration patterns or issues” as risk factors enabling TIP. The respondent went on to add that “[t]he end of trafficking will come only with better international border policies.” Although it was unclear at which level, or by which means these ought to be addressed.

Respondent prescriptions: what needs to be done?

Several survey respondents provided suggestions about improving work against TIP. Respondent B focused on business and the financial sector, recommending regulation of the latter, particularly with “regards to its own supply chain management”, as this would enable capital to be more ethically managed. Respondent D described trafficking as a “complex and multi-layered crime”, which requires more awareness and “much more training...all round.” They suggested all parties “need to be

communicating and working off the same page”, counseling that “[n]o one person, organization or department can do everything needed to fight TIP.” A collaborative, multi-levelled and multi-faceted approach is required.

Conclusion

TIP is an ongoing problem, and a difficult one to address. NGOs are able to abrogate some of the challenges faced by state governments, although they are posed with challenges of their own. Like governments, NGOs encounter language issues, an inability to independently stop TIP, a deficiency of instruments with which to attain their goals, and a lack of access to some groups. Unlike governments, they have fewer barriers to conducting transnational operations.

The survey administered in association with this article established that the confused nature of “trafficking”, difficulty in accessing vulnerable groups such as children, overlap in service provision, slow speed of policy development, and issues of staff turnover each present difficulties for counter-TIP NGOs. The role of religious and/or unaccountable organizations, as well as the media, is ambiguous in achieving positive outcomes for victims of TIP. Lastly, vigilante approaches to victim emancipation may be destructive.

On the other hand, some positive lessons about “what works” have been learned by the NGOs surveyed: networking and good communication, building trust-based relationships, openness to change, and provision of education and social support to vulnerable groups, can all lead to the achievement of positive outcomes for trafficked persons.

Given the ongoing and prominent role of NGOs in the fight against trafficking, further and more extensive research in the area of “lessons learned” could help to promote knowledge sharing and reduce inefficiencies between organizations. It may be relevant to analyze these lessons against different geographical and cultural contexts, and according to the type of NGO involved. Further, the possibilities for collaboration between NGOs and governmental bodies—as in the case of NAPTIP—should be investigated, particularly at the intergovernmental level, where best practices could be implemented as an outcome.

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² Jeremy M. Sharp, US Congressional Research Service report – *Egypt: Background and US Relations* <http://www.fas.org/sgp/crs/mideast/RL33003.pdf>

³ for example, see the 2first quarterly report 2016 of the US Special Inspector General for Afghanistan - <http://static1.squarespace.com/static/5728c7b18259b5e0087689a6/t/57b0f92d579fb320a637abfd/1471215922333/SIGAR+Afghan+2016+1st+quarter+report.pdf>

⁴ US Special Inspector General for Afghanistan <https://www.sigar.mil/pdf/LessonsLearned/SIGAR-16-58-LL.pdf>

⁵ See Transparency International's Corruption Perceptions Index 2015 website at <http://www.transparency.org/cpi2015>

⁶ For example, see Vice President Biden's speech to the RADA – the parliament in Ukraine in 2015 - <https://www.whitehouse.gov/the-press-office/2015/12/09/remarks-vice-president-joe-biden-ukrainian-rada>

⁷ See statement by the IMF's Managing Director Christine Lagarde in February 2016 - <https://www.imf.org/external/np/sec/pr/2016/pr1650.htm>

⁸ Press announcement from the U.S Treasury - <https://www.treasury.gov/press-center/media-advisories/Pages/12112015.aspx>

⁹ See David Sanger – *Pakistani Army Linked, in Letter, to Nuclear Sale* - The New York Times (July 7, 2011) - http://www.nytimes.com/2011/07/08/world/asia/08khan.html?_r=0

And also:

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¹⁰ For a detail insight into the Mobutu regime and US relations with Zaire, see for example Michela Wrong, *In the Footsteps of Mr. Kurtz - Living on the brink of disaster in Mobutu's Congo* (2001 - Harper Collins)

¹⁰ See for example, *Dirty Entanglements: Corruption, Crime, and Terrorism* by Professor Louis Shelley (2014 - Cambridge Press)

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¹ I would like to thank Metodi Zajkov (General Secretary- TI Macedonia) and the TI Macedonia team for providing access to the database, documentation, access to statistics from the project and further information about the Transparency Watch – Macedonia project.

² Main page for the 2010/11 Global Corruption Barometer by Transparency International

³ With this failure to address and demonstrate progress in the fight against corruption within Macedonia, it has been acknowledged that even government anti-corruption initiatives to-date have failed to significantly address or deliver sustainable solutions to the problem.

⁴ Transparency Watch Project Website - www.transparency-watch.org/ www.PrijaviKorupcija.org

⁵ Details – press release information – ‘Android app for reporting corruption in Republic of Macedonia now available’ - Launched 24 July 2012.

This application allows users to report cases of corruption which are then checked and verified by the TI-Macedonia staff, validated before it then considered for publishing online at the website (www.prijavikorupcija.org). The website also allows users and guests to the website, to view reported cases and gain more information. The Apple/iPhone application was launched in 2013 and recently updated in June 2015.

⁶ Transparency International's 2013 Corruption Barometer

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⁹ Giulio Quaggitto – UNDP's knowledge management team leader in Europe and CIS; has been with UNDP since November 2010.

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³ The Council of Europe Convention on Action against Trafficking in Human in 2005 (ratified by the Italian State only in 2010).

⁴ We should also mention the adoption by the European Commission of the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016; the Directive 2009/52/EC of the European Parliament and of the Council, providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals; the Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities, and the Council Directive 2002/90/EC defining the facilitation of unauthorised entry, transit and residence, which aims to combat illegal immigration and aiding of illegal immigration.

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⁶ R. Raffaelli, *The protection of trafficking victims: does criminal law really require the sacrifice of human rights?*, Sant'Anna Legal Studies, STALS Research Paper n. 13/2008.

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⁹ A similar measure was initially introduced by the Law - Decree 13 September 1996, No. 477, amending the so called Law Martelli (Law 28 February 1990, No. 39), which authorised the issue of a residence permit, as a reward measure, to the third-country national who offered a real contribution to the identification and the arrest of criminal offenders. It was a benefit related to trial and security requirements.

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¹¹ T.A.R. Firenze, Section. II, 22 March 2013, No. 460; T.A.R. Bari, Section. II, 02 January 2012, No. 5; T.A.R. Milano, Section. III, 06 December 2012, No. 2961.

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¹³ T.A.R. Sicilia, section I, 28 May 2008, No. 982.

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⁵ See, <http://www.achpr.org/mechanisms/>

⁶ See, <http://www.acerwc.org/>

⁷ See, Mission Report of the ACERCWC to assess the situation of children affected by the conflict in Central African Republic – December 2014, <http://www.acerwc.org/download/advocacy-mission-to-central-african-republic/?wpdmdl=9478>.

⁸ See, <http://www.nanhri.org/events/>

⁹ See, http://www.achpr.org/files/instruments/ecowas-declaration-against-trafficking-persons/ecowas_declaration_against_trafficking_persons.pdf

¹⁰ See para 16 of the Declaration.

¹¹ United Nations Office for West Africa (UN OWA) and West Africa Regional Office of the United Nations High Commissioner for Human Rights (OHCHR/WARO). Trafficking in Persons in West Africa: Analysing the Legal and Policy Framework for the Protection of Victims. Available at <http://www.womencount4peace.org/sites/default/files/sites/default/files/publications/UNOWA%20-%20Trafficking%20In%20Persons%20In%20West%20Africa%20-%20Analyzing%20The%20Legal%20And%20Policy%20Framework%20For%20The%20Protection%20Of%20Victims%20%E2%80%93%20en%20-%2020130909.pdf>

¹² African Union Commission Initiative against Trafficking = AU COMMIT (Social Affairs Department: http://www.ohchr.org/Documents/Issues/Trafficking/Dakar_Protection_Kapp-Marais.pdf.

¹³ See, <https://www.unodc.org/unodc/en/frontpage/2009/June/au-starts-campaign-against-human-trafficking.html>.

State-Sponsored Slavery: Migrant Labor in the GCC

Footnotes:

¹ International Labor Organization, *Reform of the Kafala* (Sponsorship) System, p. 1.

² International Labor Organization, *Reform of the Kafala* (Sponsorship) System, p. 3

³ Universal Declaration of Human Rights

⁴ International Covenant on Civil and Political Rights, United Nations Treaty Collection, June 30, 2016.

⁵ Report of the Special Rapporteur on the human rights of migrants, Francois Crepe, Human Rights Council, 26th Session, April 2014, p. 8.

⁶ Government of India, Press Information Bureau, “Memorandum of Understanding between India and Bahrain on Cooperation for Prevention of Human Trafficking especially trafficking in Women and Children,” March 10, 2016. Government of India, Press Information Bureau, “Memorandum of Understanding between India and United Arab Emirates on cooperation in preventing and combating of Human Trafficking,” April 13, 2016.

⁷ Human Rights Watch, 2015, “*Migrant Workers’ Rights on Saadiyat Island in the United Arab Emirates: 2015 Progress Report*,” New York: Human Rights Watch, pp. 10-11.

⁸ In Oman, migrant domestic workers are excluded pursuant to Article 2(3) of Royal Decree No. 35 of 2003. In Qatar, migrant domestic workers are excluded pursuant to Art 3(4) of Law No. 14 of 2004. In the UAE, migrant domestic workers are excluded pursuant to Art 3(c) of No. 8 of 2007.

⁹ Law No. 68 of 2015 on Employment of Domestic Workers; Human Rights Watch, 2015, *Kuwait: New Law A Breakthrough for Domestic Workers: Guarantees Crucial Rights, but Gaps Remain*. New York: Human Rights Watch.

¹⁰ International Trade Union Confederation, *Facilitating Exploitation: A review of Labour Laws for Migrant Domestic Workers in Gulf Cooperation Council Countries*, pp. 32-36.

¹¹ Human Rights Watch (Organization), 2014, *I Already Bought You: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates*, New York: Human Rights Watch, p.3.

¹² Whiteman, Hilary, “Indonesia maid ban won’t work in Mideast, migrant groups say,” CNN, May 6, 2015. Al Jazeera, “Uganda bans housemaids from working in Saudi Arabia,” January 23, 2016.

¹³ Human Rights Watch (Organization), 2014, *I Already Bought You: Abuse and Exploitation of Female Migrant Domestic Workers in the United Arab Emirates*, New York: Human Rights Watch, p. 28.

¹⁴ “UAE: Indian woman forced into prostitution jailed for four years – arrested after abduction, gang rape,” KRMagazine, February 15, 2016.

¹⁵ Department of State, Trafficking in Persons Country Narratives: Oman, Kuwait, Bahrain, UAE, Bahrain, Qatar, 2016

Child Trafficking in China: Who are Female Perpetrators?

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Organ Trafficking in War and Political Conflict

Footnotes:

¹ Like Boström, I was greeted on an Organs Watch visit to Israel in 2003 with an ugly headline and centerfold ("New Blood Libel on French TV – Israel Steals Kidneys of Orphan Children in Moldova") in Makor Rishon, a right-wing tabloid. The feature story reviewed a TV documentary by French filmmaker Catherine Bentellier, "Kidneys Worth Their Weight in Gold," that followed my research in Moldova, Turkey, and Israel. In Moldova, we interviewed people in villages that had been ravaged by human traffickers recruiting young men to Turkey, the Ukraine, and Georgia to provide kidneys to Israeli transplant patients. The "blood libel" accusation featured medieval woodcuts and a blurry photo of me holding the hand of a Moldovan orphan in his crib, during which I described the scandal of kidney selling in Moldova and its links to child trafficking that were sometimes merged in journalistic stories (as they had been in Brazil).

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Lessons Learned by NGOs in the Fight Against Human Trafficking

Footnotes:

¹ The actual number of victims of human trafficking is disputed, as the crime deals with hidden populations, and methodologies used in establishing figures have been inconsistent. The UN Office on Drugs and Crime suggests that “2.4 million people across the globe are victims of human trafficking at any one time”, with 80% of that number exploited sexually (Associated Press, 2012). The co-founder of Free the Slaves suggests a ‘conservative’ current estimate of thirty million (CNN Freedom Project, 2013). The Polaris Project cites the International Labour Organisation (ILO) in its estimate of 20.9 million victims of human trafficking globally, and the ILO claims that 22% of these victims are used for sexual exploitation (International Labour Organization, 2012; Polaris Project, 2016b). Meanwhile, the Gilder Lehrman Institute of American History states that 12.5 million slaves were shipped from Africa over the entire period of the Atlantic Slave Trade, from 1526–1867, a significantly smaller number (Gilder Lehrman, 2014). According to the US State Department, in 2015 law enforcement identified just 77823 victims worldwide, and it is estimated that just one in every one hundred victims is rescued (United States Department of State, 2016).

² One study conducted in-depth interviews with prostitutes’ clients, with several respondents noting the frequent presence of clearly trafficked girls. One john said that he would rather select an exploited woman than one who was ‘free’, as doing so would prevent the person being punished for failing to gain clients (Di Nicola, Cauduro, Lombardi, & Ruspini, 2009, p. 3). None of the johns in the study reported trafficking to law enforcement.

³ Interpol has had some limited successes (INTERPOL, 2016).

⁴ The author has played a key role in an anti-trafficking organization, and as such has existing NGO contacts and

direct experience of some of the issues they face. This lent inspiration for this article, but has not unduly informed it. Neither the author nor her organization participated in the survey.

⁵ Commentary on respondent replies is limited, as the purpose of this research is to present the lessons learned by others, rather than fitting responses into an existing narrative.

⁶ Respondent B was contacted to provide further insight, but no clarification was received.

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