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Book Review:
Collaborating Against Human Trafficking: Cross Sector Challenges and Practices

Author: Dr. Kirsten Foot
Rowman & Littlefield. 215 pages (2016)

Reviewed by Eve Aronson, M.A.

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In a world increasingly without boundaries, there is a need to (re)shape responses to borderless crimes accordingly. Human trafficking is a transgressive phenomenon by nature and calls for a diverse, multi-sector response. In 2009, the introduction of 'Partnership' to the existing Prevention-Protection-Prosecution response model for human trafficking[1] signaled an important acknowledgement that this fourth "P" is essential to effective anti-trafficking collaboration. In her book, *Collaborating Against Human Trafficking: Cross Sector Challenges and Practices*, Dr. Kirsten Foot unpacks the cross-sector implications and manifestations of partnerships through an extensive and critical overview of the contemporary anti-trafficking landscape in the United States. Foot's book, which is 215 pages and includes six Chapters, also includes extensive Notes and Collaboration Resources sections.

In her book, Foot delves into the factors that challenge optimal collaboration against human trafficking among sectors such as service providers (VSPs), survivor-activists, law enforcement, governments, NGOs, businesses and faith-based organizations (FBOs). Foot takes conventional anti-trafficking efforts a step further, arguing for a more intersectional approach to anti-human trafficking collaboration. Based on the underlying assertion that "[c]ollaboration is a complex interaction between human agency, interpersonal dynamics and the wider social, political, and economic contexts in which it takes place," (10), Foot boldly argues that in order for anti-trafficking efforts to be truly constructive, effective and lasting, they must not only take systemic challenges into account but also "societal

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[1] Yeo-Oxenham, Kelly Ann & Dyan Rose Schneider. "Partnership and the 3Ps of Human Trafficking: How Multi-Sector Collaboration Contributes to Effective Anti Trafficking Measures". *International Journal of Sustainable Human Security* Vol. 2; 1. p. 100 (December 2014).

forces" (131) such as race and gender that shape the beliefs, values and positioning of anti-trafficking stakeholders.

Within her discussions, Foot is careful to position herself and to engage with this positioning in a way that provokes readers to consider their own. In Chapter 4, Foot highlights the lived experiences of white and non-white trafficking victims and survivor-activists, asserting that "no matter what survivors of color do… they will not end up 'looking every bit the part of a conservative politician's daughter'" (86). Foot argues that the empathy evoked by the image of the (presumably white) "conservative politician's daughter" motivates support by many anti-trafficking stakeholders but is unproductive at best and damaging at worst. "My intent in highlighting this… is to invite my fellow white readers to think hard about whether and how our responses to human trafficking vary based on the hues we perceive, or imagine we perceive" (87). As with race, Foot explains how imbalances in gender representation in sectors reinforce gendered hierarchies and tensions, ultimately discouraging some stakeholders from collaborating effectively. Foot contends that directly engaging with issues of race, gender and class, are lacking in conventional anti-trafficking efforts but should be leveraged. Foot's claim is central to her book and is based on observations of and interviews with diversely-positioned stakeholders across anti-trafficking sectors.

As a red thread throughout her book, Foot digs deeply into the structural, social, political and economic complexities that shape the positioning of various stakeholders within the anti-trafficking movement in the United States. Effective collaboration within and across sectors, Foot argues, must persevere beyond traditional relationships between stakeholders, such as law enforcement only working with VSPs or larger stakeholders dominating resources and agendas. Foot does not shy away from addressing the obstacles that challenge successful collaboration, including "collaboration fatigue" (146) and, as one VSP representative notes, "surviving the dance" (97), or simply going through the motions of a partnership without securing an underlying trust or respect. By bringing such challenges to light, Foot addresses an important elephant in the realm of anti-trafficking efforts: doubts, reservations and fears among collaborators about one another.

At the same time, Foot is optimistic about the future of cross-sector collaboration. In Chapters 2 and 6, Foot tells the encouraging story of collaboration between Washington State mobilization and advocacy nongovernmental organizations (MANGOs), VSPs, multi-lingual trafficking experts, law enforcement, the State Attorney's office, the Department of Transportation (DOT) and the Department of Health and Human Services (HHS), among others. The results of such a "triumph in anti-trafficking efforts" (150) Foot contends, can be seen in the increase in calls from Washington to the national anti-trafficking

hotline, improvements in relationships between trafficking stakeholders as well in the "infectious" (Ibid.) nature of the initiative to seven other U.S. states, to name a few. Foot encourages readers to consider this example of successful collaboration beyond its particular context and to envision such forms of collaboration in broader multi-sector efforts.

Foot's honest and critical attention throughout her book to the visible and the not-so-visible challenges to cross-sector collaboration against human trafficking is a refreshingly clever approach to partnership-building within this growing field. Though human trafficking is often cited as a crime that is "hidden in plain sight"[2], Foot works to confront this belief in her book by encouraging stakeholders of all backgrounds and positioning - from victims to survivors to law enforcement, governments and VSPs - to persevere through challenges of collaboration together. In doing so, Foot makes a strong case for an achievable and worthwhile way forward in the anti-trafficking arena in the United States and beyond.

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[2] Hepburn, Stephen and Rita Simon. "Hidden in Plain Sight: Human Trafficking in the United States." *Gender Issues*. Vol. 27; 1-2. pp. 1-26 (June 2010).

Book Review:
Enslaved: The New British Slavery

Reviewed by:

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Thematic Overview

In July 2014, the authors were in London. During one afternoon, one of the authors walked from North London through the central district across the Thames River to the Southbank. During this walk, the author found a vibrant city with trade, tourists and culture all engaged in a hive of activity. During one sleepless evening, the author took the same walk between the hours of 2am-5am. The city of London was transformed at this time. Instead of vendors and tourists engaging in a silent capitalist dance, there were drug dealers, gangs, prostitutes, pimps, and law enforcement in clusters around the city. The transformation from a tourist and financial mecca to that of a haven for vices and criminal activity by the movement of the hands on tower clock that houses Big Ben was eye opening. The fact that London has a robust seedy underbelly that emerged as prominent as the Beefeaters in the Tower of London would not shock anyone who has read Rahila Gupta's *Enslaved: The New British Slavery*. Gupta is a writer, journalist and member of the Management Committee of Southall Black Sisters (SBS), a not-for-profit organization servicing the needs of black and minority ethnic women. She is the author or co-author of at least half a dozen additional books.

Enslaved is one of a score of books related to modern-day slavery that has been published since 2006. The attention that modern-day slavery is receiving on the research and publishing front is indicative of the growing awareness of this topic, bringing to light the fact that slavery exists, and thrives, in our modern cities and societies.

Gupta's main argument is two-fold. One, immigration policy of the UK (and EU) is driving the current enslavement of persons trafficked from less developed nations to more developed nations in the West. Two, the solution to the immigration policy problem is to allow an open immigration so that all persons who emigrate would have rights and be able to work in the viable economy and not forced into the black or grey economy due to their immigration status.

The book *Enslaved* is composed of seven chapters, five of which are case studies each representing an enslaved person in the UK. There is an introduction and two chapters that conclude the book, which position the five case studies into a larger context. Within each case study, the transcripts of interviews with the enslaved persons dominate the text with the author's questions or explanatories showing up in italics when necessary. The five case studies include four women and one man. Each of these enslaved persons is from a different country and entered London by different means. The ages of the enslaved range from 17 years to 42 years and each has a unique story as to how they became enslaved in London.

The first case study is of 32 year-old Farhia Nur, who is from Somalia and underwent female genital mutilation at age 8. After the the Somali Civil War erupted, Farhai Nur's family were part of the internal migration of persons escaping the fighting. From a compound as a servant, cook and nanny where she was first raped and then beaten by family members, she arrives in the UK, where she applied for asylum multiple times and appealed without success.

Natasha, the second case study, was an underage abused teenager in Russia who answered an advertisement in a local paper about working overseas. This ad was a front to take young Russian women and make them sex slaves in Western Europe, forced to service 6-7 men each night and then taken back to the flat to be raped by her pimp; she was trafficked to the UK for more prostitution. A police raid of the massage parlor enabled her the opportunity to offer evidence against her pimp. She applied for asylum in the UK with multiple appeals.

Sierra Leone is where Naomi Conte is from and is the focus of the third case study. Orphaned young during the war and left to beg on the streets, a Lebanese woman picked her up and brought her to a compound to be a servant. Naomi was taken to the UK as part of the woman's entourage, on business. In the UK, she ran away from the house into the arms of an older man who took her in, raped her, and then began to pimp her out. She is now pregnant, young, in a foreign country, and does not know the father of her child. She is protected in the UK since she is under the age of 18, but when she turns 18 her status may change.

Lui Bao Ren is from Fujain Provence in southwest China. Being Buddist, Lui Bao Ren was on the watch list of the Chinese government. Instead of facing impending imprisonment in China, he hired human smugglers (snake heads) to take him to Hungary then the UK. Because he is in the UK illegally, his captors

require him to work manual labor at below market rates while at the same time they continue to extract cash from him and his sponsors back in China. He now has legal status and has brought his family to the UK but his injuries and other factors limit his ability to compete economically on a level playing field in the UK.

After an arranged marriage in India, Amber Lobepreet ends up with her new husband in the UK along with his extended family. After her family had much money, concessions and future earnings extracted by her husband's family, Amber was taken to the UK where her status was quickly moved from that of a spouse to a low servant for all in the house, including the husband's mother and sister. She was eventually saved from the home in which she was enslaved and kept her status of legal resident, unlike the other enslaved persons highlighted in the chapter. Amber has a starting base of legality from which she can begin her life anew.

Critical Reflection including Strengths and Weaknesses

Each case study in *Enslaved* is compelling in its own unique way, providing evidence for the widespread enslavement through human trafficking in the UK. Though there are many definitions of "slavery" that the author addresses, simply put, enslavement is the almost total control of one person over another where choice is removed. In each case study the person's freedom of choice was reduced or eliminated starting with the journey and ending in the UK.

Enslaved is well written and the case studies are broad and diverse enough to encompass a wide variety of enslavement. The author periodically interrupts the chapters composed mostly of the voice of the enslaved with comments in italics. These comments are timely and give context to a statement the interviewee made almost like as a footnote within the text. At other times, the longer comments distract from the flow of the personal interview narrative and take away some of the potential for emotional impact.

The key strength to this book is the compelling nature of the case studies where the "voices" of the subjects emerge and speak from the pages in their own words. This makes each case study unique and also informs the reader about the myriad of points-of-view of that of enslaved persons. The key weakness in this book is the author's attempt to connect all of the case studies with a single thread. The single thread is the need for immigration reform in the UK and how this brings about both enslavement and the lack of rights of the enslaved who are brought to the UK against their will.

Any reader of this book who agrees with Gupta's premise that enslavement is robust in western nations ought to be morally outraged by this fact. In the West, we pride ourselves on our enlightenment, we brag on this at every opportunity and hold ourselves up internationally as a model for the rest of the world to follow.

Modern-day slavery is not just about the large number of persons enslaved. In fact, if only one individual is enslaved, there should be a rallying call and actions to stop such acts, but that is not yet the case. There are vast industries and institutions that underpin slavery and little action is taken to stop such activities. The removal of a person's choice, making them enslaved, is inhuman, immoral, and is something that no nation or its people should tolerate within its borders. We are all better than this.

Literature Context

Enslaved is one of a number of books that captures case studies or vignettes of those persons enslaved. Other books include, but are not limited to, *Enslaved: True Stories of Modern Day Slavery* (Sage and Kasten 2008), *A Crime So Monstrous: Face-to-Face with Modern-Day Slavery* (Skinner 2009) and *Hidden Girl: The True Story of a Modern-Day Child Slave* (Hall and Wysocky 2015). Emerging research, such as that on human trafficking and/or enslaved persons, begins with scores of books with case studies building up a storehouse of narratives and data from individuals. As the research matures, more systematic studies emerge that build upon these case study foundations while additional case studies continue to be added to the total scholarship.

Suggested Audience

The reviewers of this book recommend that everyone read this book to have their eyes opened, as the authors of this book review were, to this event going on in our countries. It is clear that law enforcement and government agencies are aware of this problem; yet why has it not risen to prominence in the public discourse? How can citizens tolerate such actions within their own nations, which make them, in part, complicit, to this action? Slavery existed before the transatlantic slave trade began, funded and operated, in large measure, through the UK. And though a specific type of institutional slavery was outlawed in the 1800s, enslavement has continued to this day. Every effort should be made to stop enslavement, wherever it is occurring, and allow all humans the dignity of choice.

In conclusion, Rahila Gupta's *Enslaved: The New British Slavery*, is an excellent entry point from which to begin to understand the humanness behind modern-day slavery. Each case study is both touching and informative of a variety of types of enslavement. Additionally, Gupta brings the legal and institutional challenges associated with persons claiming asylum in the UK after having been freed.

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Learning From Incidents to Improve Services: Kenyan Victims' Reaction to a Migrant Labour Scam in Thailand

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Abstract

Incidents that occur at workplace can serve as sources of unique knowledge from which organizations can derive information that can be insightful when drawing lessons on how to improve the functions, structures, or services of the organizations. In May 2015, a human trafficking and migrant labor syndicate was uncovered in Bangkok. Victims were Kenyans who had been lured into the scam, while seeking job opportunities abroad. This is a qualitative case study which describes and interprets Kenyan victims' reaction to a migrant labor scam in Thailand.

1. Introduction

An International Labor Organization report (2015) indicates that over 60% of the global labor force work without formal contract. Most of this population is in developing countries. Among the waged and salaried population, less than 42% of the labor force has permanent work contract. In countries with available data; the dominant form of employment is temporal work, informal jobs with no contracts and own arrangement sometimes unpaid work. This is precipitated by long term unemployment due to previous harsh economic conditions and insecurity. Such prevailing conditions have characterized migration movements within and between countries. Over the recent years, human trafficking and migrant labor issues have continued to strike international relations discourse.

The Trafficking in Persons report (2015) indicates that human trafficking has partly contributed to the global market labor force, with majority of trafficked persons being at risk of torture, death, and labor bondage. A call to free and assist trafficked persons is one of the core agendas. The report calls for a multidimensional response involving governments, non-governmental organizations, and the private sector. Kenya, according to the report is located under tier 2 as a source and destination of trafficked people. Forced labor and prostitution in the agricultural, industrial and tourism sectors often go unpunished. Victims are both male and female. The report also shows that Kenyans voluntarily migrate across Africa, to Europe, Australia, Middle East and Asia. As a result of

this migration, Kenyan women are subjected to forced prostitution by Ugandan and Nigerian traffickers in Thailand. Although the government has made some reforms aiming at tackling human trafficking and forced labor; it has not significantly complied with international minimum standards for eliminating trafficking.

The complex interrelation between human trafficking and migrant labor is of concern for Kenya and the world because of the following implications:

Sustainable development agenda for post 2015 era identifies transnational migration as one of the international public goods which require resources and restructuring of governance systems linking global, regional, national, and local institutions (Alonso & Ocampo, 2015). Migration is on tremendous increase due to the absence of adequate mechanisms to regulate it for meaningful development and for the safety of both migrants and host nations. Therefore, migration represents an imminent risk to the global community, given its far reaching externalities.

Studies show that Kenya's socio-economic conditions exhibit not only exclusion, but also high levels of inequalities across social sectors. According to the UNDP Gender Inequality Index (2013), Kenya takes position 147 worldwide, ranking low in human development at 0.548. It is among the most unequal nations in the world. Kenya's population is growing at the rate of 2.9% accounting for about 1 million people per year. Youth aged between 18 to 34 years constitute about a third of Kenya's population (UNDP, 2013). By the year 2009, 84% of employed youth aged between 15 to 24 years were in the informal sector (Munga & Onsomu, 2014). In recent years, the rate of unemployment and poverty has tremendously increased in Kenya, creating a desire among the masses to migrate in search of employment opportunities.

This comes at a time when the nation's foreign policy has in recent years focused partly on advancing foreign relations including with Asia and the Middle East, with a view to increase not only trade relations, but also job opportunities for Kenyans abroad. This represents a slight shift from Kenya's earlier conceptualization of national development and mirrors in many ways the challenge the nation is facing in handling both negative and positive forces of globalization.

The early conceptualization of national development crafted on the idea of patriotism during the 1960s-1980s meant that Kenyans who went abroad for study were encouraged to return and work in the country, especially for the government which was then the largest employer. For a country just emerging from colonialism and seeking to reclaim land which had been acquired by the British, create its market system to trade with the world, and build its first post-independence economy, encouraging Kenyan experts to work in the country was of great demand (Lonsdale, 2010). Based on the concept of brain-drain, national development was linked at the core to citizens acquiring higher levels of knowledge and skills and working in their own country in order to share expert experience and utilize it

within the bounds of the country. Today, hundreds of Kenyans are leaving the country in search of employment abroad. Some of those who study abroad return later after working abroad for several years. This wave of Kenyans contributes to national development by sending their financial contribution to the nation and investing in economic projects and welfare programs rather than knowledge contribution. Their needs call for a different policy approach.

From the early years of the Kenyan nation, the citizen was also an employee of the government or a government's client. In recent years, this idea appears to have changed particularly with regard to the Diaspora contribution to investments in Kenya. As a result, the Diaspora policy portrays the government as a care giver and the citizen as the customer. The idea of the Diaspora as development partners with government indicates both in symbolism as well as mission statements that the government is transforming into a people centered organization and is shifting from its traditional bureaucratic tradition to embrace an ethic of care in state-citizen relationship building and public service delivery. This is partly in response to the increasing migration of Kenyans to other countries in search for employment. In 2013, Diaspora remittances were estimated to be Ksh. 113 billion accounting for 2.98% of GDP (Republic of Kenya, 2014). Therefore, the role of Kenyan Embassies abroad is increasingly shifting from focusing on foreign investors alone, to focusing on Diaspora as investors and development partners.

While a section of Kenyan Diaspora has succeeded in access to employment and business opportunities, another section of the Diaspora is vulnerable to organized crime and forced trans-national labor. Kenyans seeking job opportunities in Asia and the Middle East are largely affected by this situation. This socio-economic group of the Diaspora who fall victim to human and migrant labor traffickers is the focus of this study. Given that the victims are not investors, a new perspective is required to understand their experiences and to construct a relational framework based on which they can be understood and their interests served more effectively.

On 4th of May 2015, a human trafficking and migrant labor syndicate was uncovered in Bangkok. Victims were Kenyans who had been lured into the scam, while seeking job opportunities abroad. In this incident, an anonymous email addressed to the Ambassador of Kenya to Bangkok was send to the Kenya Diaspora Executive Committee. The email had a list of twenty one names of individuals the author reported had been trafficked into Thailand by a human trafficking and migrant labor syndicate. Some of the victims had become illegal immigrants after their visas expired. Others had returned to Kenya with the help of friends and their families; while others had gotten temporal jobs and were working. The whereabouts of one victim known by fellow victims not was known at the time of the study even though the victim was reported to have had an expired visa

the last time she was seen. At the center of the scam, was Kenyan called Davinci (not his real name) and a Ugandan called Cliff (not his real name). The victims were calling the Embassy to assist them. "Help us before we start filling up cells in immigration detention center" wrote the author of the anonymous email.

2. Methodology

This is a qualitative case study which describes and interprets Kenyan victims' reactions to a migrant labor scam. Case narrative approach to inquiry was selected for the study. Case or event narrative is a qualitative approach that seeks to understand an event or incident that occurred. This form of inquiry mainly focuses on what happened and how people felt (Bernard & Ryan 2010, p. 43-44,248). It is based on the assumption that the meaning of the phenomena is in the human experience. Social reality is in the way people live, think, and interact, with each other as well as the environment (Gray, 2009, p. 171). Questions seek to find out the meaning individuals assign to their experiences and its implication to the functioning of the policy program (Rossman & Rallis, 2012, p. 96-97). This approach enables researchers to understand in depth, the world from the participant's point of view (Gray, 2009, p.171). It is useful in active construction of meaning (Barbour, 2008, p.22). It involves the researcher's attempt to approach a lived experience with a sense of newness (Creswell, 2013, p.331). Therefore, research should produce individualized conceptualization of the social phenomena rather than generalizations (Chilisa, 2012, p. 32).

The study began a month after the email was made public. It continued for seven months because some victims feared to talk about the issue. The first two victims came out to share their story during a Diaspora come together party. Participants were individuals who had experienced the incident first hand. They were: eight victims; three informants from the government of Kenya; and five members of the Kenyan Diaspora community. The victims interviewed were part of the twenty one victims who were lured by the human trafficking and migrant labor syndicate. They were trapped one at a time over the period of two years. All the victims were between the ages twenty four to thirty five years. Some of them had young families when they left Kenya. Most of them were women. In Kenya, the victims came from different parts of the country, even though they were linked through social networks. Access to participants was through snow ball method. Participants who had participated in the study acted afterwards as gate keepers who identified others and negotiate access to them.

The researcher agreed with the participants that this was not an investigation but an inquiry into their lived experiences of the victims. In this case, the scope of the study was limited to what happened, who intervened, what assistance they got,

and what did this experience mean to them. The following ethics guide was used to ensure: informed consent; privacy; confidentiality; leaving out sensitive issues that would cause stress or interfere with the participants' private interests; avoid dragging it all up; and engaging in the interview only to the extent that the participants were willing to share their experiences (Boije, 2010). Verification was conducted by taking the final draft back to the victims and asking them to confirm whether it accurately described what they experienced and if they had other missing information they wanted or wished it to be included in the study. While government officials shared insights into the case based on their experience handling the case; this study did not include the government's account of events or government perspective. Therefore, it was limited to the lived experiences of the victims and the victims' perspective.

As opposed to the dominant narrative of the Diaspora as development partners with government and potential investors; this study assumes a critical theory approach. Critical theory assumes that reality is based on power and identity and is characterized by issues such as class, privilege, power relations, social condition and social struggle. Research based on critical theory documents such issues, and then calls for change or action. The goal is to generate information which can be used to empower human beings deemed oppressed or constrained by such factors. Critical theory is relevant to knowledge management because it advocates for research that exposes issues which undermine the well-being of human beings in society and emphasizes focus on change or action. Critical theory research is embedded with the desire to theorize phenomena in ways that can enable the reader to take note of areas that require change and envision ways to change them (Creswell, 2013). This approach to inquiry was chosen because the goal of this study is to add the voice of the victims to the discussion and present themes that emerge from study.

The study answers the following questions: What happened when the victims were lured into the scam? Who was involved in response to the incident? What themes of response emerge from the study? What implications for practice emerge from the study?

3. The Incident and the Response

The victims were lured by the syndicate since June 2013. The syndicate was run by four agents known to the victims. Two agents were in Kenya, one in Nakuru town and another in Nairobi city. The agents presented themselves to the victims as recruitment agencies with links to job opportunities abroad. When the victims reached Thailand, they were received by two agents, one in Bangkok city and another in Konkaen city. While in Nairobi, the victims were required to pay $

3,000 (Ksh. 250,000). They were told the money was to be used to facilitate their expenses during the recruitment process, and that they would recover the money within six months after they began working.

The victims were also promised that upon arrival, they were going to sign a contract for one or two years. They were going to earn $ 700 (Ksh.70, 000) per month, receive free accommodation, transport, and extra $ 40 (Ksh.4, 000) per day for teaching during weekends and holidays classes. Besides $ 3,000 paid earlier, the victims were asked to carry extra $1000 cash while traveling to Bangkok. Upon arrival, they were required to show the money to the immigration officials in order to be allowed entry since they were traveling on a tourist visa. Some victims borrowed money; others took out loans, while others sold property, especially land, in order to get the money. They realized it was difficult to pay back after they discovered they had been scammed. After clearing with the immigration, they called Davinci using the number they had been given in Kenya. In response, Davinci directed the victims to use the money they had to hire a taxi and go to Prathunam district of Bangkok. Prathunam is part of central Bangkok, a center for international and local trade, dominant with foreigners from all over the world. At Prathunam, Davinci took money from the victims some of which he used to book the victims as guests in a hotel. "When I realized the truth, when all the money was gone, it was like I was watching a movie on television." said one victim.

Davinci asked the victims to give him any foreign currency left so that he would help change the currency at a fair exchange rate in the city. Victims who gave their money lost it all. He took the victims to dinner and two days later rent them a house on the outskirts of the city. He told them that he had paid for the house for a period six months. The houses rented for the victims were located in different parts of Bangkok. They lived in the houses, not knowing that they had been finally dumped. "You stay in the house knowing that it has been paid for. Then you are shocked when the owner comes knocking on your door at the end of the month for the rent and this guy went away with all your money leaving you with approximately $ 30 (1000 baht)." Said a victim. Davinci's game was however a little longer. He kept calling the victims promising them job interviews. Afterwards the victims would realize that all these were empty promises meant to fool the victim for a while.

At the climax of the syndicate, Davinci introduced the victims to one Ugandan man called Cliff. Cliff presented himself to the victims as the person who would take them to the interview and work place. Instead he took the victims where he worked as a replacement for two days and afterwards returned and told the victims that they had been found unfit for the job. He accused them of incompetence but then asked them to wait for another chance later. One victim said:

> *As innocent as you are you don't know that you are working as a replacement for just two days. After the two days, Cliff comes to you insulting you. He tells you, how Kenyans are foolish and stupid and they can't teach. He says the school didn't like you so you have to wait till he gets another school for you.*

A number of the victims contacted the Kenyan Embassy and reported the matter. The Embassy assisted some of the victims to return to Kenya. Others wanted to stay and pursue the case before they would decide whether to return to Kenya; while others wanted to stay look for temporary work and settle afterwards. Apart from the Embassy, other actors also intervened in for example expats, members of the Kenyan community, Churches, and members of the Thai community. The role of the members of the expat community was very incidental. Some of the victims had expat neighbors who knew their experience through interactions and helped them to find temporary jobs. Some of the victims came into contact with some members of the Kenyan Diaspora community who lived or worked in the area. Some of them provided a wide range of assistance to the victims including; (1) sharing information that helped the victims contact the Embassy for assistance; (2) reporting the case to the police; (3) sharing information about employment opportunities; (4) networking the victims to other Kenyans with potential to assist; and (5) consolidating a call for action.

The majority of Kenyans are Christians. Some of them tend to visit churches when they visit new places. Therefore, the church became an important contact between the victims and members of the Thai community. During Christian worship services, a special session is set apart to welcome, introduce, and talk to visitors. This provides an opportunity for members of the church to interact with visitors and address their concerns if any. This session gave the victims an opportunity to share their experience. However, beyond Christianity, Thai culture has a long tradition, part of which is embedded in the Buddhist tradition, to do good even to strangers. Being kind to others is a value that is strongly encouraged and practiced in Thailand. It is not strange in Thailand to find a Thai community hosting a foreigner for months, without monetary benefits in return. As a result, some Thai families took the victims to their homes, lived with them, taught them basic Thai language and culture, and helped them to find temporary work. In some cases, victims' families also provided financial assistance.

4. Thematic Issues in the Study

Lack of information in the international arena

The experiences of the victims in this study provide a mirror through which one can take note of the needs of this particular group of Diaspora. Unlike the rest who are viewed as potential development partners with government, these are victims of a complex crisis stemming from years of unemployment and harsh economic conditions in Kenya as well as a lack of access to information in the international arena about job opportunities abroad and how to apply and get them if successful. The victims' experiences indicated an inequality gap in access to information determined by, among other things, income. The majority of the victims worked in the informal sector before they were lured by the syndicate. They knew quite little about Thailand and lacked the most crucial information they needed in order to decide whether to travel abroad or not. They heavily relied on the syndicate's agencies for information and did not see the need, consider, or lacked an alternative credible source of information to compare with. By the time they realized the truth, they had lost most of the money they had. Some of the victims did not know what to do at that point. One participant describing the end of the scam said "When he leaves, you will be left poorer than a church mouse."

Despair

The success of the scam did not only depend on the intelligence of the syndicate to provide information only reasonable enough to trap the victims, but rather the despair of the victims. Common among the victims was the fact that they had stayed for a long time without getting formal employment. Working in the informal sector in Kenya paid less beyond the basic means one could live on. Their hope to succeed had been deferred for years. The victims were a generation that grew up after the 1980s where the idea of formal employment rather than self-employment was prominent in Kenya. Children were socialized to work hard, grow innocently in hope that one day they would find a better paying blue-or white color job. Going abroad marked one of the highest levels of self-actualization. At least in a lifetime, one got to fly. To the victims, the idea that one would suffer abroad, or an international crime syndicate would get to prey on rural villages and sub-urban centers in Kenya was unheard of. When the day of fate come to them, it sounded like a fulfillment of a delayed dream. A participant describing this experience said:

When many Kenyans leave our motherland there is always hope and a light somewhere shining bright which is a promise of great things to come. A number of Kenyans have come to Thailand after an agent in Kenya promised them jobs with their agent here in Thailand. They saw a light at the end of the tunnel little did some of them know it was a train heading their way and for what happens when the train finds them in the tunnel………….. I will let your imagination fill in the gap.

Lack of adequate evidence

The complexity of the victims' cases lied in, among other things, the inability to reserve adequate evidence based on which the syndicate would be charged. Much of the travel transactions were done by the victims themselves under phone call directives from the syndicate. Cases reported to authorities did not include any paper transactions which implicated the syndicate. This delayed government action since further investigations were required. Some victims reported the case then returned to Kenya because their visa had expired. They did not return and it was difficult to follow up on the case. With time, they lost contact with authorities. Other victims feared to report their cases to authorities. They only made calls and failed to turn up when invited to record statements.

Difficult choices at the risk of being detained

The syndicate exploited the immigration system. It instructed victims to travel voluntarily on a tourist visa. The victims met all the travel standards as required by the law. They carried $1000 cash while traveling to Bangkok, money they showed the immigration officer indicating that they had enough money to live on in Thailand for ninety days before the visa expired. While on a tourist visa, the syndicate had an opportunity to get the rest of the money from the victims in disguise that they were facilitating the victims' stay and job placement. At the end of ninety days, the syndicate broke ranks with the victim. At this point, the victim had tough choices to make: (1) renew the visa. They could not do this without getting out of the country and coming back for a valid reason. They did not have money to enable them do so. (2) Report the case to the local police. They feared doing so since at this point, their visas had expired hence they were illegal immigrants. Doing so required that they were supposed to pay an over stay fine, leave the country, then come back to pursue the case. The victims came from the low income class. They could not afford paying the over stay fine, let alone handling or participating in an international case. (3) Report the case to the Embassy for assistance. Some victims reported the case and were assisted to return

to Kenya. Others wanted to stay and pursue the case first. (4) Seek assistance from family in Kenya. Some of the victims' families raised funds to assist the victims during this period. Those who could not afford and who did not return on time were arrested and detained at the immigration detention center. "She landed in the Immigration Detentions Center and calls were being made right left center day and night for fellow Kenyans to contribute money for her, so she can be deported." said one participant describing one such incident where a victim was arrested, detained and later deported.

Informal relationships and its derivative temporal relief

With the exception of government assistance, much of the immediate assistance the victims received came from informal relationships they had created within the first three months of their stay. Ranging from basic encounters with neighbors to attending church services and interacting with local people; the victims found temporal relief. This brings to light the role of informal social capital in providing assistance to victims of migrant labor and human trafficking. Informal networks played a significant role including mobilizing and sharing resources to enable the victims to report the case to authorities, access finances to facilitate deportation, access daily basic needs, and information concerning temporal employment.

The quest for help

The victims' quests for help were not an individual call but a collective advocacy voice exemplified in the May 4th awareness email and in the victims sharing of their experiences during the study. The victims did not identify themselves as individuals, but as part of a group of Kenyans in Diaspora who wanted to be understood as unique given their lived experiences. Their call for assistance as exemplified in the rhetorical questions they raised did not target individual needs; but rather collective needs of the socio-economic minority group seeking a permanent solution to the migrant labor and human trafficking crisis. Their case was unique too. It was one in which the traffickers used total deception instead of force. The traffickers did not shed blood or inflict physical bruises on the victims but rather tortured the victims' minds and emotions. They crushed the victims' expectations. The traffickers didn't have to put the victims into long term labor bondage. They didn't have to sell them either. Their operations were based on "a quick returns strategy." which entailed the following: (1) Lure victims who can afford to get some money about $4000 each; (2) deceive them and get the entire amount from them in 90 days then dump them at a place they will find difficult to

fight back; (3) don't get involved in any paper transaction; (4) don't use weapons rather remain innocent like someone who is just assisting until you are done then break ranks and blame them; (5) follow the law when it is necessary to do so. What is the essence of human trafficking and migrant labor anyway? Isn't it to make money at the most cost effective price? In the victims' calls for help, the victims raised the following questions: (1) Is this man Davinci untouchable? (2) Don't we have laws regarding human trafficking in Kenya? (3) Do you think this is just and fair? (4) Who is expected to help the poor Kenyans suffering if not you our representatives? (5) For how long will this greedy man continue making Kenyans suffer?

6. Discussion and Implications for Practice

Knowledge management is about generating data and processing it into information which can be acted upon by the organization. The goal of knowledge management is to initiate research where data can be collected to initiate new learning, avoid mistakes, or improve the process. In knowledge management, one assumes that the environment among other things pressures organizations to change. In response organizations make adjustments in order to survive the environmental pressure or be more competitive (Nonaka & Toyama, 2007). This study assumes that foreign missions are more or less learning organizations given the foreign environment within which they operate. This is because they are set in a context in which they represent the interests of their nations among other competing foreign agencies, and are obligated to take care of their citizens in an environment that is out of the control of their government. This calls for constant learning. One way of doing so is to learn from the experiences and needs of the people they serve.

Socio-economic minorities, for example victims of organized crime syndicates, can provide through their lived experiences, perspectives that can inform a reform agenda in immigration policies and bilateral agreements. This case of Kenyan women and men, victims of organized crime, who have survived the syndicate's net shows that one of the major challenges in addressing their problems was lack of knowledge and resources on the part of the victims to know and preserve materials that would have served as crucial evidence in favor of their case. The victims also lacked knowledge to recognize or detect the crime early enough and decide how and when to report the case. They often reported the case, when they were too vulnerable to pursue it.These experiences point to the lack of knowledge about the dangers and risks of traveling abroad, seeking a job in a foreign context, transacting personal business during potential recruitment processes and relating to authorities in a transnational setting. Such experiences

call for a more relational organizational framework in which authorities have mechanisms that can enable them access and network with community groups and other organizations in ways that make vulnerable groups access relevant knowledge resources and assistance much easier and earlier. Such a relational framework will not only help to provide assistance to the victims of such crimes but will also enrich the process of such organizations and or authorities to be more effective in dealing with such dynamic crime patterns. The framework can also create a rich environment to generate and share in-depth knowledge through inter-organizational mechanisms that are more inclusive. This calls for among other things mechanisms that ensure trust, participation, organizational cultures, and diverse incentives for diverse categories of individuals who depend to support systems in order to participant in knowledge sharing and transfer (Asar-ul-Hag & Anwar, 2016).

The syndicate was created to appear and function more or less like a job recruitment agency. It was not a recruitment agency neither did it offer jobs. It only thrived on the victims' lack of information and their desperate desire to get jobs and escape harsh socio-economic conditions. Lack of information on the side of the victims points to both absence of affordable and accessible information infrastructure, as well as who the victims were as a socio-economic group. Most of them came from the low socioeconomic class. They had for years worked in the informal sector. They lacked exposure and competency to weigh and scrutinize information as well as the ability to seek assistance from authorities beforehand. Knowledge management, at the very basic level is about how to generate knowledge and to share or transfer it to situations and places where it can be used to benefit relevant people and the community at large (Parry & Graves, 2008). In this case, a call to knowledge management requires gathering of information related to new trends of migrant labor scams of this kind, and developing mechanisms to combat such challenges for instance through education programs, proactive rather than reactive investigations and inquiries, and intelligence sharing between governmental and relevant non-governmental organizations. Such issues indicate trends that require parliamentary committees on security and foreign relations for instance to conduct hearings based on which policy recommendations can be made and appropriate and comprehensive policy decisions made.

The needs of the Diaspora, victims of migrant labor and human trafficking are uncharacteristic of the Diaspora group envisaged in the Diaspora policy as development partners. Their conditions do not fit frames of reference existing in the dominant literature on Diaspora studies where the Diaspora are envisaged as investors sending remittances to Kenya and based upon which economic decisions are made. On the contrary, this group represents a challenge in the wider global market relations where firms, local and international struggle to minimize costs

and maximize profits amidst forces of globalization. Gunasekaran and Ngai (2007) have observed that the current international economy requires integration of information systems in the industrial, manufacturing, and service sector. However, such information systems should not only be concerned with information gathering and utilization for profit maximization, but also responsibility to engage in ethically responsible businesses so that both local and international firm do not participate or benefit from proceeds of migrant labor and trafficking. Knowledge management in this case should entail a global ethical agenda and commitment against illegal migrant labor and trafficking related crimes. Such agenda should also entail commitment to empowering at-risk groups or populations (Truch, 2001) to that they can be competent enough to muddle through the job market without falling victims of migrant labor trafficking.

Interpersonal relationships lived in community, social organizations, and informal network still play a crucial role in interventions during crisis. Much of the temporal assistance the victims received came from informal networks the victims had access to. This is contrary to the dominant view of victims' assistance as largely dependent on government or macro organizations interventions. This confirms the view that informal processes and bottom up approaches on organizational action can help develop a strong sense of ownership and a more inclusive organizational strategy (Shaw & Edwards, 2006). Because of the transnational nature and spill over tendencies of illegal migrant labor effects; mechanisms to combat such cases must take into account regional actors and institutions when drawing a framework for knowledge acquisition, utilization, sharing and action (Zhao, & Ordóñez de Pablos, 2011).

The quest for help expressed by the victims' rhetorical questions depicts a call for action not just on the basis of the law, but also because of the need to honor the value of a human being and to take a moral obligation to intervene. One question after another exhibited the victims' legitimate expectation that government does not have a reason to sit on the fence and watch its people suffer. This calls for an intellectual and emotion commitment to invest in seeking solutions to such vulnerable groups of society. This means fixing inconsistencies in government systems, processes, behaviors and actions (McKenzie, et. al., 2001). This will help to provide a more effective and sustainable response to tackling illegal migrant labor. The experiences of the victims in this study suggests that in the absence of adequate resources; partnerships between the Diaspora and foreign missions can provide social capital to tackle human trafficking and provide services to the victims. Such relationships need to be developed and integrated into a working framework that can provide alternative human services.

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Prosecuting Human Trafficking - Progress in the UK

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Abstract

This paper examines the United Kingdom's approach to prosecutions and convictions of modern slavery and human trafficking offences. It focuses on the UK's journey and the progress that it has made thus far, from having no legislation by which to tackle this crime to the newly enacted Modern Slavery Act (2015). The paper observes the low numbers of prosecutions leading to convictions as well as the difficulty in effective data collation and recording of trafficking offences. The paper focuses on a non-governmental organisations experience of working with victims and law enforcement agencies, using a sample of seventy four case files to record interactions with the criminal justice process. Further the paper suggests that in order for the Modern Slavery Act (2015) to obtain successful convictions, prosecution should only be seen as part of the solution and not the whole solution. It will only be a successful part of the UK narrative if it is used in conjunction with effective, long-term victim support and prevention efforts.

Investigation, prosecution and conviction of perpetrators are crucial elements of tackling the issue of trafficking and slavery. Prosecution has to be part of an effective national response. However it will not be effective in isolation and attention has to be paid to other vital components, such as victim protection, long term reintegration and prevention strategies if we are to truly tackle this crime. The definition of modern slavery in the UK is based upon the definitions given in the Modern Slavery Act (2015)[1]. The enactment of the Modern Slavery Act has widened the definition of slavery to incorporate the following elements;

- human trafficking,
- forced and compulsory labour,
- slavery,
- servitude.

Slavery is not only a human rights issue, it is also an economic one. In order to identify, prosecute and convict we need to not be solely focusing on the testimony of traumatised victims, but be innovative in the way we approach the

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[1] HM Government *Modern Slavery Act* 2015 http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted

issue. Initially, in a UK context, the relationship between the National Crime Agency, Police and Crime Commissioners, Regional Organised Crime Units and local policing needs to be firmly established. Law enforcement should implement covert tactics, proactively engage in financial investigations, work in partnership with other agencies, work across borders (both in terms of international, country borders and those we have established locally between force and local authority jurisdictions), look beyond crimes committed whilst in a situation of trafficking, look beyond immigration status and to begin to see slavery as a normal part of everyday policing business. Law enforcement agencies and officers have to be prepared to invest the appropriate time, energy and resources required to understand the crime, its reach, the impact it has on individuals, communities and economy in order to ultimately be in a position to effectively prosecute and convict the perpetrators. If prosecutions are a primary aim and intention behind the Modern Slavery Act (2015) law enforcement agencies needs to be in receipt of appropriate allocation and amounts of funding from central government to invest in this area of business.

This task should not be under-estimated. It is not easy, especially in a time of austerity. Resourcing for law enforcement is based solely upon statistics, evidence, intelligence and numbers, Police Crime Commissioner priority planning and local crime reporting levels - it is understandable that for so long we have been able to hide behind the rhetoric of 'it is not a problem here.' This is purely because the stone has not been lifted, the issue not understood and victims have been misidentified. The crimes associated with slavery are complex, hidden, under-reported and poorly recorded. This has to change if we are to understand and tackle the systemic drivers of this illicit trade and convict those who profit from it. There are a number of internationally agreed understandings of human trafficking and modern slavery. The adoption of the United Nations Palermo Protocol[2] in 2000 was the first internationally binding instrument to define human trafficking, providing an agreed interpretation of the term, and establishing the protection to be afforded to victims. It also recognises the severity of human trafficking classifying it as an organised crime. The Council of Europe Convention on Action against Trafficking in Human Beings (the Convention) was agreed in 2005[3], in order to help Member States to develop a consistent policy against human trafficking. The UK ratified the Convention in 2008 and brought it into force in April 2009. In 2010, the EU Directive on preventing and combating trafficking in human beings

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[2] United Nations, *Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention Against Transnational Organised Crime*, 2000, retrieved 14 June 2015, http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx.

[3] Council of Europe Convention on Action against Trafficking in Human Beings, 2005, retrieved 14 June 2015, http://conventions.coe.int/Treaty/EN/Treaties/Html/197.htm.

and protecting its victims (the Directive) introduced further measures including a more serious approach to prevention and prosecution and the protection of victims' rights. It also included specific measures for child victims[4]. It is worth noting until 2003 there were no specific trafficking related offences in the UK. Offences pertaining to the facilitation of illegal entry, kidnap, false imprisonment or living of immoral earnings[5] were used.

In the UK human trafficking offences were contained in two separate Acts: the Sexual Offences Act 2003[6] which criminalises trafficking for the purposes of sexual exploitation and the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004[7] which criminalises trafficking for forms of non-sexual exploitation. A further offence which criminalises holding another person in slavery or servitude or requiring them to perform forced or compulsory labour without the need to prove trafficking was then introduced under the Coroners and Justice Act 2009[8].

Despite the introduction of the new offences, the number of prosecutions and convictions for offences of human trafficking, in the UK (England, Wales and Northern Ireland) remained low. There is on-going suggestion that there is an inability to effectively track the number of prosecutions and convictions in the UK[9]. At the time of writing this article, official statistics regarding the number of investigations, prosecutions and convictions for 2014 were unavailable publicly from the Ministry of Justice (MoJ). The Home Office states that the data available has been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data sets are used[10].

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[4]Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, retrieved 14 June 2015, https://ec.europa.eu/anti-trafficking/legislation-and-case-law-eu-legislation-criminal-law/directive-201136eu_en.

[5] House of Commons Library, *Human Trafficking: UK Responses* SN/HA/4324, 13 January 2014, retrieved 13 June 2015, http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN04324#fullreport.

[6]Crown Copyright, '*Section 57, 58, 59, Sexual Offences Act 2003*', retrieved 14 July 2015, http://www.legislation.gov.uk/ukpga/2003/42/part/1.

[7] Crown Copyright, '*Section 4, Asylum and Immigration Act 2004*', retrieved, 14 July 2015, http://www.legislation.gov.uk/ukpga/2004/19/section/4.

[8] Crown Copyright, '*Section 71, Coroners and Justice Act 2009*', retrieved, 14 July 2015, http://www.legislation.gov.uk/ukpga/2009/25/part/2

[9] Centre for Social Justice '*It Happens Here Report*' London, 2013, p. 151.

[10] UK Parliament, Written Questions: Human Trafficking 225481, 25 February 2015, retrieved 14 June 2015, http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-02-25/225481/.

Due to the varied collection and recording methods, different governmental departments have employed, statistical evidence of prosecutions and convictions for trafficking offences it is not possible to effectively compare them. A report focused on Human Trafficking legislation[11] states when prosecuting suspected traffickers, the prosecution authorities in the UK (the Crown Prosecution Service (CPS), and the Crown Office and Procurator Fiscal Service) will consider all available evidence and the full range of options in any particular case. The figures on human trafficking convictions therefore do not tell the whole story. Indeed, traffickers who are brought before the courts are often prosecuted for one of a number of possible offences and not just trafficking offences. These prosecutions and convictions will not appear on national statistics as convictions for human trafficking. So, whilst the number of prosecutions and convictions for trafficking offences may appear low, compared to the number of potential victims identified, there are many more convictions of persons involved in trafficking on other related offences. The figures therefore do not take account of the number of cases prosecuted under other legislation, prosecutions for conspiracy to traffick, and cases where UK law enforcement and prosecutors work to support prosecutions in other jurisdictions. By not recording these offences as human trafficking data capture as to the true nature and scale of the crime will not be accurate.

'The MoJ often record the additional offences on the indictment, along with human trafficking, such as rape and kidnap On conviction, offences of rape and kidnap are classified as the more serious offences than human trafficking; therefore convictions are shown on the principle offence (i.e. the most serious offence). Whilst this was clearly good in increasing conviction rate for rape, it doesn't reflect the number of convictions for trafficking.'[12]

The available figures[13] show from 2005-2011[14], 129 defendants were found guilty of trafficking offences and that these were predominantly for sexual exploitation. Further data[15] shows the number of successful convictions, specifically for trafficking offences from 2009-2011 totalled 49. These convictions were split between sexual exploitation (41) and non-sexual exploitation (8). These figures relate to persons for whom trafficking offences were the principal offences for which they were dealt with. However, during the same time period (2010/11)

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[11] HM Government, '*Report on the internal review of human trafficking legislation*' London, 2011, pp.7-8.

[12] Interview. CPS Employee, London, 14 June 2015.

[13] HOC SN/HA/4324, p. 8.

[14] *The author has been unable to locate statistics relating to prosecutions and convictions during 2012 from MoJ sources.*

[15] HM Government, London, 2011, pp.7-8.

CPS recorded a total of 116 prosecutions[16]. In 2013, 144 prosecutions were taken forwards, on both principle and all offence basis, 67 convictions (46%) were gained.[17] In 2013 convictions for principle offences for trafficking totalled 19[18].

Since April 2010, the CPS has flagged and monitored all cases of human trafficking. The volume of human trafficking referrals from the police rose to 171 in 2013-14 – a rise of 30.5% from 2012-13. 103 (60.2% of these referrals) were charged, a similar volume to 2012-13 (102). The volume of human trafficking prosecutions completed in 2013-14 reached 226 - a rise from 139 in 2012-13. There was a rise in the volume of successful human trafficking outcomes from 99 in 2012-13 to 155 in 2013-14 (71.2% in 2012-13 fell to 68.6% in 2013-14; mainly linked to a rise in jury acquittals).[19]

Information from The Violence against Women and Girls Crime Report[20] shows that 86% of all defendants with recorded gender were men. The majority of defendants were aged 25-59 years. Perpetrators are prosecuted and convicted for serious offences other than trafficking, where there are links to trafficking including, for example, conspiracy to traffic, false imprisonment, controlling prostitution for gain and rape. Alternative offences may be more accurate to the actual offending, carry more serious penalties and are a lot easier to explain – particularly to juries.[21]

According to CPS records there were 226 human trafficking flagged convictions in 2013- 2014. Of these, 155 resulted in a successful conviction (67%).[22] In the same time period comparing human trafficking prosecutions with other similar crime types shows that successful conviction rates are comparable, however the number of cases being brought forward for human trafficking are significantly lower than other crime types. For example; child abuse prosecutions for 2013-2014 totalled 7,998 with a successful conviction rate of 76.2%[23], domestic violence prosecutions equalled 78,071 with a successful conviction rate

[16] HM Government, '*Human Trafficking: the Government Strategy'*, 2011, p. 6.

[17] UK Parliament, Written Questions: Human Trafficking 225481, 2015.

[18] UK Parliament, Written Questions: Human Trafficking 225481, 2015.

[19] Crown Prosecution Service, '*Violence against Women and Girls Crime Report: 2013-2014'*, London, 2014, p. 71.

[20] CPS, London, 2014, p. 71

[21] CPS, London, 2014, p. 71

[22] CPS, London, 2014, p. 71.

[23] CPS, London, 2014, p. 67

of 74.6%[24] and 3,891 rape prosecutions were brought forward with a successful conviction rate of 60.3%.[25]

In the UK, have begun to see the start of change in this sector. Over the past 2 years the UK Government has prioritised the issue of modern slavery and has made commendable efforts to tackle it as a crime. The introduction of the Modern Slavery Unit at the Home Office (2013)[26], the launch of a Modern Slavery Strategy (2011 and updated 2014)[27], the publishing of research in to the scale of Modern Slavery (2014)[28], a review of the National Referral Mechanism (NRM, 2014)[29] and the creation and enactment of the Modern Slavery Act (2015)[30], the first Act of its kind in Europe, all provide clear indication as to the intent and importance the UK Government place on this issue.

The Modern Slavery Act reached Royal Assent in March 2015 and a number of the provisions within it came into force between March and July 2015. How the law is to be effectively enacted and put into workable policy[31] is still being navigated but the intention has been clearly stated and recognition for this proactive stance and forward movement needs to be given. Whilst it is the first dedicated legislation on modern slavery bringing together all of the criminal offences under one Act it is viewed by some as largely law-enforcement focused and, failing to provide sufficient protection for survivors[32]. The Modern Slavery Act clearly states its intention to give law enforcement the tools to tackle modern slavery, ensure that perpetrators can receive suitably severe sentences for these appalling crimes, enhance support and protection for victims, and ensure large businesses report annually on what they doing to stop modern slavery occurring in their operations.

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[24] CPS, London, 2014, p. 24

[25] CPS, London, 2014, p. 45

[26] The Home Office Speech, '*Modern Slavery*', 16 December 2013, https://www.gov.uk/government/speeches/modern-slavery.

[27] The Home Office, '*Modern Slavery Strategy*', 29 November 2014, https://www.gov.uk/government/publications/modern-slavery-strategy.

[28] The Home Office, '*Modern Slavery: an application of multiple systems estimation*', 29 November 2014, https://www.gov.uk/government/publications/modern-slavery-an-application-of-multiple-systems-estimation.

[29] The Home Office, '*Review of the National Referral Mechanism*' November 2014, retrieved 30 November 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/467434/Review_of_the_National_Referral_Mechanism_for_victims_of_human_trafficking.pdf.

[30] Crown Copyright, '*Modern Slavery Act*', 26 March 2015 http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted.

[31] Home Office Circular, '*Modern Slavery Act 2015', 9 July 2015*.

[32] The Human Trafficking Foundation, '*Life Beyond the Safe House*', 2015, p. 10.

The following provisions came into force on 31 July 2015:

1. The consolidation of slavery and human trafficking offences into one Act with a maximum life sentence (sections 1-6).
2. Ensuring the main offences are criminal lifestyle offences for the purposes of the Proceeds of Crime Act 2002 (section 7).
3. Slavery and Trafficking Reparation Orders, providing powers for the courts to use seized assets to compensate victims (sections 8-10).
4. Provisions for law enforcement and the courts to detain and forfeit vehicles, ships etc involved in human trafficking (sections 11-12).
5. Slavery and Trafficking Prevention Orders and Slavery and Trafficking Risk Orders (sections 14-34), providing new tools to prevent the harm caused by slavery and trafficking offences.
6. Placing the Independent Anti-Slavery Commissioner on a statutory footing (sections 40-44). The Home Secretary appointed the designate Commissioner, Mr Kevin Hyland, in November 2014.
7. The statutory defence for victims (section 45), which strengthens protections against inappropriate prosecution of victims of slavery and trafficking for crimes committed as part of their exploitation.
8. Special measures for witnesses (section 46), ensuring victims in slavery cases have the benefit of special measures in court in the same way as already applies in human trafficking cases.
9. Access to civil legal aid for slavery victims (section 47). Victims of human trafficking who have received a positive Reasonable Grounds decision as part of the National Referral Mechanism already have access to civil legal aid. In line with the change to the National Referral Mechanism to identify victims of slavery and trafficking; this provision extends civil legal aid access to victims of slavery.[33]

The offences have been redrafted to try to provide clarity and focus when investigating and prosecuting those involved in modern slavery offences. On a summary conviction of either Slavery, Servitude and forced or compulsory labour or human trafficking defendants will receive twelve months' imprisonment (to be read as six months until Section 154(1) of the Criminal Justice Act 2003 comes into force) and/or an unlimited fine and upon conviction on indictment – life imprisonment[34]. A written answer of 14 January 2009 set out the average sentence

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[33] Personal Email Correspondence, '*Guidance about the Modern Slavery Act 2015 Modern Slavery Circular*' 10 July 2015.

[34] Home Office Circular, *9 July 2015.* p. 6.

for people convicted of trafficking offences as 4.69 years[35], it is hoped the new consolidation of the offences and enactment of the Modern Slavery Act will significantly increase this.

It is also worth noting that The CPS will still prosecute trafficking and slavery cases under other legislation too, such as conspiracy to trafficking, which will carry the same sentence but as its prosecuted and convicted under Section One Criminal Law Act and not the Modern Slavery Act, however under current recording mechanisms this will not show as a conviction for trafficking[36]. A mechanism of cohesive data capture is required to ensure all cases and offences are correctly recorded.

Practically the data we have about prosecutions and convictions is as reliable as the system that is recording it. From the data shared by CPS, prosecutions did not occur in all of the 43 police force areas in the UK indicating this is not an issue that is receiving strategic priority or resourcing across the board. The Home Office have stated that whilst the Modern Slavery Act ensures police have the powers they need to tackle modern slavery and that the Government will work closely with the Independent Anti-Slavery Commissioner and National Policing Lead for Modern Slavery to improve the police response to modern slavery, including trafficking, is up to individual police forces on the steps they take to implement the changes[37]. There is currently no 'top down' mandate or agreed process to approaching and dealing with this crime, this has the potential to continue the current post-code lottery system of policing this issue. There are areas and pockets of good practice, but equally there are areas where forces are completely unengaged.

As a non-governmental organisation, Unseen's[38] purpose is to work towards a world without slavery. By concentrating efforts on three main areas; supporting, equipping and influencing Unseen use their experience of working on the frontline to inform discussions with partners allowing them to tackle the issue in a systemic way.

Unseen's specialist care is the first step in the fight against slavery, by supporting survivors and giving them a safe place to recover from trauma and rebuild their lives. Unseen's 24-hour safe-house has provided care and accommodation for over 100 trafficked women since opening in June 2011, whilst Unseen's outreach service has supported over 50 survivors since 2013 as they live

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[35] HOC SN/HA/4324, p. 9.

[36] Personal Email Correspondence, CPS Official, 14 July 2015.

[37] UK Parliament, Written Questions: Kent, Human Trafficking 6160, 8 July 2015, retrieved 14 July 2015, http://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2015-07-08/6160/.

[38] The author of this article founded the organisation Unseen in 2008 and is currently the Managing Director

in the local community. Helping survivors to come to terms with their ordeals and move forward with their lives, Unseen offer access to medical care, assistance to report to law enforcement, legal support, counselling, therapeutic activities and emotional support. Of the survivors worked with 45% have been Eastern European, 30% African and 4% British. Ninety six percent of survivors report wishing to remain in the UK[39].

Unseen is an organisation that actively supports and offers victims of trafficking and slavery the opportunity to report to the police, supports them to do so and has dedicated protocols and processes in place with local police forces to ensure victims are appropriately supported and advocated for should they decide to proceed with reporting. It is well evidenced that victims can be reluctant to report their traffickers due to control, intimidation, threats of violence and fear of being punished and deported to their origin country[40]. Similarly, victim self-identification is difficult because of the complex nature of human trafficking. In some cases, trafficking victims may see little benefit in dealing with authorities[41]. Unseen's work in this sector would echo this sentiment. Unseen report that some clients refuse to participate in police investigations (n=14). Often victims decide that risking speaking with law enforcement for the promise a 50 day reflection period via the NRM[42] is not going to provide them with the stability and support they need to protect themselves and their families. Via multi-agency welfare visits to establishments, where intelligence suggests victims may be being harboured (car washes, brothels, hotels, nail-bars), Unseen has encountered numerous potential victims of trafficking and seen many indicators to cause concern, and victims rarely choose to leave their situation of exploitation.

Reviewing a sample (n=74) of Unseen's cases the following information was ascertained from case notes. Of 74 cases arrests were made in 11 (15%). Of these 11, prosecutions took place in 6 cases. This equates to 8% of total number of cases and 55% of those in which arrests had been made. Convictions for a trafficking principle offence occurred in 1 out of 74 cases reviewed. It should be noted that some of the 74 cases may have engaged with law enforcement processes or convictions may have been gained post leaving the support of Unseen. The long-term tracking of cases and their outcomes for victims and in terms of successful

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[39] Unseen Case Files and Monitoring Sheets, 2009-2015

[40] Unseen Case Studies, 2011-2015

[41] K Kangaspunta, '*Was Trafficking in Persons Really Criminalised?*', Anti-Trafficking Review, issue 4, 2015, pp. 80—97, www.antitraffickingreview.org, p. 86.

[42] National Crime Agency, '*National Referral Mechanism'*, NCA, 2014, retrieved 15 July 2015, http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism.

prosecutions and convictions is not currently recorded in the UK. It appears from the initial review of cases (n=74) that Unseen cases follow the national trend of low investigation, prosecution and conviction rates for trafficking related offences.

Clients report not wanting to engage because they are too frightened and some because they just want to go home to their family and forget what has happened. Clients and staff further report that working with law enforcement agencies was not always easy. Issues that Unseen staff have reported from interactions with law enforcement agencies include officers having a lack of understanding about trauma faced by victims, a lack of understanding in regards to how trauma may manifest itself, a lack of knowledge and confidence about using the legislation available and generally a lack of communication about the case with the victim.

It has been observed that the lack of communication can be particularly distressing to this client group and victims have experienced feeling isolated and uninformed about the progress their case is making. Not always having a dedicated officer or team assigned to a case, shift patterns and some officers working unsociable hours can lead to victims feeling isolated and anxious about the process.

Negative feedback about law enforcement agencies recorded in client case notes (n=20) relates mostly due to lack of communication between police and client/staff (i.e. very difficult to get hold of, do not return calls, make unrealistic promises in order to facilitate cooperation, and hostility towards clients and clients being treated as the perpetrator). Also unexplained delays in investigations and not investigating the crime reported as a trafficking offence all add to client frustrations when working with law enforcement. Another reported frustration was law enforcements lack of awareness of discretionary leave. Whilst discretionary leave, a form of temporary resident permit, is available in the UK, it is under-used. One of the situations in which it can be granted is when a victim is co-operating with an on-going police investigation and their presence in the UK is required for this purpose. Unseen's experience has been that application for discretionary leave and the success of applications varies depending on an individual's country of origin, legal representative, the area of the country they are located in and law enforcement's knowledge of the system.

A report from GRETA[43] shows that between 2009 and October 2011, of 373 non-EEA victims of trafficking with a positive conclusive grounds decisions, just 25 received residence permits due to their 'personal circumstances'. In the

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[43] Group of Experts on Action against Trafficking in Human Beings (G R E T A), '*Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the United Kingdom'*. Strasbourg: Council of Europe, 2012.

Trafficking in Persons Report[44] published in 2014 by the US State Department the UK didn't report on the number of discretionary leave permits it issued. It is not a system that is well known, understood, publicised or used. Even when victims are identified, they are be reluctant to cooperate with criminal justice authorities because of lack of trust, fear of being deported or prosecuted for related criminal activity or fear of being stigmatized.

Clients (n=13) also reported, via case notes, that helpful, committed and communicative police officers actively meant less distress for clients. One force used a liaison officer in the local force to facilitate communication between police and client which was very successful and in one case they were particularly pro-active (putting out a watch at a local airport for suspect should they try to traffic other victims) which clients describe as reassuring and affirming, having someone on side who believes them is hugely important to the client group.

From an interview conducted with a senior police officer it was suggested that better and longer term protection for victims would provide officers with the ability to take a more sustained approach to win a victims trust and navigate a case through to prosecution more successfully. Currently the system in place in the UK to identify and protect potential victims of trafficking is the National Referral Mechanism (NRM).[45] Once a potential victim is identified this mechanism grants a minimum 45-day reflection and recovery period. This reflection and recovery period assists the UK to meet obligations under the Convention (2005)[46] and is how victims in the UK access accommodation, support and a decision as to their trafficking status. At day 45 victims are given a 'conclusive ground decision'[47] that will determine them to either be a victim or not, at this juncture regardless of a positive or negative outcome support under this mechanism ceases. This process is funded jointly by the Home Officer and Ministry Of Justice and is enacted by the Salvation Army and a group of sub-contractors, who provide accommodation and support to victims across the whole of the UK.

Even if a potential victim wanted to report to police immediately upon referral into support (which is highly unlikely) to engage and then interview the victim, gather intelligence and supporting information, present information to CPS, get a charge, prepare a case, go to court, get a prosecution, a conviction will not happen within a 45 day timeframe. Once a decision has been reached about an

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[44] United States of America State Department, '*Trafficking in Persons Report 2014. USA: US State Department*', 2014.

[45] NCA, 2014, retrieved 14 July 2015.

[46] Council of Europe Convention on Action against Trafficking in Human Beings, 2005

[47] National Crime Agency, *National Referral Mechanism*, http://www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/uk-human-trafficking-centre/national-referral-mechanism

individual's trafficking status, there is no automatic entitlement in terms of support or residency, temporary or otherwise. Without discretionary leave, withdrawal of support under the NRM post 45 days means that victims will no longer necessarily be supported to access the criminal justice process. Assistance to attend interviews, support during and after any police activity (interviews, court appearances), understanding of correspondence linked to their case and any necessary advocacy will cease. Police identify that *'we just don't have time with victims of slavery'.*[48] Police compare trafficking cases with those of child sexual exploitation where it often takes months working with specialist advocates and support networks for victims to even see themselves as victims and build trust in the police and other agencies before even being in a position to think about supporting a police investigation and prosecution. When the support system a victim has relied on is removed after 45 days it makes any on-going police activity a challenge. When asked to comment on the issues with obtaining a successful prosecution the response was:

> *'Strategically our force have changed their focus to prioritise resources towards threat, harm, risk and vulnerability. Additionally, we have a much better intelligence picture and much better awareness of what slavery looks like…We appreciate it is very difficult for victims to declare themselves as victims of slavery. This requires us to take different investigative approaches akin to the management of child sexual exploitation and mainstream organised crime group management'*[49]

The number of prosecutions viewed in isolation are not an appropriate measure of the nature and scale of trafficking and slavery for the UK. The numbers of prosecutions may be useful as an indicative measure and indication of how law enforcement react to the issue of slavery and trafficking in human beings. But from Unseen's experience, this is not truly representative. Even when police do want to proceed with a case there are other barriers to overcome, including providing the right level of evidence for CPS and managing the continual engagement with the potential victim post the withdrawal of specialist support. As stated by Kangaspunta[50], legislation remains a rather symbolic act against trafficking in persons, only signifying a moral standard against the crime, unless it is implemented. For the UK the introduction of the Modern Slavery Act is definitely a step in the right direction, but new legislation will not change the situation

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[48] Interview, Senior Police Officer, Bristol, 14 July 2015.

[49] Interview, Senior Police Officer, Bristol, 14 July 2015.

[50] Kangaspunta, p. 86.

overnight nor will it work in isolation. In order to achieve successful prosecutions and for the Modern Slavery Act as effective as possible there is a need to:

- Revisit the systems of support offered and the length of time support is available,
- Invest in long term solutions for victims so they are supported and can decide if they want to be involved in a police investigation,
- Train police and law enforcement staff to understand the new legislation and how to work with support agencies and victims,
- Treat the crime as 'business as usual' for law enforcement agencies,
- Look to disrupt the perpetrators and not rely solely on the victims,
- Correctly recording all cases linked to trafficking and slavery (even if this is not the principle offence),
- Ensure victims understand the criminal justice process and are kept informed throughout in a language and way that is understandable to them,
- Increase the use of discretionary leave for those engaging with police,
- Consider what other powers are available to other enforcement agencies in the tackling and disruption of this crime (HMRC, DWP, Local Authorities, Trading Standards, GLA), and
- Investigate how successful investigations, prosecutions and convictions can be achieved without victim testimony.

Prosecution is only part of the story and will only be a successful part of the narrative if it is used in conjunction with effective, long-term victim support and prevention efforts. The UK is at the beginning of a long journey.

Since writing this paper the Modern Slavery Act (2015) has been in action over a year. A recent report[51] has reviewed the implementation of the Act and in regards to prosecution has identified the following in terms of the Acts effectiveness in prosecuting Modern Slavery within the context of England and Wales:

- *Police have recorded 884 modern slavery crimes between April 2015 and March 2016*
- *Prosecutions for modern slavery offences has increased, although it is appreciated that prosecutions before the legislation were low.*
- *In 2015, 117 offenders were prosecuted for modern slavery offences in the UK, 19% higher than the 98 prosecuted in 2014.*

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[51] The Haughey Review of the Modern Slavery Act https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/542047/2016_07_31_Haughey_Review_of_Modern_Slavery_Act_-_final_1.0.pdf)

- *Between January 2015 and June 2016, approximately 340 cases have been referred to the Crown Prosecution Service that concerned trafficking and exploitation; approximately 215 of those were charged with convictions in approximately 75% of those cases.*
- *A total of 289 offences were prosecuted in 2015: 27 offences under the Modern Slavery Act (cases ongoing) and 262 under previous slavery and trafficking legislation*

Overall the review finds that:

- *the Modern Slavery Act has set an international benchmark to which other jurisdictions aspire*
- *law enforcement agencies are using the powers in the act to increase the number of prosecutions and to support more victims of modern slavery*
- *there is more to do to deliver greater consistency in how law enforcement and criminal justice agencies deal with the victims and perpetrators of modern slavery*
- *better training, better intelligence and a more structured approach to identifying, investigating, prosecuting and preventing slavery is required.*

The Relationship Between Human Rights Violations and Human Trafficking

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Abstract

Human trafficking is lucrative crime, often trans border, affecting every country in the world. In the course of this crime victims are subjected heinous experiences. Consequently the crime has been described as a grave violation of human rights. However, there are those that question the legal nature of trafficking in human beings, and whether it really is a violation of human rights. This article explores the relationship between human trafficking and human rights, and analyses what are the impacts of that relationship on State's duties to fight the crime.

1.0 Introduction

The exploitation of human beings has existed since ancient times; for instance it is hard to imagine the building of the Roman Empire without the work of slaves. Today, stories of exploitation in the form of trafficking in human beings (THB) continue to emerge from survivors, activists, journalists, academics and policy makers. 'Some victims are lured or deceived into their own slavery due to being misled by their traffickers while there are other who are captured through kidnapping or by being sold as a commodity and are forced to work as slaves.' Quantifying human trafficking is exceptionally hard, it is a clandestine activity and one whose victims more often then not are too scared too seek assistance. There fear is two fold; on one hand they do not want to be retaliated by their traffickers and on the other they fear the authorities - particularly the fear of deportation or criminal prosecution. What is known however is that 'human trafficking knows no boundaries'[1], it prays on innocent and vulnerable individuals and these individuals can be found anywhere. The victims of human trafficking can be of either gender and of any age.

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[1] Fowler, Jeana, Nicolette Che, and Lindsay Fowler, "Innocence Lost: The Rights Of Human Trafficking Victims," *Procedia - Social And Behavioral Sciences 2* (2) (2010): 1345-1349. doi:10.1016/j.sbspro.2010.03.198. p.1346

It is defined in the European Union by Article 2 of the Directive 2011/36/EU Preventing and Combating Trafficking in Human Beings and Protecting its Victims as:[2]

> 1. The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
>
> 2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.
>
> 3. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.

In the course of human trafficking, victims are subjected to heinous experiences that degrade, humiliate and impact their physiological and psychological wellbeing. Take for example forced labour; victims are promised jobs such as cleaners, waitressing, au pairs. On arrival the reality changes, and the victims are forced, for example, to work 12h shifts as domestic servants, are prevented from having contact with the outside world, their documents are taken off them and their obedience is extracted through the use of physical and psychological coercion. The abuse experienced by victims is a constant, and the crime is often committed against a person in such a systematic manner uncomparable to robbery or theft. As summarized by Masika: 'the conditions faced by trafficked persons include classic elements associated with slavery historically, such as abduction, use of false promises, transport to a strange city or country, loss of freedom and personal dignity, extreme physical abuse, and deprivation.'[3]

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[2] European Parliament and the Council, Directive 2011/36/EU of 15.04.2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, OJ L 101/1, 15.4.2011.

[3] Rachel Masika, *Gender, trafficking and slavery,* (Oxford: Oxfam, 2007), p. 4

Consequently the crime has been described as a grave violation of human rights.[4] However, there are those that query the legal nature of trafficking in human beings, and whether it always qualifies as a violation of human rights.[5]

In a situation where the State has done no wrong and private actors commit human trafficking, Piotrowicz fiercely questions whether human rights are violated. The scholar argues: 'acts by individuals, such as enslavement, only breach the victim's human rights if the State has failed to prevent it or failed to take appropriate action against it.'[6] Piotrowicz notes that human trafficking is more a matter for criminal law, as in the case of murder or theft. If human trafficking was a human rights violation this would lead to legal responsibility of non-State action under international law and therefore to individual remedies against the perpetrator under human rights law. There are obstacles to the scholar's arguments, for there is substantial reference to human rights in the various international instruments that deal with human trafficking. Moreover, it is possible to argue that the threshold for State responsibility is so high that in many cases we will find violations of human rights.

The aim of this paper is to ascertain the relationship between human trafficking and human rights and to establish what a human rights approach to human trafficking entails. It is not however the purpose to consider the debates on the horizontal application of human rights, as this debate continues to be unresolved.[7]

2.0 A brief reminder of what are human rights

Much has been written on the topic of the framework of human rights[8], which entails the proliferation of universal rights (civil, cultural, economic, political and social rights, as well as the right to development), a number of domestic and international human rights organisations, human rights courts and

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[4] Jennifer, Nam, "The case of the missing case: examining the civil right of actions for human trafficking victims," *Columbia Law Review*, 107, (2007): 1655-1696

[5] Ryszard, Piotrowicz "The legal nature of trafficking in human beings," *International Human Rights Law Review, 4,* (2009: 175-203.

[6] Ryszard, Piotrowicz, "States' Obligations under Human Rights Law towards Victims of Trafficking in Human Beings: Positive Developments in Positive Obligations," *International Journal of Refugee Law*, 24 (2), (2012): 181-201, p.193

[7] Martin, Scheinin, "Terrorism' Obligations" in *International Human Rights Law*, ed. Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran , (Oxford: Oxford University press, 2014) pp.550-566

[8] see for e.g., Philip Alston, *The United Nations And Human Rights* (Oxford: Clarendon Press, 1992). Jack Donnelly, *Universal Human Rights In Theory And Practice* (Ithaca: Cornell University Press, 1989); Michael E Goodhart and Anja Mihr, *Human Rights In The 21St Century* (Houndmills, Basingstoke, Hampshire: Palgrave Macmillan, 2011).

human rights studies. I will therefore not dive into a profound analytical discussion that surrounds the subject. Instead I aim to present the key details of human rights that will allow me to ascertain whether or not human trafficking is a violation of human rights.

2.1 Obligations of States towards persons

The history of human rights materializes this legal regime as a vertical relationship between the State and its citizens, where the framework is designed to control and limit the State in its actions towards the people. 'The essence of human rights law is that it makes the State accountable for failing to protect rights which it has the power and obligation to protect, such as the prohibition on slavery.'[9] Here it is helpful to introduce the "nature of obligations" framework.

The "nature of obligations" framework sheds light on what a State has to do to comply with human rights law. According to Mégret[10] States must respect, protect and fulfill human rights:

Respect

'States have a negative obligation not to take any measures that result in a violation of a given right. They should not consciously violate rights, either through their organs (for example, parliament or the executive) or through their agents (such as, civil servants, the police, or the army).'[11]

Protect

Protection requires States to ensure that persons within their jurisdiction do not suffer violations from third parties. In other words states should create an environment where rights can be enjoyed. This duty extends to the private sphere. The women's rights movement has significantly relied on this duty with respect to the need to protect women from abuse at home.[12] As Mégrét summarised 'violations that occur *a priori* in the private sphere (and were as a result

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[9] Ryszard, Piotrowicz "The legal nature of trafficking in human beings," *International Human Rights Law Review, 4,* (2009: 175-203, p.192

[10] Fredrick Megret, "Nature of Obligations" in *International Human Rights Law*, ed. Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran, (Oxford: Oxford University press, 2014), pp. 96-118

[11] *Ibid.* p.102

[12] See for e.g., Bonita Meyersfeld, *Domestic Violence And International Law* (Oxford: Hart, 2010).

traditionally neglected by human rights law), have thus been linked to the public sphere.'[13]

Fulfill

The obligation to fulfil is a positive one where States have to take steps that will allow the applicability of rights. In other words states do not just have to adopt appropriate legislation but they also have engage in 'judicial, administrative and educative and other appropriate measures.'[14]

2.2 Protecting humanity and dignity

Donnelly describes another key feature of human rights: 'We have human rights not to the requisites for health but to those things 'needed' for a life of dignity, for a life *worthy* of a human being, a life that cannot be enjoyed without these rights.'[15] Donnelly also states that:

> 'The "human nature" that grounds human rights is a *prescriptive* moral account of human possibility…the moral nature that grounds human rights says that beneath this we must not permit ourselves to fall. Human rights are "needed" not for life but for a life of dignity, a life worthy of a human being. "There is a human right to x" implies that people who enjoy a right to x will live richer and more fully humane lives.'[16]

2.3 Human rights in law

Recognition of the significance of human rights has paved the way for the codification of these values within various international conventions and in domestic law. This in turn makes the notion of human rights more factual. Indeed Freeman argues that the gap between human rights as a normative ideology and

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[13] Megret, F. (2104). Nature of Obligations In D. Moeckli, S. Shah and S. Sivakumaran (Eds.) *International Human Rights Law (*pp. 96-118), Oxford: Oxford University press p.102

[14] UN Human Rights Committee. (2004). General comment no. 31 [80], The nature of the general legal obligation imposed on States Parties to the Covenant. 26 May 2004, CCPR/C/21/Rev.1/Add.13.para 7.

[15] Jack Donnelly,*Universal Human Rights in Theory and Practice*, (Ithaca: Cornell University Press, 1989), p.17.

[16] Jack Donnelly, *Universal Human Rights in Theory and Practice (3ʳᵈ ed), (*Ithaca: Cornell University Press, 2003), p.14

social science as an element of the positivist school of thought has been filled through law; for law is normative as well as factual.[17]

Human rights began to dominate the arena of international law after the Second World War. The United Nations' 1948 Declaration of Human Rights[18] and the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms (1950)[19] were established against the backdrop of a number of committed atrocities. These documents predominantly focused on civil and political rights. However subsequent treaties and conventions incorporated economic, social and cultural rights: for example the United Nations' 1966 International Covenant on Economic, Social, and Cultural Rights[20] and the Council of Europe's European Social Charter.[21] More recently the EU has adopted the Charter of Fundamental Rights of The European Union.[22]

The starting point for human trafficking as part of the human rights field lies in 19th Century documents (e.g., 1926 League of Nations Slavery Convention[23]) that concern the abolition of slavery; today recognised as one of the purpose elements of human trafficking.

3.0 Where do human rights obligations vis-à-vis human trafficking come from

The purpose of this section is to embed the discourse on human trafficking in human rights and bring forth the source of State obligations in this regard.

International and regional human rights law makes it clear that States have a duty to protect human beings from slavery and like practices. Article 8 of the International Covenant on Civil and Political Rights prohibits slavery and forced or compulsory labour. Article 4 of The European Convention on Human Rights also forbids slavery and forced labour. There is thus a place for slavery and forced

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[17] Michael Freeman, *Human Rights,* (Cambridge: Polity Press, 2002), p.77

[18] United Nations. (1948). The Universal Declaration of Human Rights. Retrieved 6 November 2015, from http://www.un.org/en/documents/udhr/index.shtml accessed on 1st August 2016

[19] Council of Europe. (1950). Convention for the Protection of Human Rights and Fundamental Freedoms. Retrieved 6 November 2015, http://conventions.coe.int/treaty/en/treaties/html/005.htm accessed on 1st August 2016

[20] United Nations. (1966) International Covenant on Economic, Social, and Cultural Rights. Retrieved 6 November 2015, http://www.ohchr.org/en/professionalinterest/pages/cescr.aspx accessed on 1st August 2016

[21] Council of Europe. (1961). European Social Charter. Retrieved 6 November 2015 http://conventions.coe.int/Treaty/en/Treaties/Html/035.htm accessed on 1st August 2016

[22] European Union. (2012). Charter of Fundamental Rights of the European Union, 26 October 2012, 2012/C 326/02

[23] League of Nations. (1926) Convention to Suppress the Slave Trade and Slavery, 25 September 1926, 60 LNTS 253, Registered No. 1414

labour to sit comfortably in the human rights domain. However, what about human trafficking?

As the work of Jean Allain clearly shows human trafficking and slavery are not synonyms.[24] In some instances human trafficking may be qualified as slavery or forced and compulsory labour; this is when the purpose of the exploitation was such. What about exploiting persons for the purpose of removal of organs or for forced begging? These instances are not necessarily qualified as slavery or forced labour and thus we must ask if they can still be seen as falling within human rights obligations. The answer is yes.

The Charter Of Fundamental Rights of The European Union at Article 5 outlaws slavery, servitude, forced labour and human trafficking. Likewise Article 6 of the Convention on the Elimination of all Forms of Discrimination against Women states that parties 'shall take all appropriate measures, including legislation, to support all forms of traffic on women and exploitation of prostitution of women.'[25] The 1989 Convention on the Rights of Child prohibits trafficking in children for any purpose and includes protection measures for children who have been trafficked.

Noting these legislative instruments, the best way to conclude is to ascertain that there are numerous provisions that in some form or another place a responsibility on the State in the prevention of human trafficking. Moreover, as argued by Gallagher:

> Human rights law has battled the demons of discrimination on the basis of race and sex; it has demanded equal or at least certain key rights for aliens; it has decried and outlawed arbitrary detention, forced labour, debt bondage, forced marriage, and the commercial sexual exploitation of children and women; and it has championed freedom of movement and the right to leave and return to one's own country. There can be no doubt that the spirit of the entire corpus of human rights law rejects, absolutely, the practices and results that are integral to the human trafficking process.[26]

Equally interesting is the reference to human rights in human trafficking legislation. The Preamble to the Council of Europe Convention on Action against Trafficking in Human Beings states that human trafficking is '**a violation of**

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[24] Jean Allain, J. (Ed.), *The Legal Understanding of Slavery: From the Historical to the Contemporary*, (London: Oxford University Press, 2012)

[25] UN General Assembly. (1979). Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979. Art. 6

[26] Anne Gallagher, *The International Law of Human Trafficking,* (Cambridge: Cambridge University Press, 2012), p. 5

human rights and an offence to the dignity and the integrity of the human being'[27] [emphasis added]. The UN Resolution 11/3 states 'Recognizing also that trafficking in persons **violates human rights** and impairs the enjoyment of them…'[28] [emphasis added].

It is also relevant to consider case law from the European Court of Human Rights (the Court), which makes clear that a State has specific obligations with respect to human trafficking. In the case of *Rantsev v. Cyprus and Russia* the court held that: 'The Court considers that trafficking in human beings, by its very nature and aim of exploitation, is based on the exercise of powers attaching to the right of ownership.'[29] It thus appears that the Court sees human trafficking as at least being based on slavery. Whether this is wrong or right is beyond the scope of this paper, however it is true that with the *Rantsev* judgment the Court confirmed human trafficking to the human rights arena.

Domestic courts have followed suite; the England and Wales Court of Appeal stating:

> 'The abuse to which victims of trafficking are exposed takes many different forms. At some levels it may amount to "slavery", or not far distant from "slavery", "servitude", or "forced or compulsory labour". Activities of this kind are prohibited by Article 4 of the European Convention of Human Rights…'[30]

Lastly the writings of prominent scholars and civil society organisations merit our attention. For Obokata 'trafficking is not only a criminal justice issues, but also a human rights issue, because the act is regarded as a serious threat to the promotion and protection of human rights.'[31] Similarly Gallagher, one of the main authorities on the topic of human trafficking, repeatedly embeds any discourse on human trafficking within the human rights debate.[32] Whilst Unchosen, a key anti-

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[27] Council of Europe. (2005) Council of Europe Convention on Action Against Trafficking in Human Beings, 16 May 2005, CETS 197

[28] Human Rights Council. (2009). Resolution 11/3. Trafficking in persons, especially women and children. At. Preamble.

[29] *Rantsev v Cyprus and Russia* App No. 25965/04 (ECtHR 7 January 2010) At Para 281

[30] *R v L and Others (The Children's Commissioner for England and Equality and Human Rights Commission intervening)*, [2013] EWCA Crim 991, para. 11

[31] Tom Obokata, "A Human Rights Framework to Address Trafficking of Human Beings," *Netherlanda Quarterely of Human Rights,* 24(3), (2006): 379-404. p.380

[32] Anne Gallagher, "Human Rights and Human Trafficking: Quagmire or Firm Ground? A Response to James Hathaway,". *Virginia Journal of International Law,* 49(4), (2009), Available at SSRN: http://ssrn.com/abstract=1409816 accessed 2nd August 2016

trafficking UK charity, wrote: 'Most women and children trafficked for sexual exploitation suffer extreme violations of their human rights, including the right to liberty, the right to dignity and security of person, the right not to be held in slavery or involuntary servitude, the right to be free from cruel and inhumane treatment, the right to be free from violence and the right to health.' [33] These works show that exploitation of another person through a means of deception, coercion, violence, abuse of power or fraud equate to the violation of a person's integrity, liberty and freedom of movement. In turn these are rights that are safeguarded by human rights instruments.

The purpose of the next sections is to highlight and sensitize the reader to think of human trafficking as a human right violation only when the State has failed in its obligation as contained in law, and not in any other instance.

4.0 Human rights violations and the need for state involvement

It is worth beginning this section by recalling the position of Prof. Piotrowicz:

> 'THB [Trafficking in Human Beings] is usually a private criminal act or enterprise – one or more private citizens are involved in the recruitment and transport of the victim, the trafficker (or somebody else) takes physical control over the activities and movement of the victim, and they (or somebody else) then exploit the labour of the victim for their own gain. In the absence of State involvement, for instance through complicity or neglect, it is hard to see why THB is anything more than a crime just like, say, murder, or theft. This is in no way to belittle the seriousness of THB and the harm it causes to victims. Nevertheless, human rights obligations are owed by States, not traffickers, murderers and car thieves.' [34]

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[33] Unseenuk.org,. (2015). *Facts and Figures*. Retrieved 6 November 2015, from http://www.unseenuk.org/resources/trafficking-facts accessed 2nd August 2016

[34] Ryszard, Piotrowicz "The legal nature of trafficking in human beings," *International Human Rights Law Review, 4,* (2009: 175-203, p.186

In a separate piece Piotrowicz writes:

> '…in the absence of some form of State involvement or complicity, it becomes problematic to argue that the State is in some way directly responsible for undoubtedly egregious practices to which victims are subjected'[35]

The premise of Piotrowicz's argument is that we can only perceive human trafficking as a human rights violation when the State is in some way responsible: e.g., through failure to enact a legal regime, ratify instruments or if the State was directly involved in the crime. This argument echoes Freeman's point, that assuming:

> 'proper measures of police protection have been taken, there is clearly no duty incumbent upon members of the family of nations to answer for the injuries which resident aliens may suffer at the hands of individuals unconnected with the State or acting in a purely private capacity.'[36]

In a similar vein the Office of the High Commissioner for Human Rights writes with respect to terrorism that: 'Acts constituting human rights violations are committed primarily by organs or persons in the name of, or on behalf of, the State.'[37] Likewise in the case of *E V United Kingdom*[38], the Court held that the State had breached Article 3 of the Convention on the grounds that social services had failed to intervene to prevent on-going sexual abuse by a stepfather upon his step-children. The Inter-American Court of Human Rights also reflected on this point and coherently held that:

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[35] Ryszard, Piotrowicz, "States' Obligations under Human Rights Law towards Victims of Trafficking in Human Beings: Positive Developments in Positive Obligations," *International Journal of Refugee Law*, 24 (2), (2012): 181-201p. 186

[36] Alwyn V Freeman, The International Responsibility Of States For Denial Of Justice (New York: Kraus Reprint Co., 1970), p.368

[37] Office of the High Commissioner for Human Rights. (2008) . *Human Rights, Terrorism and Counter-terrorism.* Retrieved 6 November 2015, from http://www.ohchr.org/Documents/Publications/Factsheet32EN.pdf accessed 2nd August 2016, p.9

[38] *E V United Kingdom* (2003) 36 EHRR 31

An illegal act which violates human rights and which is initially not directly imputable to a State (for example, because it is the act of a private person or because the person responsible has not been identified) can lead to international responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation or to respond to it as required by the Convention.[39]

As such it follows that a human rights violation can occur if: (i) a State was directly engaged in the act of human trafficking; or (ii) a State did not discharge its obligation under the relevant law. Piotrowicz continues that the 'consequence for breach of human rights lie with the State rather than the perpetrator, whose accountability remains confined to criminal law and, sometimes, to tort.'[40] Moreover, as the author points out, in none of the documents addressing human trafficking is there an obligation put on the trafficker. Instead it is the State that has duties and responsibilities to fulfill.

The breach was illustrated in *Siliadin v. France*. In this case the Court held that Article 4 of the European Convention on Human Rights gave rise to positive obligations, including the adoption and implementation of relevant criminal legislation making practices in Article 4 an offence. As summarized by Rijken and Koster:

'The Court then held that a violation of Article 4 is a serious violation of the personal integrity. Since this is a fundamental value, only criminal law can guarantee the effective and necessary protection by the state against these violations. Because France did not have adequate criminal legislation that unambiguously made punishable the behaviour at issue and since the perpetrators of this behaviour had not been convicted, the Court judged that the state had violated its positive obligations under Article 4. For this violation, the state may be held liable.'[41]

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[39] IACtHR series C No 4 (29 July 1988)/ Para. 172

[40] Ryszard, Piotrowicz "The legal nature of trafficking in human beings," *International Human Rights Law Review, 4,* (2009: 175-203, p.193

[41] Conny R.J.J. Rijken and Dagmar Koster, "A Human Rights Based Approach To Trafficking In Human Beings In Theory And Practice", SSRN Electronic Journal, n.d., doi:10.2139/ssrn.1135108, p. 22

5.0 Human rights obligations concerning human trafficking

Having established that we can only speak of human rights violations if the State has been at fault, it is relevant to set out the structure of the responsibilities with regard to human trafficking.

In recent years this has been simplified for European States with the enactment of the Council of Europe Convention on Action against Trafficking in Human Beings and in the EU the 2011/36/EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims. By way of a summary: both the Convention and the Directive oblige States to 1) prohibit trafficking acts; 2) investigate, prosecute and punish traffickers; 3) protect human trafficking victims and 4) address the causes and consequences of trafficking.

There is no blanket approach to fulfilling these obligations. What works in some countries may not be appropriate in others. However, there are some accepted steps that States should take to fulfill their obligations. A starting point is introducing or amending relevant legislation. The legislation should address all aspects from prosecution of offenders, protection of trafficked persons to establishing partnership frameworks to allow for a multi-disciplinary methodology. Human trafficking is connected to various spheres and activities, this means that a suitable response will entail broad legislation that impacts an array of State agencies, with the shared aim of preventing the exploitation of persons and thus the abuse of people's dignity.

Secondly: the realization of the requirements of victim protection. This was recognised by the European Court of Human Rights in the famed *Ranstev* case. In this case the Court held that if a State was aware, or ought to have been aware, that an individual was at a risk of being trafficked:

> '…there will be a violation of Article 4 of the Convention where the authorities fail to take appropriate measures within the scope of their powers to remove the individual from that situation or risk.'[42]

The judgment can be interpreted so as to argue a State has to provide for the safety of a trafficked person. It is not a far stretch to justify this in terms of the fact that trafficked persons by the very nature of their status are at a high risk of being re-trafficked. There is thus a nexus between Article 4 (prohibition of slavery and forced labour), which is a human right and the need to provide protection to trafficked persons. In this case Cyprus was found to violate Article 4 because of its direct failure to fulfill its obligations under the ECHR.

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[42] *Rantsev v Cyprus and Russia* App No. 25965/04 (ECtHR 7 January 2010), At para. 286

The court did not specify how far the protection should stretch, but the judgment makes clear there is a need for a victim centered approach. For example Article 12 provides for a range of measures that will allow a victim to safely and with full understanding take part in criminal proceedings. Article 12 underlines the need for victim protection by specifying right to access to victim protection programs and further support to prevent secondary victimization (avoiding unnecessary repetition of interviews during investigations, avoiding giving evidence in open court and unnecessary questioning concerning the victim's private life and avoiding visual contact between victims and defendants. Parties should use appropriate communication during examination).

Implementation through effective policing also requires those representing the State to be aware of people's vulnerabilities. Irregular migrants may fear deportation if they were to contact authorities and/or they may fear reprisal from their traffickers. As such they may not come forth and identify themselves as victims. Operative systems therefore cannot rely on victims to do the identifying but instead States need efficient mechanisms in place that provide for the maximum opportunities of victim identification. In turn this may require having: appropriate and regular training to frontline staff, specialized units that deal with human trafficking (e.g., the Modern Slavery Coordination Unit in Greater Manchester Police), communication amongst agencies and civil society organisations.

Thirdly, any approach to human trafficking requires effective and educated judiciary persons (prosecutors and judges). This is particularly true with regard to obligations concerning prosecuting trafficking but also obligations to consider the non-prosecution or non-application of penalties to human trafficking victims. An effective legal process will only take place if the relevant actors understand the complex nature of human trafficking.

An effective system also requires victims having knowledge of the rights and remedies and physical places for them to seek sanctuary and engage in rehabilitation. This is where civil society organisations and access to lawyers comes in to play.

Lastly, it would appear reasonable to require that States monitor their efforts and if statistics illustrate an approach is ineffective, the State must find new or additional tools.

6.0 Examples of State violation of human rights in human trafficking cases

This sections aims to show how despite the almost abundant level of relevant legislation, human rights in the context of human trafficking continue to be breached.

Take for instance the UK's tied Visa system for domestic workers under the Domestic Workers in a Private Household Visa.[43] The Domestic Workers in a Private Household Visa came into force in 2012, a product of the government's ambition to reduce net migration to the UK. Under this scheme a number of restrictions are attached to the visa. Domestic workers are not allowed to change employers while in the UK, and can stay for a maximum of six months, after which time they must return home. In addition they cannot bring dependents or switch to another type of visa. One main concern is the extent to which, employers subject individuals to exploitation and abuse by taking advantage of the fact that employees are legally "tied" to them. This in itself evokes imagery of historic slavery. Data provided by the UK National Crime Agency shows an increase in the number of referrals of human trafficking to the National Referral Mechanism that involved domestic servitude.[44] A persuasive case could thus be made: the law puts domestic migrant workers at risk of exploitation. It should be noted that the matter has not been put before the European Court of Human Rights however bodies such as *Kalayaan*, the migrant domestic workers' Non Governmental Organization, have expressed profound concern regarding the legislation. There is thus possible State failure to protect human rights.

A second example concerns Iraq and has recently been brought to public attention by an article in the New Yorker Magazine. The article cites the lawlessness that is overtaking Iraq as posing a threat to women and girls. It goes onto say 'The Sunni extremists have beheaded their male enemies and sexually enslaved some female captives.'[45] All this against a backdrop of a recently enacted Jaafari bill which legalizes marriage of girls as young as nine, entitles a husband to non-consensual sex with his wife and prevents a woman from leaving her home without her husband's permission, thus fostering a culture of gender inequality. The article paints a picture of a State that is not fulfilling its international legal responsibilities with regard to preventing human trafficking, prosecuting the offenders and protecting the victims. It is violating human rights laws.

The point made here is that human rights violations occur in a compliance deficit. On the other hand, what happens if the State did "everything by the book". If a country has adopted all the necessary laws and measures in respect of combating human trafficking can we still speak of a violation of human rights?

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[43] Home Office. *Visas and Immigration - Domestic Workers in a Private Household visa.* Retrieved 6 November 2015, from https://www.gov.uk/domestic-workers-in-a-private-household-visa/overview accessed 2nd August 2016

[44] 234 referrals were received by the NRM 2014-2015, a 66 %increase from 2013-2014. National Crime Agency. (2015). *National Referral Mechanism Statistics - End of Year Summary 2014* (1 January 2015).

[45] Rania Abouzeid, "Letter from Baghdad. Out of Sight" *The New Yorker,* October 5, 2015, pp.34-39

7.0 The yardstick of due-diligence: how far does the duty to respect, protect and fulfill go?

In this section we discuss how we can attempt to decide if a violation of human rights occurred. To this end the standard of due diligence has been developed. In raising the need to rely on the due diligence standard Meyersfeld argues that:

> '…the due diligence test is the standard increasingly used in international human rights law…to describe a state's duty to protect human rights…the barometer used to determine whether a state has complied with the obligation to be duly diligent is whether "a more active and more efficient course to procedure might have been pursued."'[46]

In other words, we can argue that only if best available and adequate measures have been adopted, than a State has fulfilled its obligations. 'If not, even if suffering is induced by an individual in a purely private capacity, such as in the context of systematic violence, arguable the state would fail to fulfill its duty and would be responsible for a breach of international obligation.'[47] This rhetoric also applies to the need to remedy abuse because access to protection is an established right. That due-diligence is expected of States has also been well summarized in the *Velásquez Rodríguez* case, where the Inter-American Court of Human Rights held:

> 'The State has [under Article 1 of the American Convention] a legal duty to take reasonable steps to prevent human rights violations and to use the means at its disposal to carry out a serious investigation of violations committed within its jurisdiction, to identify those responsible, to impose the appropriate punishment and to ensure the victim adequate compensation.'[48]

First hand experience tells us that never is everything done to precision – as shown above in the Iraq and UK case studies. There continue to be police officers

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[46] Bonita Meyersfeld, *Domestic Violence And International Law* (Oxford: Hart, 2010). p. 151

[47] *Ibid.* p. 201

[48] *Velásquez Rodríguez Case*. (1988). Inter-Am.Ct.H.R. (Ser. C) No. 4 (1988), Inter-American Court of Human Rights (IACrtHR), 29 July 1988 at para. 174

who do not know what human trafficking is,[49] victims who go unidentified and traffickers who are not (properly) prosecuted. The Anti Trafficking Monitoring Group in the UK highlighted that: 'Whilst the positive obligation to investigate trafficking has been established in law, there is still a discrepancy between the number of potential trafficked persons identified and the number of prosecutions of traffickers… The most worrying finding of the research was that a significant number of victims continue to be prosecuted for offences they have committed as a direct consequence of their trafficking.'[50] It is therefore arguable, that today States persistently fail to fulfill their obligations in respect of combating human trafficking. As such it would not be an error to speak of human trafficking as a human rights violation.

The due-diligence standard however is not free from problems. The ambiguous documents create an absence of clarity as to what exactly the law requires. Moreover, there is uncertainty as to the standard against which States should be assessed: against their means, against what is reasonable, against what is done in relation to other rights or against international standards? The above-cited *Ranstev* case shows that foreseeability is relevant. What else should be considered? These questions are open ended and as yet there is no clear guidance; especially as so few human trafficking cases end up before the European Court of Human Rights. Of course this is a highly complicated matter – deciding when enough is enough. The space of this work unfortunately does not allow for the exploration of these concepts and terminologies. However in the face of the different approaches Gallagher's conclusion seems fitting: 'Ultimately, a decision is likely to come down to an assessment of whether, under the circumstances of the particular case, the State is taking its obligations seriously.'[51] Though what exactly is "seriously" remains undefined.

8.0 Concluding remarks

What conclusions can we draw? This paper has sought to make it clear that human rights are about law - they are a set of norms that are developed through court application. Human rights are awarded to us on the mere basis that we are

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[49] John Meekins, "Human Trafficking Thrives Because Officers Don't Know What It Is" *In Public Safety*, (2014), http://inpublicsafety.com/2014/08/human-trafficking-thrives-because-officers-dont-know-what-it-is/ accessed 2nd August 2016

[50] Anti-Trafficking Monitoring Group, *In the Dock. Examining the UK's Criminal Justice response to human trafficking*.' (2010) http://www.antislavery.org/includes/documents/cm_docs/2013/i/inthedock_final_small_file.pdf accessed 2nd August 2016

[51] Anne Gallagher, *The International Law of Human Trafficking,* (Cambridge: Cambridge University Press, 2012), p. 5

human. Human rights are vertically applied, thus if we speak of a violation the State has to be accountable. A trafficker - essentially a private person - cannot be taken to a court of human rights for the crimes inflicted on a victim. In turn a State can only be guilty of human rights violations if it failed to protect, respect and fulfil the rights it is supposed to comply with under internationally agreed treaties or if it was a perpetrator in the crime. In other words, human rights violations occur when there is a breach of legal obligations. If there is no State fault, there is no violation of human rights vis-à-vis human trafficking. Scholars, practitioners and policy makers should resist the temptation to always call human trafficking a human rights violation. The framework of human rights is not a blank slate on which we can pin point all crimes.

Having said that, the threshold of obligations is quite high albeit still somewhat hazy. If it can be shown that the State did not act with due diligence, then we can speak of a violation of human rights. The approach adopted (legislation, policy, enforcement, etc.) has to be genuinely effective. Naturally, much will depend on the facts of a particular instance. To-date we remain with questions as to what exactly is expected of States so that they fulfill their due-diligence and are not held liable.

A human rights based approach requires recognizing that trafficked persons are rights-holders and thus are entitled to rights such as non-discrimination or rights in relation to non-refoulement. We thus perceive trafficked persons not as witnesses, criminals or irregular migrants but instead we recognise them as victims of a crime and most importantly as humans who are entitled to rights.

Listening to Local and Foreign Sex Buyers of Men and Women in Cambodia

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Abstract

Research on prostitution and trafficking has largely focused on the exploitation of girls and young women. This research comes out of the "Listening to the Demand" two-part study by an independent research team on the sex industry in Phnom Penh, Cambodia. "Listening to the Demand" is a series of research exploring often over-looked populations in the anti-trafficking conversation, including men and transgender people. The first of the studies was completed in 2013 and focuses on men who purchased sex with female sex workers. Interviews of 50 Cambodian and 50 foreign heterosexual and bisexual males explored the respondents' views and use of prostituted women in Southeast Asia's sex industry. The second part of the research was completed in 2014 and focuses on men who purchase sex with men. In this second part of the project, 51 Cambodian and 23 foreign men who have sex with men were interviewed about their views of prostitution, the individual sex worker, and their experiences of Cambodia's sex industry. Due to its comparative nature, the research seeks to deliver information on the differences in culture between the foreign and Cambodian men who seek to pay for sexual services. Results point to the need for proper sex and gender education as well as different approaches when planning projects to reach out to men purchasing sex. In gaining a deeper knowledge of the beliefs and behaviours among the demand population, the findings suggest more holistic approaches are needed to combat the exploitation of sexual services in Cambodia.

Introduction

This research comes out of the "Listening to the Demand" two-part study done on the sex industry in Cambodia and is designed to more fully understand the motivations, attitudes, and behaviour of men who purchase sex with female sex workers (MSFSW) and men who purchase sex with male sex workers (MSMSW) in Cambodia. A large number of organizations seek to address sexual exploitation by focusing on the survivors. Very few organizations are doing anything to address the demand. The majority of sexual exploitation that occurs in Cambodia is by Cambodian[1] men, although the number of tourists and expatriates in Cambodia is increasing and so the number of foreign men who frequent the red light areas is also increasing.

This paper addresses the specific problem of lack of awareness of the demand segment of the sex industry in Cambodia. Research on prostitution has largely focused on the exploitation of girls and young women, whereas the research extending to men as victims involved in the sex industry has almost exclusively focused on men as victims of HIV/AIDS and STI transmission. As a result, there is a considerable information gap on the male segment of the sex industry and relatively scant research that will assist prevention of exploitation in this area.

Literature Review

The Sex Industry in Southeast Asia

In order to understand the topic of MSFSW and MSMSW in Cambodia, the culture and history of the region must be understood. Pre-Khmer Rouge there is only anecdotal evidence prostitution existed. Survival sex was prevalent in Cambodia under the Khmer Rouge regime from 1975-1979, as overt prostitution was strictly controlled and, to a lesser extent, during the Vietnamese occupation in the 1980s.[2] There is little research on the demand for paid sex within Cambodia under the Vietnamese, but demand boomed with the arrival of 20,000 United Nations peacekeepers during the United Nations Transitional Authority in Cambodia (UNTAC) in 1991.[3] Upon UNTAC departure in 1993, the number of

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[1] The terms Cambodian and Khmer will be used interchangeably throughout this article.

[2] Melissa Farley et al, *A Thorn in the Heart: Cambodian Men who Buy Sex* (July 2012): 12, http://www.prostitutionresearch.com.

[3] Ibid.

women in prostitution initially dropped before rising again to previous levels; this could show an increase in local demand. It is, however, unknown how many men were working in the sex entertainment industry at that time.[4] In 1997, in an effort to tackle the sex industry, the Prime Minister of Cambodia, Hun Sen, attempted to close down all the brothels in his country.[5] This was not effective as prostitution moved to "...night clubs, snooker clubs, massage salons, karaoke parlours, barber shops, hidden brothels and on the street..."[6] As a result, there are still significant numbers of people involved in the sex industry in Cambodia.
Male Prostitution and Vulnerability of Males.

Research carried out by Alastair Hilton in 2008 explored vulnerability factors of young Cambodian male victims relating to sexual abuse and exploitation.[7] It was found that knowledge of a boy as victim of sexual abuse often led to discrimination from the community; this discrimination may also stem from the fact that sexually abused boys "are often not viewed as victims but as consenting."[8] Another factor that heightens the vulnerability of men and boys to sexual exploitation is the cultural perception that male populations cannot be sexually exploited and/or this is not socially recognized problem. On a global scale, bodies responsible for public services, legislation, mass media, and scholarly material, overlook male sex workers.[9] The silence on male sexual exploitation can be dangerous for boys and men around the world when in fact a large proportion of the world's sex industries are comprised of males.

Men who Purchase Sex in Cambodia

In Cambodia many men tend to believe that having more than one sexual partner as well as many sexual experiences are part of being a man. This comes from an idea of masculinity, which involves a commitment to the group; according to most men, masculinity involves socializing, drinking, and seeking prostitutes.[10]

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[4] Ibid.

[5] Daphne Meeks and Glenn Miles, *Hard on the Heart. (*Phnom Penh: Love 146, 2013).

[6] Ibid., 12.

[7] Alastair Hilton, *I Thought It Could Never Happen to Boys: Sexual abuse and exploitation of boys in Cambodia. (*First Step Cambodia, 2008).

[8] Ibid., 9.

[9] Please refer to the references for a study entitled, *Women are Victims: Men Make Choices*, which researched the invisibility of boys and men in scholarly discussions of the global sex trade (Jeffery Dennis, 2008).

[10] Reid Smith, *Let's Go for a Walk: Sexual Decision-making among Clients of Female Entertainment Service Workers in Phnom Penh, Cambodia. (*Population Services International & Family Health Services International, 2007).

There have been two recent papers written using interviews with men who buy sex from female sex workers in Cambodia. In 2012, Melissa Farley published research on the MSFSW demand in Cambodia called *A Thorn in the Heart*. This study looked at the reasons Khmer men purchase sex. One of her findings was that most Khmer men dehumanized the women in prostitution. They believed that the women in prostitution were intrinsically different from other women; they were described as "...shameless, flirtatious, too direct, too sexual, vulgar, and emotionally detached."[11] Compared to non-prostitute Khmer women who are, "...shy, with downcast eyes, sexually unresponsive, and subordinate to men."[12] Eighty-three percent of the men who paid for sex with women in Farley's study had wives or girlfriends, and the most common reason why Khmer men paid for sex was "in order to satisfy an immediate sexual urge."[13]

The idea of paying for sex as part of heterosexual male bonding is also mentioned in a study on the Cambodian sex industry. This study mentions how Khmer men go out and drink together with friends, money is pooled, and there is peer pressure to go and have sex.[14] In other research on men who buy sex in Cambodia, ninety percent of the participants considered paying for sex to be normal.[15]

In 2009, a book written by someone who actively participated in the Cambodian sex industry as a client was published under the pseudonym, Randy Nightwalker. In his book, *Addicted to Love*, he shared his experiences about the women he paid for sex and appears to encourage foreign men who are looking to pay for sex in Cambodia to do so.[16] He speaks about how he has "...gotten over the moral revulsion..." and now freely enjoys paying for sex with Cambodian women.[17]

Sexual Orientation, Identity and Expression

An understanding of the distinction between sexual orientation, gender identity, gender expression, and biological sex, as well as the divergence between Eastern and Western perceptions of these aspects of gender/sexuality is crucial to

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[11] Farley, *A Thorn in the Heart,* 19.

[12] Ibid.

[13] Ibid.

[14] Smith, *Let's Go for a Walk.*

[15] Farley, *A Thorn in the Heart*, 19.

[16] Randy Nightwalker, *Addicted to Love. Exploring the Nightlife in Cambodia. (*Phnom Penh, Cambodia, 2009).

[17] Ibid.,17.

the study of paid sex in Cambodia. The Western gay/straight binary is not applicable in Cambodia, and if Westerners enter with this preconceived notion it will limit their understanding of the host culture.

In the West, sexual orientation and gender identity are predominately divided into four main categories: heterosexual, homosexual, bisexual and transgender. Although identity is a multifaceted concept, the two Western categories of identity that are relevant to the present study are gender identity and sexual identity, which is linked to orientation.[18] There is a more fluid diversity of expressions of male-to-male sexuality in Southeast Asia. Khmer men do not fit the same orientation paradigms in place in the West. In Cambodia, as in other Southeast Asian countries, sexual identity is not linked to orientation or a self-sense of gender, but is rather based on personal characteristics. Due to personal characteristics, Cambodian men may not consider themselves as homosexual or bisexual even if they are having sex with men.[19] The implication of this reality for research is that there is often a "mismatch" between respondents' sexual self-identification and sexual behaviour they report.[20]

The remaining sections of the paper will outline the research methodology of the MSFSW and MSMSW studies. The results will then be presented and a discussion of those results will follow. Finally, a conclusion will be presented as well as recommendations for future research.

Methodology

MSFSW Study

Four researchers and five volunteer translators surveyed 50 Khmer men and 50 foreign men in Phnom Penh from September to November of 2013 for the MSFSW study. The Khmer men who were approached held a variety of different jobs, from moto taxi and tuk-tuk[21] drivers to students and businessmen. The majority of the men were found in public areas. The foreigners ranged from short-term tourists to long-term expatriates. The foreign men were approached by a combination of four English-speaking interviewers in teams of two. The

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[18] Laura Reiter, "Sexual Orientation, Sexual Identity, and the Question of Choice," *Clinical Social Work Journal* 17, no. 2 (1989): 138-150.

[19] The Cambodian Center for Human Rights, *Coming out in the Kingdom: Lesbian, gay, bisexual, and transgender people in Cambodia* (2010): 11.

[20] Philippe Girault et al. "HIV, STIs, and Sexual Behaviors Among Men Who Have Sex with Men in Phnom Penh, Cambodia," *AIDS Education and Prevention* 16, no. 1 (2004): 35.

[21] A tuk-tuk is a common form of public transportation made up of a motorbike with a carriage for up to four passengers.

Cambodian respondents were approached by one of five volunteer translators and an English-speaking researcher. The interviews of Cambodians were conducted in the Khmer language.

The researchers adhered to the *Ethical and Safety Recommendations for Research on the Perpetuation of Sexual Violence* presented by the Sexual Violence Research Initiative (SVRI) out of South Africa in 2008. Within this document it is recommended: that the survey must keep the respondents' identity anonymous, avoid the disclosure of incriminating details from the respondents, and that the respondents had the right to not answer a question or discontinue the interview if desired.[22]

Limitations in this study included cross-cultural translation challenges. The foreigners were all interviewed in English, but for many respondents, English was their second or third language. There was also a problem of access. The interviews were initially carried out in strictly "red light" districts at night because of the target group. Researchers quickly realized interviewing at this time was not feasible because the men were in the area for a specific reason and were not interested in taking part in a lengthy survey. The interview times were adjusted to the afternoon where more men were sitting alone and willing to engage in conversation. A similar problem occurred with the Cambodian men. At first, known red light areas were targeted, with the aim of interviewing men outside at night. This approach was ineffective because many Khmer men like to go out at night with a large group of friends, making it difficult to address an individual. Therefore, the focus was shifted to highly frequented areas during the day, including cafés and markets. The wealthy and the poorest economic class of Cambodians were not available to be surveyed due to their work schedules and location. Similarly, it was impossible to get representative sample of foreign men due to all the different countries represented in Cambodia.

MSMSW Study

The researchers interviewed 51 Khmer and 23 foreign men from February to April of 2014 in Phnom Penh, Siem Reap, and one foreign man was interviewed in Battambang via telephone. The MSMSW study was conducted with the assistance of four researchers and translators who approached the men in teams of two. Foreign men were approached at bars frequented by the MSMSW community. With the help of translators, interviews could be conducted in French, English, Italian, and Spanish. The Khmer respondents were interviewed in the Khmer language through Cambodian translators.

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[22] Jewkes R, Dartnall E and Sikweyiya Y. (2012). Ethical and Safety Recommendations for Research on Perpetration of Sexual Violence. Sexual Violence Research Initiative, Medical Research Council, Pretoria, South Africa

Participants were contacted and recruited through men's health clinics and bars. The foreign men interviewed fit three molds: they spoke English, French, Italian or Spanish; they were wealthy enough to travel to Cambodia; and they were willing to be interviewed. Contact with the Khmer MSMSW was made through collaboration with various men's sexual health clinics in Phnom Penh and Siem Reap. Due to accessibility issues, the research focused on lower and middle class urban Khmer men. The wealthy and the poorest economic classes of Cambodian population could not be surveyed due to their work schedules, location, and/or privacy surrounding their sexuality. As in the MSFSW study, the researchers adhered to the *Ethical and Safety Recommendations for Research on the Perpetuation of Sexual Violence* presented by the SVRI out of South Africa in 2008.

The foremost limitation in the research was the number of foreign respondents willing to participate in the study. The foreign MSMSW community in Cambodia is small and many within the community know each other well. Some foreign men were under the impression the study intended to demonize the gay community. The preliminary reaction to the research was due to the history of discrimination this community has faced. The researchers had a small dialogue with the individuals clarifying the needs and goals of the present study and some agreed to participate. In addition, some Khmer respondents may not have been fully accurate in their accounts due to the cultural value of saving face. This is a deeply rooted cultural paradigm in Cambodia, and the researchers and translators tried to overcome this limitation by making the respondents feel as safe and comfortable as possible during the interview.

Results of the MSFSW Study

Demographics

The ages of the men interviewed for the MSFSW study were fairly evenly spread out. Eighteen of the respondents were 18-23 years old, seven of the men in this age group were foreigners and 11 of the men were Khmer. There were 19 men interviewed who were 24-29. Nine of the men were foreigners and 10 were Khmer. The highest percentage of the men fell into the age group of 30-39. Eight of these men were foreigners and 17 were Khmer. Eighteen men interviewed were of the ages 40-49, eight of them were foreigners and 10 were Khmer. Ten men were 50-59, with one man a foreigner and the rest Khmer. Eight of the respondents were 60-69 and all of them were Khmer. Finally, only two men were interviewed that were above the age of 70, one of the men was a foreigner and the other was a Khmer man.

All of the Khmer men (50/50) interviewed were originally from Cambodia. Among the foreign population, the respondents were mainly from Western countries, with a few men from the Middle East and South Africa. The largest percentage of foreigners interviewed was from Europe (25/50). Australians and New Zealanders were the second largest group of foreign respondents (13/50). The respondents who answered they were from the United States of America or Canada were placed into the North America category (9/50). The smallest category was from the Middle East (2/50) and one of the 50 men interviewed was from South Africa.

The largest percentage of the Khmer interviewed (29/50) were part of the private sector for their career, and the majority of the men were moto taxi and tuk-tuk drivers. The second largest category of the Khmer respondents was students (12/24). The third largest category worked in public sector jobs (5/50). The largest percentage of the foreign respondents worked in the private sector (23/49). The second largest job category for the foreign respondents was retired (9/50). There were 8/49 foreign men working in education either in Cambodia or in their home country. The number of foreign respondents who worked in NGOs or in the public sector was equal, 4/49.

The majority of all the men interviewed were single (44/100) followed by married men in second (37/100). Twenty-seven of the 37 men interviewed who were married were Khmer. Nine of the 11 men divorced were foreigners. Many Cambodian men were married and few were divorced.

View of Women

The participants were asked for their general view of women and out of 99 respondents 52/99 (52%) answered they have a positive view of women, 9/99 (9%) a negative view and 38/99 (38%) a neutral view of women. The Khmer respondents made up the majority of those who answered neutral, 27/49 (55%) and the foreigners made up the majority of those having a positive view of women, 35/50 (70%).
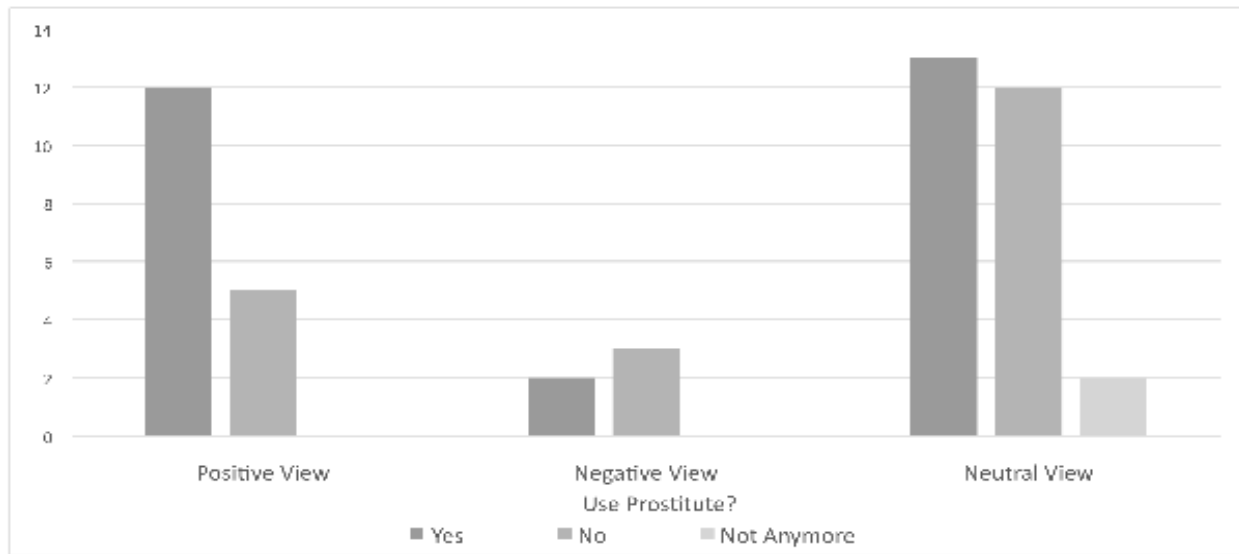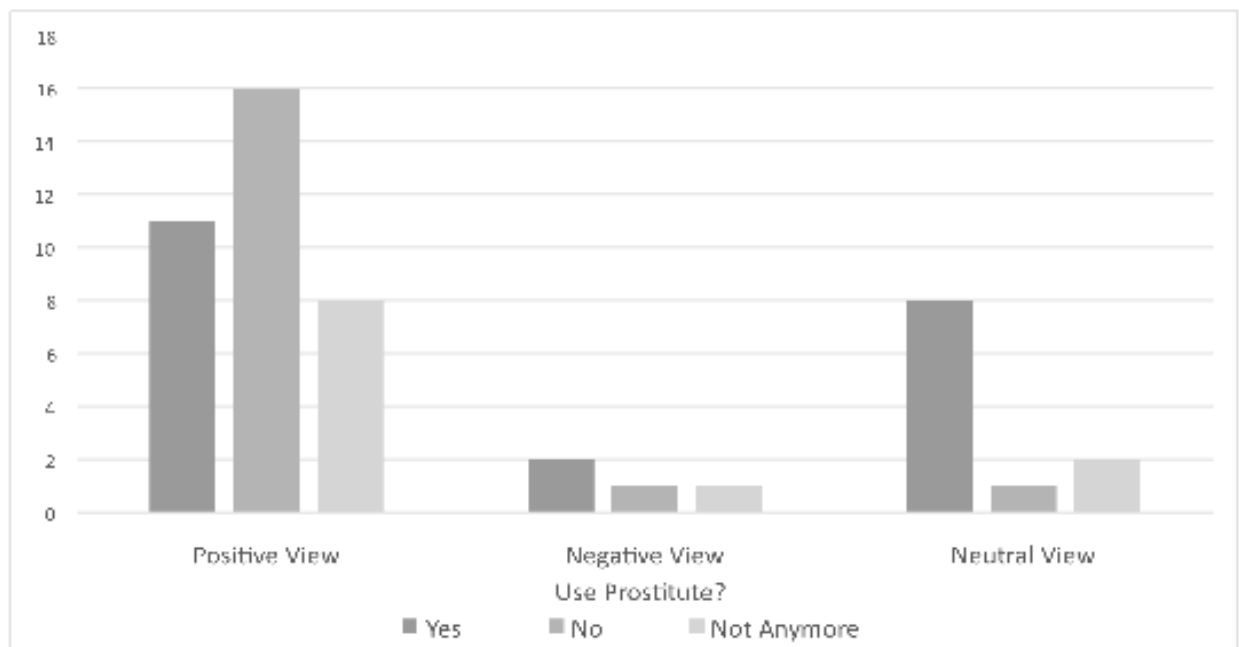
Figure 1: Khmer General View of Women

Figure 2: Foreigner General View of Women

View On and Use of Prostitutes

The participants were asked about their general view on prostitution. Seventeen out of ninety-nine (17%) answered that they had a positive view

towards prostitution, 27/99 (27%) had a negative view of prostitution, and the majority, 55/99 (55%), answered they had a neutral view of prostitution. The second largest majority of the foreigners, 12/50 (24%) said they had a positive view of prostitution and the second largest majority of the Khmer, 18/49 (37%), said they had a negative view. Furthermore, the men were asked why they had a positive, negative, or neutral view of prostitution. This was an open-ended question to give the men the chance to explain in their own words. A common answer of foreign men with a positive view on prostitution is that these 'girls', referring to young women working as sex workers in Southeast Asia, have no other choice of earning money to support their families and so it is seen as "a good way", sometimes seen as even "the only way", for them to earn money. Another reason given by foreign men for having a positive view of prostitution was that in their opinion there would be many more rape cases without prostitution. For Khmer men a main reason for a positive view was that prostitution is seen as a good way to relieve sexual tension.
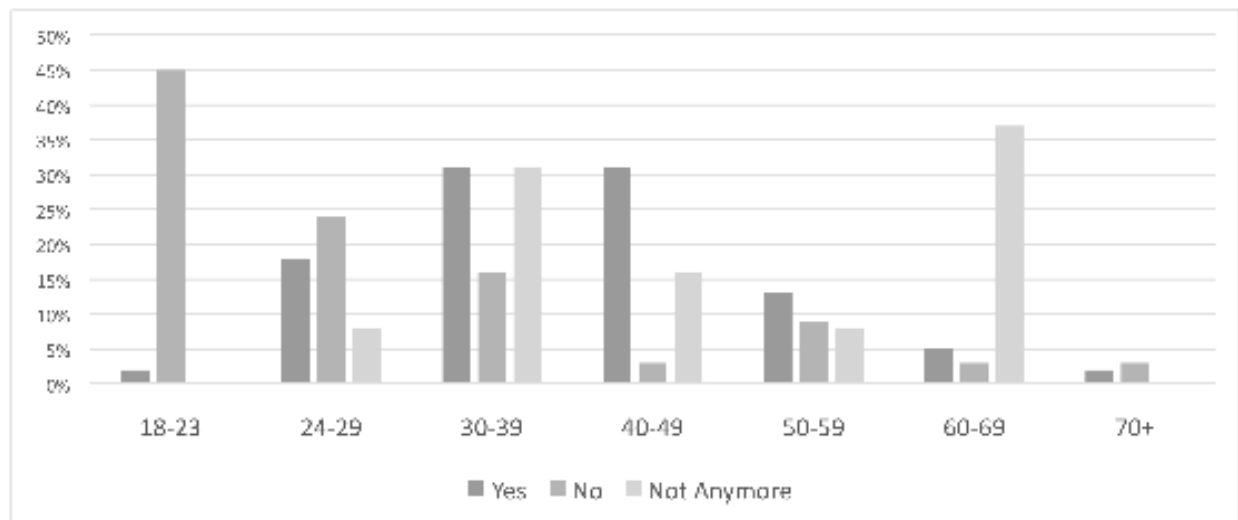

Figure 3: Prostitution Use by Age

For the respondents who admitted to currently using the services of prostitutes and those who had in the past, 49 respondents (28 Khmer and 21 foreign) were currently using prostitutes. Thirteen respondents (two Khmer and 11 foreign) were not using the services anymore but had used them in the past. Out of 49 responses from both Khmer and foreign men, the majority, 26/49 (53%), paid for sex with 50 or more prostitutes in their lives. The second largest majority, 13/49 (27%), paid for sex with between one and five prostitutes.

The men were asked how old they were when they first used the service of a prostitute. Out of 57 respondents, the largest age group was 18-21 years old, with 15/57 (26%). The second largest age group was 22-25, with 14/57 (25%), and the third largest was 26-29, 10/57 (18%). The Khmer responses had a clear bell curve starting from 16 up until 35 years of age, with the majority in the age group 18-21. In comparison, the foreign responses were distributed fairly evenly among every age group. Out of the 31 Khmer responses, everyone who had used prostitutes had used the services for the first time before the age of 36. Two foreign respondents had sex with a prostitute by the age of 13-15 years.

<center>View of Pornography and Influence on Prostitution Habits</center>

More Cambodians, 42/50 (84%), admitted to viewing pornography compared to 29/49 (59%) foreigners. Of the 84% of Cambodians who viewed pornography, 24/50 (48%) paid for sex, 16/50 (32%) had not paid for sex, and 2/50 (4%) had stopped paying for sex. Of the 59% of foreigners who viewed pornography, 12/49 (24.5%) paid for sex, 12/49 (24.5%) had not paid for sex, and 5/49 (10.2%) had stopped paying for sex. With the Cambodians, a higher percent that viewed pornography also had sex with prostitutes (48%).

Of the Cambodian men who were interviewed, 8/50 (16%) answered that pornography is positive, 22/50 (44%) said negative, and 20/50 (40%) said neutral. Among the foreign men, 9/50 (18%) said positive, 10/50 (20%) said negative, and 31/50 (62%) said neutral. More Cambodian men viewed pornography in a negative light compared with foreigners. A common response for Khmer respondents who said that pornography did influence their prostitution habits was that pornography was a sort of educator for the men, and they would like to experience the various techniques they saw in pornography with a prostitute.

Khmer			Foreigner		
Positive	Negative	Neutral	Positive	Negative	Neutral
19%	38.10%	42.90%	24.10%	6.90%	69.00%

<center>Table 1: General View Toward Pornography</center>

Researchers asked the men if pornography influenced their prostitution habits. The majority of Cambodians, 18/34 (52.9%), stated that pornography had

influenced their prostitution habits. Over a third of foreigners, 9/26 (37.5%) stated that pornography had influenced their prostitution habits.

Results of the MSMSW Study

Demographics

Consistent with the demography of Cambodia's population, the Khmer men interviewed were largely younger. All were under the age of 50, with 24 men being between the ages of 20-29. The foreign participant group had more age diversity with ages ranging from the early 20s to one man in his 70s.

All of the Khmer respondents were born and currently lived in Cambodia. The foreign respondents were predominately from Europe, 10/23, and Australia or New Zealand, 8/23. There were 3/23 foreign respondents from North America and 2/23 were from Asian countries other than Cambodia.

The largest amount of Khmer respondents worked in the private sector, 34/51. The majority of these men said they worked in hotels and restaurants. The second largest occupation among the Khmer men interviewed was full-time students, 7/51. The private sector was also the most frequent source of income among the foreign respondents, with 12/23 of the men working for privately owned businesses or being self-employed. Similar to the Khmer men who worked in the private sector, the majority of the foreign men worked in the service industry at either a restaurant or hotel.

The majority of the Khmer men were single at the time of the interview, 36/51. Eight of the Khmer men were married and all of them said they were married to women. Four of the 51 Khmer respondents were divorced and 3/51 were placed in a category of other because they had a boyfriend, were in a civil partnership, or engaged to be married. Ten of the 23 foreign men interviewed were single, 3/23 were divorced, and 8/23 were considered other. Two of the foreign men were married to each other at the time of the interview.

Sexual Orientation and Openness About Same-Sex Relationships

Orientation designates the gender of one's attraction and sexual desire, while identity refers to one's own sense of 'gender belonging' and the disclosed or undisclosed self-association with this gender. Gender expression is far more fluid than sexual orientation, gender identity, or biological sex. Gender expression refers to the way a person chooses to behave, dress, speak, etc. Through this behaviour and appearance, a person may align him or herself among traditional gender binary aspects of masculinity or femininity. Out of the 23 foreigner participants in this

research, 17 of the men identified themselves to be homosexual and six said they were bisexual. The highest number of foreign respondents understood their sexual orientation between the ages of 10-14. Virtually all the foreigners, 21/23, gave 'male' as their preference, whereas a significant number of Khmer gave both 'male' and 'female,' 17/51. The highest percentage of both Khmer and foreign men said their preference was for men. Since cultural perceptions of sexual orientation in Cambodia differ from the traditional Western definitions, the researchers used the questions to verify the respondents did in fact have sexual intercourse with men, thus making them suitable to participate in the study.

Seventeen of the foreign respondents said that they were open about their sexuality with everyone in their lives and only one foreign respondent answered that he was not open with anyone. There was a split between the Khmer men who were open with everyone in their lives and those who were open with only their friends. The respondents were asked if they had encountered any discrimination because of their sexuality. For Khmer, 27/51 said they received discrimination because of their sexuality, and 14/23 foreigners said they had as well.

Use of Prostitution

There is a visible age difference between the Khmer and foreign groups with regards to first use of prostitutes. Buying sexual services from male sex workers was reported by foreign participants to have most frequently (7/19) begun after the age of 40, whereas it was said to have begun before the age of 18 by 14/46 Khmer participants and most frequently (21/46) among Khmer men aged 18 to 21 years.

Of the respondents, 47 Khmer and 19 foreign men had paid for sex with men. However, this excludes the one Khmer and one foreign respondents who said that they had never paid for sex with men, but also reported having received an erotic massage before. Thus, 48/51 Khmer and 20/23 foreign interviewees stated having paid for sexual services from male sex workers. Moreover, just over half (27/51) of the Khmer population interviewed and about a sixth (4/23) of the foreigners reported having received compensation for sex. This involved money and other forms of payment.

Ninety percent (46/51) of Khmer men had purchased sex, along with 15/23 (65%) foreigners. Four foreign men and one Khmer man purchased sex in the past but a noteworthy amount of time had passed since they had done so. The vast majority of the Khmer and foreign men who had purchased sexual services reported having a neutral or negative view of prostitution. In most cases, the neutral response did not signify that the interviewee had no particular opinion on the issue, but rather saw both positive and negative aspects to prostitution. Both

groups of respondents who had a negative view of prostitution spoke of prostitution as a dangerous profession and an objectionable source of revenue.

Even with a simple understanding of prostitution being payment for sex, it is crucial to be aware of circumstances in which it remains ambiguous whether the payment is being made for sex. Since this study focused on the demand for male sex workers, and as payment for the sex is made in various forms, respondents were asked whether they had ever paid or offered compensation in exchange for sex with men. There were three main paradigms that the respondents have encountered while purchasing sex. They describe the different ways that a male sex worker would acquire financial benefit from their clients.

Money-boy	The agreement and price of exchanging money for sex is discussed up front before sexual intercourse takes place.
Baiting	No money is discussed before sexual intercourse, but when the activity is finished the 'seller' asks the 'client' for money for something other than the sex i.e. to fix his motor-bike, or to support a family member who is in the hospital.
Professional Boyfriend	A man and a sex worker are in a relationship together- typically the non-sex worker helps financially support his 'boyfriend' and there is often confusion and displacement of commitment and attraction levels between the two parties

Table 2: Three Paradigms of Giving Compensation Within the MSMSW Sex Industry in Cambodia

Roughly two-thirds (33/48) of the Khmer and about one-third (7/20) of the foreign interviewees who stated paying for sex reported having formed a romantic relationship with a male sex worker. Khmer respondents most often mentioned having had a prostitute as a sweetheart and/or giving him gifts, whereas a few foreigners mentioned having had a boyfriend who was a male sex worker, but that prostitution eventually negatively impacted their relationship. Both mentioned helping boyfriends who were male sex workers financially.

Thirty-six of the 51 Khmer respondents said they always wear a condom when having sex, one man said that he never wears one, and 14/51 of the Khmer men said they wear one depending on who their partner is. They expanded by saying if they trusted their partner it would depend and that they would always wear a condom if they were sleeping with a prostitute. Nine of the 23 foreign

respondents said that they always used a condom, one man said he never wears one, 2/23 said they sometimes wear condoms, and 11/23 said that it depended on the partner. The foreign men who said their condom use depended on the partner clarified if they were with a partner they would not wear a condom but with anyone else they would.

Views of Prostitution

On the whole, the Cambodian and foreign men interviewed had a fairly mixed view of prostitution saying some positives and some negatives about the industry and the individual sex workers themselves. When asked specifically about their views towards an individual prostitute, both the Khmer and foreigners had a more negative outlook. Many of the Khmer focused on how prostitutes had bad morals and a lower social standing whereas the foreign respondents said that the sex workers were deceptive and dangerous to their own personal safety. The vast majority of Khmer respondents (47/51) asserted that they see prostitutes differently from people who do not sell sex, whereas about two-thirds of the foreign participants (15/22) stated they saw no difference. Slightly over half of the Khmer participants (27/51) replied they would treat prostitutes differently from men known not to engage in commercial sex. For the foreign participants, the trend remained essentially the same, with most of them (17/22) responding that they would treat prostitutes no differently than non-prostitutes.

Pornography and Prostitution Use

There appeared to be a positive correlation between the uses of pornography and prostitution among the Khmer men, with 37/48 answering this way. It appeared to be the opposite among the foreign respondents, with only one man saying watching pornography influences his prostitution habits. There was an overwhelming response of Khmer men who said that they would watch pornography and then would seek to pay for sex afterward (15/26). Three of the Khmer respondents said they watched pornography so that they could learn new techniques to use, implying that they used pornography as a sexual education tool.

Discussion

Demographics

In the MSFSW study, the age of the respondent was a major factor in if a person uses a prostitute or not. The percentage of the respondents who have never

used a prostitute begins to taper off after the youngest age group, while the percentage of the 'currently use' and 'have used in the past' respondents begins to grow exponentially. Sixty-two percent of the MSFSW respondents who currently use prostitutes fall into the 30-49 age range, along with 46% of the 'not anymore' respondents. Respondents were asked why they had not had sex with a prostitute. Many Cambodian respondents who were under 24 years old had not lost their virginity yet. Some Khmer respondents said they were nervous about having sex, especially sex with a prostitute, because a common understanding is that prostitutes are 'very good' at having sex. Some foreign youth respondents would not pay for sex because they could get it "for free" with a girlfriend or female acquaintance. A possible reason could be that in Western countries, it is seen to be culturally more acceptable for women to have sex before marriage. Virginity in Cambodia is highly prized, so women who have sex outside of marriage are seen as highly promiscuous.[23]

Sexual Orientation

Many of the Khmer men interviewed in the MSMSW study appeared to show a misunderstanding when they were asked how they would define their sexual orientation because in Cambodia and other Southeast Asian cultures sexual orientation is inherently linked to gender identity. For example, when asked about his 'openness' with family and friends regarding his sexual orientation, one Khmer respondent was adamant about being heterosexual, even though he had intercourse with men. He said, "There is nothing to be open about. I'm completely straight." The sample group in this study appeared to show an understanding of sexual orientation in Cambodia congruent with previous research on this topic.

View of Prostitution

One of the most interesting findings in MSMSW study was that a little over half the Khmer men interviewed had both bought and sold sex. A certain 'life-cycle' of switching from the selling of sex to the buying did unfold. An example of this 'life-cycle' is captured in a quote from one of the Khmer participants, "When I was younger, I needed money and everyone wanted to buy me. I also enjoyed the sex and I could eat good meals. Now I am mostly the buyer and as long as I don't hurt anyone it's okay." A man describing the advantages of paying for sex gave a quote further describing this oversight; "Because I have money, I buy sex. I don't

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[23] Jennifer Collins and Kuch Naren, 'Two unsolved rapes and killings belong to a larger trend as more Cambodians report sexual assaults," *The Cambodia Daily.* retrieved 14 May 2004, https://www.cambodiadaily.com/stories-of-the-month/two-unsolved-rapes-killings-belong-to-a-larger-trend-as-more-cambodians-report-sexual-assaults-376/

care what society thinks because I never force prostitutes to go with me. They need money, so I give it to them." Many foreigners and only a few Khmer, though not necessarily confined to moral uneasiness, implied forms of discomfort with engaging in paying for sex. The majority of the Khmer respondents, versus approximately half of the foreign respondents said they felt positive afterwards. None of the Khmer responses expressed moral reservations but rather there appeared to be a societal normalcy to paying for sex among this research's sample group.

What emerges from the open answers given to all the questions about the view of prostitution appears to be a more neutral view on prostitution. The majority of respondents in both studies had a neutral view of prostitution (55/99 in the MSFSW study and 50/72 in the MSMSW study). There were certain negative views towards prostitutes themselves. In the Khmer group, several interviewees mentioned the sex workers' lower social standing, whereas participants spoke of their limited skills and opportunities. Respondents in both groups associated prostitutes with dangers to personal safety or property, sometimes implying and sometimes openly citing their involvement in or association with risky or illegal activities. Several Khmer participants stated that prostitutes have lower moral standards than other people, while foreigners tended to express the perspective that prostitutes do what they do out of need.

	MSFSW Responses	**MSMSW Responses**
Khmer	"It's a release of sexual tension...after sleeping with a prostitute I don't feel that sexual desire anymore." "I was nervous because I didn't know if I had the ability to have sex, and prostitutes are very good in doing sex."	"Because I have money, I buy sex. I don't care what society thinks because I never force prostitutes to go with me. They need money so I give it to them." Themes: It is their business or choice; they do it because there is a demand; it is necessary, it is natural to need sex.
Foreign	"In the West it is different, there are many opportunities there for women and they don't have to prostitute themselves. Here, there is little education and jobs are scarce so some women have to." "It's a win-win-situation for both, I have sex and so I help her [the prostitute's] family."	"It has not much to do with intimacy. There is also the risk of encouraging them to stay in the industry rather than leaving it." Themes: Prostitutes need money and lack skills or alternatives; prostitution can be exploitative.

Table 3: Comparison of responses to question on view of prostitution

The Khmer respondents of the MSFSW study who had a neutral view of prostitution gave reasons that were of a different nature than those from the foreigners. While the Khmer men focused on more intrinsic factors, the Western men were largely focused on extrinsic factors. Of the Khmer population, the only respondents with a positive view on prostitution were the five who were currently paying for sex, appearing to show that there is a higher focus on the neutrality or negativity of prostitution among the Cambodian population. Khmer men who answered having a negative view on prostitution actively participated in the industry because they said it is a man's right to have sex and that a man takes care of his sexual urges by sleeping with women as opposed to masturbation, which

taboo in Cambodian culture. The most common response given by Khmer men to the question about how they feel after sex with a prostitute was 'normal'. This indicates a sense of normalcy after paying for sexual release with a prostitute. The majority of foreign men responded as feeling positive after having paid for sex, which could be based on the reason for seeking out a prostitute for pleasure or companionship instead of simply for sexual release. The findings suggest the foreign population interviewed was more conscious of a greater range of potentially negative impacts surrounding the practice of paying for sex than the Khmer population interviewed.

View of Women

In the MSFSW study, a common assumption was that men who have sex with prostitutes have a lower view of women. Close to 50% of the foreign men who were currently buying services from prostitutes had either a negative or neutral view of women. In contrast, men who had never paid for sex or did not want to pay for sex anymore rarely answered negative or neutral. The majority of foreign men answered 'positive' when asked about their view on women, whereas a majority of the Khmer respondents answered 'neutral'. The lack of a strong opinion on women by Khmer men can be seen as symptomatic of the cultural structures. The rigidness of these structures appears to not allow for personal interpretation, but rather a collective understanding that being 'Khmer' means living within these norms. In contrast, Western society may have more of a culture of individuality, which allows for more divergent opinions to be formed through personal experience and not social norms.

Relationship between Pornography and Prostitution Use

Pornography appeared to be the largest influencer for Khmer men in the MSFSW study to seek prostitutes, with 80% of the men answering that they were influenced by pornography. Since there is a cultural taboo on masturbation in Cambodia, these men said that after watching porn they would be sexually aroused and would seek to pay for sex instead of releasing that tension themselves. The Khmer interviewees also said that they wanted to experience the various positions and activities they had seen within the pornographic material, and thus, was another reason to seek a prostitute.

In the MSMSW study, when asked if their pornography viewing affected their prostitution habits, the majority of responses among the Khmer were affirmative, compared with only one affirmative response among foreign men. The vast majority of reasons given was along the lines of wanting to try what they had

just seen in a video or increased sexual desire shortly afterwards. Taken together with the responses from the Khmer men interviewed, pornography appears to have some part in fueling unrealistic expectations towards sexual relationships within the sample, which in turn can affect prostitution use.

Summary

A handful of the Khmer responses indicated a broader understanding of prostitution as consisting of both the supply and demand, but the foreign men gave even more responses of this nature. For example, the foreign participants reasoned that because there is a demand there should be a supply. However, most of the foreigners' responses were focused on the situation of the prostitute, including some that stated that prostitution could be exploitative. Amongst those with negative views, most foreigners saw problems with the industry itself, whereas most Khmer men saw the supply as the cause of the problem. Whether or not Khmer respondents were aware of the exploitation present in prostitution can only be indirectly inferred, the focus of their answers was most certainly not upon this area.

Conclusion and Recommendations

Organizations operating without a deep understanding of the complex issues surrounding the sex industry in Southeast Asia can only offer simplistic solutions because they do not understand the complexity of the viewpoints of the demand population. The "Listening to the Demand" two-part study conducted by independent researchers on the sex industry in Cambodia delivers information on the differences in culture between the foreign and Khmer men who seek to pay for sexual services. The respondents' answers provide a deeper knowledge of the beliefs and behaviours among the demand.

The research findings show that the reasons to pay and not pay for sex appear to be different between the foreigner and Cambodian populations. The Cambodian men interviewed tended to give intrinsic responses to these questions, whereas the foreign responses tended to be more extrinsic. The Cambodian men stated that a disadvantage to buying sex is that it is a waste of their own time and money, and they were at risk of contracting STIs. The foreign men said that a disadvantage is the safety of the sex workers themselves. In the MSMSW study, Khmer men interviewed viewed prostitution as negative because it was bad for society and not necessarily for the individual who is selling sex. As a result, NGOs doing outreach need to approach these two populations with two different campaigns. A campaign to the foreign population may focus on the impacts of

prostitution on the women themselves and their relationship with their families. A campaign to reach out to the Cambodian men needs to focus more on the impact of prostitution use on their own family and economic situations. There needs to be an understanding of the everyday challenges that prostitutes face so that they are seen as people of equal value and not sub-human.

This and other past research on Khmer males appear to show that there are static cultural boundaries defining how a 'real' Cambodian man is to behave. Material needs to be developed within sex education courses specifically on gender identity. This sex education course needs to highlight healthy sexual activities that encourage safety. Educating communities regarding the risk of contracting and transmitting HIV/AIDS and other STIs are an important ongoing service in Cambodia. There also appears to be a lack of formal sexual education for men in Cambodia who have or want to have sex with other men. The reduction of high-risk behaviours within this community (such as an awareness of the need to use a condom, water-based lubricants, communication between partners about comfort levels, etc.), can and will promote greater health and wellbeing among men in Cambodia. As seen in this research, the use of pornography influenced 80% of the Khmer men interviewed into paying for sex with men. The reason Khmer men said that porn influenced their prostitution habit was that they wanted to experience the various activities they had seen in the various pornographic videos. This can be seen as porn being a sex educator, which can be dangerous for the viewer to be given unrealistic expectations during sexual activity. Pornography may be seen to encourage self-gratification rather than mutual love and respect; pornography can also create feelings of unattainable body images and libido of self and sexual partner.

There was a higher proportion of Khmer men who were open about their sexuality than initially expected, showing there appears to be a changing climate among the Khmer population and sexuality. However, this research appears to show that about a third of the Khmer men who expressed that they were 'not comfortable' talking about their sexuality among family, friends, and colleagues. These stigmas could be further lessened through the education of the larger Cambodian population to not discriminate against people of different sexualities, and that the LGBT individual can live as an equal within society.

The faith-based communities need to work more closely with the LGBT community. Individuals and organizations need to put aside any pre-conceived understandings so that there is time to consider just how we can best help exploited people. Faith-based organizations have often chosen to ignore these issues because of concerns of how they will be perceived, but listening and collaborating with those who understand this community better (the LGBTQ community) seems to be the best way forward. The results led the research team to consider if there are

particular ways that the LGBT and faith-based communities can be encouraged to protect young gay men from being exploited. Through an increased understanding of the male demand and their experiences, it is hoped that exploitation of male sex workers can be combated.

There is a need for further research on the demand for the sex industry in Southeast Asia, specifically on the psychology behind why men pay for sex. There is also a need to understand the high rate of MSMSW individuals in Cambodia who have bought and sold sex. These types of research would help the anti-trafficking community further understand the complex factors of inequality in order to offer culturally appropriate solutions.

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Acknowledgments

Measuring Government Responses to Modern Slavery: Vietnam Case Study

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Abstract

In 2014, the Walk Free Foundation released the second edition of the Global Slavery Index (the Index). The annual report estimated the number of people in modern slavery in 167 countries, assessed government responses to this issue, and examined the factors that contribute to risk of enslavement. This paper will provide an overview of the evolution of the government response component for the 2014 edition of the Index, explore the challenges involved in quantifying a government response to modern slavery through an examination of the situation in Vietnam, and highlight how the conceptual framework attempts to capture the various social, political and cultural intricacies involved in responding to modern slavery. Finally, the paper will discuss some of the limitations of applying a comprehensive framework to varied socio-political contexts, and identify potential ways forward as the Walk Free Foundation strives to address the gaps in research on responses to modern slavery.

In the decades following the 1926 Slavery Convention, the fourth major anti-slavery movement[1] has made progress in estimating the prevalence of modern forms of slavery across the world[2] and in developing an understanding of effective responses. Despite this progress, fragmented empirical data and non-comparable international, regional and national monitoring and evaluation frameworks continue to plague eradication efforts for all forms of modern slavery, including human trafficking. Insufficient data is widely claimed as the fundamental barrier, as a result of different operational definitions, inconsistent data collection methods, and overall poor victim identification and prosecution efforts, particularly in

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[1] Kevin Bales "Unlocking the science of Slavery" *Slavery Today Journal* [online]. (2014) 1 (1), available from: http://www.kevinbales.net/uploads/1/1/4/2/1142278/unlocking_the_science_of_slavery.pdf

[2] Recent efforts include the prevalence estimation work of the Global Slavery Index, the International Labour Organization, and the United Kingdom Government

regions of the world with suspected high prevalence of modern slavery.[3] Further to this, critics argue that current frameworks for assessing national and international responses to human trafficking are 'based on presumptions about the processes and key players that do not reflect the reality of the situation'.[4] Despite our constantly evolving understanding of the nature and extent of modern slavery,[5] limited opportunities to share good or promising practices at the national, regional or global level have stymied efforts to learn from and disseminate key lessons on how to respond effectively. The need to improve our understanding of the impact of current efforts to respond is, however, well recognised.[6]

While definitional issues are not central to this article, it would be remiss to ignore the central role definitions play in much of the contemporary debate[7] and the complexities this creates in any assessment of responses to modern slavery. Human trafficking and modern slavery could be considered two faces of the same coin, in that as activities they are often used interchangeably, or as distinct crime types. The issue with this definitional inconsistency, particularly in relation to developing effective policy and programme responses, is that the response is either

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[3] For example, the UNODC Global Report on Trafficking is based on a total of 40,177 reported victims, while current estimates of modern slavery range from 20.9 million forced labour victims (ILO) and 35.8 million (Walk Free Foundation). UNODC, "Global Report on Trafficking in Persons" (2014): https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf. See also Liberty Asia, "From Experience: How to Combat Modern Slavery In Our Generation", (2014) *Anti-Slavery Think Tank:* https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf

[4] Sanja Miliojevic and Marie Segrave, "Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms", in *Human Trafficking: Exploring the International Nature, Concerns and Complexities,* ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group; Katharine Bryant, "Identifying what works: a meta-analysis of modern slavery evaluations", *Walk Free Foundation* (2015), http://www.globalslaveryindex.org/category/publications/reports/, p. 6.

[5] Monti Narayan Datta and Kevin Bales, "Slavery in Europe: Part 1, Estimating the Dark Figure", *Human Rights Quarterly,* 35 (2013) 817 – 829; Kevin Bales "Unlocking the science of Slavery" *Slavery Today Journal* [online]. (2014) 1 (1), available from: http://www.kevinbales.net/uploads/1/1/4/2/1142278/unlocking_the_science_of_slavery.pdf;

[6] Various initiatives have been established to increase this understanding- the establishment of UN.GIFT in 2007, the Freedom Collaborative established by Chab Dai (http://www.freedomcollaborative.org/) as well as recent discussions at Inter-Agency Coordination Group against Trafficking in Persons. See also ICAT, "The International Legal Frameworks concerning Trafficking in Persons" (2012) Issue Paper 1: http://www.ungift.org/doc/knowledgehub/resource-centre/ICAT/ICAT_Policy_Paper_1_The_International_Legal_Instruments.pdf; Liberty Asia, "From Experience: How to Combat Modern Slavery In Our Generation", (2014) *Anti-Slavery Think Tank: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf*; Katharine Bryant, "Identifying what works: a meta-analysis of modern slavery evaluations", *Walk Free Foundation* (2015), http://www.globalslaveryindex.org/category/publications/reports/, p. 1; Monti Narayan Datta and Kevin Bales, "Slavery in Europe: Part 1, Estimating the Dark Figure", *Human Rights Quarterly,* 35 (2013, p. 205; Kevin Bales "Unlocking the science of Slavery" *Slavery Today Journal* [online]. (2014) 1 (1)

[7] Fiona David, "When it Comes to Modern Slavery, do Definitions Matter?" *Anti-Trafficking Review* 5 (2015), pp. 150-152

too narrow to capture all related forms of exploitation, or too broad, leaving responses at risk of being ambiguous and poorly understood and applied. In the context of assessing government responses in this article, however, the term *modern slavery* is a catch-all term for different exploitative practices such as forced marriage, debt bondage, forced labour and human trafficking. It provides the scope to capture all components of a comprehensive response, including the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol), the 'three P' approach,[8] and the criminal justice framework that underpins it.

This article provides insight into one of the first efforts to quantify and measure responses to modern slavery country-by-country. In 2013, the Walk Free Foundation released the first edition of the Global Slavery Index under the premise that in order to eradicate something, it must first be measured. In 2014, the Index included an expanded government response component to provide an analysis and country level rating of 167 governments.[9] Governments were assessed against five dimensions: their efforts to support victims of modern slavery; the existence of criminal justice mechanisms to prosecute offenders and protect victims; efforts to coordinate the response and demonstrate accountability of responsible parties; actions to address various risk factors such as social systems and institutions that enable slavery to exist; and the existence of legislation and policies to regulate public procurement and business supply chains.[10] The Index forms one part of the Walk Free Foundation's overall strategy to eradicate slavery, which includes a global activist movement and raising unprecedented levels of capital to drive change in countries bearing the greatest responsibility for modern slavery today.[11]

It is not the aim of this article to significantly engage with, or challenge the continually expanding body of literature that examines key international, regional

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[8] The "Three P" approach is outlined in the UN Trafficking Protocol: "(a) To prevent and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives." See United Nations Office on Drugs and Crime, "International Framework to Implement the Trafficking in Persons Protocol" (2009) New York, United Nations: https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf. The United States Victims of Trafficking and Violence Prevention Act (TVPA) 2000 also sets out the "Three P" approach that underpins the strategy the US Government takes to address human trafficking both domestically and internationally. This approach traditionally outlines three key elements; prosecution, protection and prevention, with the recent addition of a fourth 'P'- partnerships.

[9] The Index currently focuses on the responses of the government as the key stakeholder with responsibility for responding to modern slavery. There is potential to expand this component to look at other stakeholders such as business and civil society

[10] See Appendix of the Global Slavery Index for a more detailed breakdown of the conceptual framework. Available at www.globalslaveryindex.org

[11] See www.walkfreefoundation.org

and local responses to modern slavery (in all its forms),[12] rather it is to present a previously un-tested methodology in an effort to progress our understanding of the actions governments can take to respond to this issue and to engage with the idea of a globally applicable monitoring framework. Therefore, this article will focus specifically on the measurement methodology underpinning the 2014 Index's government response component,[13] including the conceptual framework and the quantification method adopted to measure changes in government efforts. The Vietnamese Government response to slavery is examined to illustrate how this methodology was applied, and explores the utility of a global conceptual framework in measuring responses to complex crime types and the methodological challenges this presents. While there has been criticism of the Index[14] and authors of the Index recognise the challenges in measuring modern slavery,[15] this article demonstrates how the government response component of the 2014 Index offers a solid baseline to begin to understand government actions and gaps, as well as providing the beginning of a roadmap to eradication.

Government responses to modern slavery - current frameworks, limitations and information gaps

The government plays a critical role in developing and implementing the laws, policies and programmes that are required to respond to complex crime types, such as modern slavery. While they will not necessarily do this in isolation, as the primary body responsible for the protection of their citizens, the Index is based on the assumption that responding to modern slavery falls under the remit of the national government.

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[12]ICAT, "The International Legal Frameworks concerning Trafficking in Persons" (2012) Issue Paper 1: http://www.ungift.org/doc/knowledgehub/resource-centre/ICAT/
ICAT_Policy_Paper_1_The_International_Legal_Instruments.pdf; Liberty Asia, "From Experience: How to Combat Modern Slavery In Our Generation", (2014) *Anti-Slavery Think Tank: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf;* Jacqueline Berman & Phil Marshall, "Evaluation of the International Organisation for Migration and its Efforts to Combat Human Trafficking", (2011) *Norwegian Agency for Development Cooperation*

[13] The next edition of the Global Slavery Index is due for release in the second quarter of 2016. This includes updates to the methodology addressing some of the limitations presented here.

[14] J.A Chaung "Giving as Governance? Philantrocapitalism and Modern-Day Slavery Abolitionism" *UCLA Law Review,* (2015) 1516; Anne Gallagher, "The global slavery index is based on flawed data - why does no one say so?", *The Guardian,* 29 November 2014, Available from: http://www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher

[15] Fiona David "Global Slavery Index researchers welcome constructive criticism" *The Guardian,* 16 January 2015, available from: http://www.theguardian.com/global-development-professionals-network/2014/jan/15/letters-slavery-index-welcomes-criticism

While individual governments and regional bodies may have internal monitoring and evaluation frameworks underpinning their response to modern slavery, understanding the effectiveness or the impact of these responses is fragmented at best. As the causes or facilitating factors of modern slavery become increasingly interconnected and visible,[16] the need to understand the impact of these responses is indisputable. While there are a range of tools, guidelines and frameworks to support the implementation of broader international responses,[17] critics argue that the principles which the UN Trafficking Protocol and other response mechanisms are based on are too heavily focused on criminal justice policies.[18] This has arguably resulted in performance indicators that lack the scope to determine the impact of interventions and policies outside the criminal justice system, and, more specifically, the impact on human rights, victims, and potential victims.[19] As our understanding of the nature of slavery, and its impact on society improves, there is an emerging consensus that the criminal justice approach is not enough. [20] In light of this, there has been a call to government to view slavery as not only a human rights abuse deserving prosecution, but an issue of human security, which requires a far wider approach. Despite the improved understanding, almost ten years after the United States Department of State's Inspector General called for "performance indicators to compare progress in combating trafficking from year to year",[21] there is still a significant gap in our understanding of effective anti-slavery (or anti-trafficking) interventions at the international, regional and local scale. Further, there are few mechanisms that move beyond the traditional

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[16] Kevin Bales, "New Slavery: a reference handbook" (2004), Santa Barbara, California; Kevin Bales, "Winning the Fight: Eradicating Slavery in the Modern Age", *Harvard International Review,* 31(1) (2009): 14-17;

[17] See the United Nations Office on Drugs and Crime, "International Framework for Action to Implement the Trafficking in Persons Protocol", (2009), New York, United Nations: https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf

[18] Alex Kreidenweis and Natalie F. Hudson, "More Than a Crime: Human Trafficking as Human (In)Security", *International Studies Perspectives,* 16 (2015): 67 – 85; Sanja Miliojevic and Marie Segrave, "Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms", in *Human Trafficking: Exploring the International Nature, Concerns and Complexities,* ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group

[19] Ibid; Anne T Gallagher and Rebecca Surtees, "Measuring the Success of Counter-Trafficking Interventions in the Criminal Justice Sector: Who decides – and how?", *Anti-Trafficking Review,* 1 (2012): http://www.antitraffickingreview.org/index.php/atrjournal/article/view/17/19

[20] Alex Kreidenweis and Natalie F. Hudson, "More Than a Crime: Human Trafficking as Human (In)Security", *International Studies Perspectives,* 16 (2015): 67 – 85; Kevin Bales, "The Social Psychology of Modern Slavery" (2002), *Scientific American,* April 23: http://www.kevinbales.net/the-social-psychology-of-modern-slavery.html

[21] United States Government Accountability Office (USGAO), "Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad", USGAO, Washington, DC, 2006, p. 25.

anti-trafficking criminal justice approaches to inform a comparative global assessment of responses.

This is not to say there are no global or regional mechanisms or guidance on the actions governments should be taking to respond to modern slavery. In 2000, the United States Department of State released the first edition of its annual *Trafficking in Persons (TIP) Report,* which now documents the efforts of 187 governments to meet the standards outlined in the Victims of Trafficking and Violence Prevention Act, 2000 (TVPA Act). Efforts to meet these standards are assessed against the 'three P approach', and are tied to aid and non-trade related relationships with the United States.[22] Non-compliance is managed through diplomatic networks and threats of economic sanctions.[23] In an effort to provide technical assistance to member states of the UN Trafficking Protocol, a collaboration of UN agencies released the *International Framework for Action to Implement the Trafficking in Persons Protocol.[24]* The framework outlined the key objectives, with a narrative on related interventions and an overview of the key challenges that member states may face in doing so.[25]

Closely aligned to the arguments supporting international frameworks to shape anti-slavery interventions and policies, is the call for 'impact evaluations' and more rigorous monitoring and evaluation efforts.[26] Since 2009, the United Nations Office on Drugs and Crime (UNODC) has released the Global Report on Trafficking in Persons as part of the United Nations Global Plan of Action on Trafficking in Persons. The report provides an overview of the patterns and trends in trafficking in persons at the global, regional and country level, with the aim of supporting the development of evidence based responses.[27] Similarly, the United States Bureau of International Labor Affairs, under the direction of the Department of Labor, releases an annual report on the worst forms for child labor, which

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[22] Alese Wooditch, "The Efficacy of the Trafficking in Persons Report: A review of the evidence" (2011), *Criminal Justice Policy Review,* 22(4), pp. 471 – 491.

[23] United States Government Accountability Office (USGAO), "Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad", USGAO, Washington, DC, 2006, p. 25.

[24] United Nations Office on Drugs and Crime, "International Framework for Action to Implement the Trafficking in Persons Protocol", (2009), New York, United Nations: https://www.unodc.org/documents/human-trafficking/Framework_for_Action_TIP.pdf

[25] Ibid.

[26] Anne T Gallagher and Rebecca Surtees, "Measuring the Success of Counter-Trafficking Interventions in the Criminal Justice Sector: Who decides – and how?", *Anti-Trafficking Review,* 1 (2012): http://www.antitraffickingreview.org/index.php/atrjournal/article/view/17/19

[27] United Nations Office on Drugs and Crime, "Global Report on Trafficking in Persons: 2014" *United Nations Publication,* available from: http://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf

"presents the status of the efforts of the 143 countries that benefit from US trade preferences to eliminate the worst forms of child labor".[28] Outside global reports, there are also several regional organisations and programmes that monitor trends and responses to modern slavery on a regional and country level. These include, but are not limited to, the South East Asian specific UN programme - the United Nations Action for Cooperation against Trafficking in Persons[29] and the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA). While many of these regional frameworks and responses do not differ greatly from the international mechanisms, some differ in their position on key issues and the role of different stakeholders, further demonstrating inconsistencies in the sector.[30]

While these reports represent invaluable contributions to the understanding and measurement of government responses to modern slavery, they do have limitations. The US Trafficking in Persons Report includes a measure of progress based on a tiered rating system that is linked to aid and non-trade flows and relationships. It has been criticised for being politicised, with an unclear or inconsistent application of the methodology behind the tier ratings..[31] The report has also been criticised for not adequately taking into account risk factors.[32] While the UNODC Global Report on Trafficking in Persons provides an overview of the reported cases, vulnerabilities and a basic overview of government responses, the measure of progress that each country and region is making on this issue is largely limited to changes in the number of prosecutions and number of victims identified and supported.[33] These reports provide valuable insight into the phenomena of modern slavery and the nature of responses; however limited and inconsistently collected data, and the lack of a comparative reporting framework that accounts for the modern slavery in all its forms, leaves gaps in our understanding of change.

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[28] United States Bureau of International Labor Affairs, "Findings on the Worst Forms of Child Labor", *United States Department of Labor,* 2014: p. vi: http://www.dol.gov/ilab/reports/child-labor/findings/2014TDA/2014TDA.pdf

[29] UN-ACT, formerly United Nations Interagency Project on Human Trafficking. See un-act.org

[30] Sanja Miliojevic and Marie Segrave, "Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms", in *Human Trafficking: Exploring the International Nature, Concerns and Complexities,* ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group

[31] J. Szep and M Spetalnick, "Special Report: State Department watered down human trafficking report", *Reuters,* 4 August 2015, available from: http://www.reuters.com/article/2015/08/04/us-usa-humantrafficking-disputes-special-idUSKCN0Q821Y20150804

[32] A Horning, A Thomas, A Henninger and A Marcus, "The Trafficking in Persons Report: a game of risk" *International Journal of Comparative and Applied Criminal Justice,*38(3), 2014: 257–28

[33] United Nations Office on Drugs and Crime, "Global Report on Trafficking in Persons: 2014" *United Nations Publication,* available from: http://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf

While the Index does not claim to address all of the issues identified throughout the sector (and is not without its own limitations), it offers a baseline to begin to measure the changes and impact of responses globally.

Vietnam case study

Vietnam offers an interesting insight into applying the global conceptual framework to a specific context. The following case study is largely based on research conducted in Vietnam with both government and non-government organisations working in the anti-slavery space. Vietnam has a range of socio-economic disparities that influence both the nature and strength of their response to modern slavery. As one of the middle-economies in South East Asia, Vietnam also provides a point of comparison for other countries in the region.

Modern slavery in Vietnam

Modern slavery is a complex crime type, and responding to it is fraught with challenges. The socio-economic and cultural disparity in Vietnam[34] means that the ways in which modern slavery manifest are broad and complex, creating a breadth of structural issues to respond to in order to eradicate slavery.

The 2014 Index estimated that there are 322,200[35] Vietnamese men, women and children subject to different forms of modern slavery.[36] Vietnam is typically recognised as a source country, with Vietnamese citizens enslaved in the United Kingdom, Eastern Europe, Australia and the Middle East.[37] Research into human trafficking for sexual exploitation of Vietnamese woman and children identified four main routes; Vietnam to China, Vietnam to Cambodia, Vietnam to Lao PDR en route to Thailand, and Vietnam to beyond the Mekong subregion.[38] Further

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[34] World Bank: Vietnam: http://www.worldbank.org/en/country/vietnam; Charles Tucker, Kari Kammel, Heather Lehman & Elisabeth Ward, " An Analysis of Human Trafficking for Sexual Exploitation in Vietnam and a Comprehensive Approach to Combating the Problem" (2010), *Journal of international Law and Policy,* 16(2), pp. 437-481

[35] Prior to the publication of this article, the 2016 Global Slavery Index was released, which included updated estimates of the number of people in slavery in every country. The reviewed estimate for Vietnam is 139,300.

[36] Walk Free Foundation, "Global Slavery Index: Vietnam" (2014): http://www.globalslaveryindex.org/country/vietnam/

[37] Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report: Vietnam Country Narrative" *United States Department of State,* (2014): p. 408, available from: http://www.state.gov/documents/organization/226849.pdf

[38] United Nations Inter-agency Project on Human Trafficking, "Strategic information response network – human trafficking data sheet" (2008), available from: http://www.no-trafficking.org/reports-docs/vietnam/vietnamdatasheeteng.pdf

afield, there have been cases in the United Kingdom involving Vietnamese nationals trafficked for forced labour in cannabis production.[39] The 2014 United States Trafficking in Persons Report highlighted the role of labour brokers in facilitating the passage of Vietnamese workers abroad, however it notes that as a result of the exorbitant fees required to arrange the employment, Vietnamese workers are highly vulnerable to debt bondage.[40] China is a common trafficking destination for Vietnamese child victims, with reports of families selling their male children to Chinese families to work on their land.[41]

There is also evidence of modern slavery existing within Vietnam. In 2012, Human Rights Watch released a report accusing the Vietnamese Government of state-sanctioned forced labour, with reports of drug offenders forced to undertake manufacturing style work in rehabilitation centres, with many of the products made sold on for international export.[42] In one worker's account, they explained that "if you refused to work they slapped you. If you refused to work, then they sent you to the punishment room. Everyone worked".[43]

Cases of forced marriage also occur in Vietnam. Young girls among the ethnic mountain *Hmong* communities throughout rural areas are vulnerable to the practice of *hai pu,* or bride kidnapping, where a boy kidnaps a girl on the premise that she will then become his wife. On arrival at the boy's home, his parents are required to contact the girl's family to arrange the marriage.[44] Trafficking for the purposes of forced marriage into China is also of concern. In 2011 the Child Exploitation and Online Protection Centre (CEOP) suggested that forced marriage of Vietnamese women and girls was one of the most common forms of exploitation when trafficked to China.[45]

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[39] K Nguyen, "Abused, imprisoned Vietnamese slave away in UK's cannabis farms", *Thompson Reuters,* 25 February 2015, available from: http://www.reuters.com/article/2015/02/26/us-britain-slavery-cannabis-idUSKBN0LU00P20150226

[40] Office to Monitor and Combat Trafficking in Persons, "Trafficking in Persons Report: Vietnam Country Narrative" *United States Department of State,* (2014): p. 408, available from: http://www.state.gov/documents/organization/226849.pdf

[41] Child Exploitation and Online Protection Centre "The Trafficking of Women and Children from Vietnam" *British Embassy,* (2011): p. 31, Hanoi, available from: http://ceop.police.uk/Documents/ceopdocs/NPM_CEOP_FCO_report_-_trafficking_of_Vietnamese_women_and_children.pdf

[42] Ibid.

[43] Human Rights Watch, "Ending Forced Labour in Vietnam's Drug Detention Centres", 6 November 2011, https://www.hrw.org/news/2011/11/16/ending-forced-labor-vietnams-drug-detention-centers

[44] Brendan Rigby, "The burden of being a child bride in Vietnam, *Plan International,* 28 May 2013, available from: http://www.girlsnotbrides.org/girls-voices/the-burden-of-being-a-child-bride-in-vietnam/

[45] Child Exploitation and Online Protection Centre "The Trafficking of Women and Children from Vietnam" *British Embassy,* (2011): p. 21, Hanoi, available from: http://ceop.police.uk/Documents/ceopdocs/NPM_CEOP_FCO_report_-_trafficking_of_Vietnamese_women_and_children.pdf

Assessing government responses to modern slavery

Theoretical framework:

Historically, the anti-trafficking framework has focused on the importance of the criminal justice system and 'rescue focused interventions'.[46] Given this significance as part of a broader spectrum of practices, the 2014 response component of the Index is primarily, however not entirely, based on a situational crime prevention framework. This framework draws largely on routine activity theory, crime pattern analysis and rational choice theory; approaches which interpret crime and criminal behaviour as a function of the presence of opportunity to commit a crime. Reducing opportunities to commit the crime thereby reduces its incidence. The routine activity theory is of particular relevance given it seeks to explain the impact of societal changes on opportunity. Within this theory, crime is seen as the result of the convergence of three key factors: a motivated offender, a suitable target and the absence of a capable guardian.[47] These different theoretical components allow the framework used in the Index to evolve from criminal justice focused approaches, and incorporate responses to the vulnerabilities that stem from the socio-economic, political and cultural practices within a country.

In responding to modern slavery within this framework, it is assumed that a government response should: increase the risk and effort to commit the crime; reduce the reward and access to necessary resources for enslaving people; reduce the vulnerability of potential victims; and strengthen the guardians or crime preventers. This also needs to address what Clarke refers to as the 'social facilitators' or the factors or persons that "stimulate crime or disorder by enhancing rewards from crime, legitimating excuses to offend, or by encouraging offending".[48] Finally, this approach requires actions that induce guilt or shame, or strengthen the moral condemnation associated with modern slavery

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[46] J.A Chuang, "Giving as Governance? Philantrocapitalism and Modern-Day Slavery Abolitionism", *UCLA Law Review,* (2015): 1544

[47] K Von Lampe, "The Application of the Framework of Situational Crime Prevention to Organised Crime", *Criminology and Criminal Justice,* 11 (2), (2011): p. 145 – 163; R.V. Clarke and J.E Eck, ""Crime Analysis for Problem Solvers: In 60 Small Steps", (2005) Washington DC: U.S. Department of Justice

[48] R.V. Clarke and J.E Eck, ""Crime Analysis for Problem Solvers: In 60 Small Steps", (2005) Washington DC: U.S. Department of Justice

Combating modern slavery requires a deviation from this framework to account for the factors outside more traditional forms of criminal activity.[49] In applying a situational crime prevention framework, it is assumed that modern slavery involves a series of criminal activities occurring at distinct points in time. Therefore, the theoretical approach needs to identify the nature of interventions at each stage of enslavement, and account for the criminal associations that facilitate the enslavement of another person. The target, or in this context, the victim, will generally be harder to identify when the crime spans international borders. Therefore, it can be assumed, that once a victim has been removed from their community or country, there are less likely be 'capable guardians' to protect them. Further, where modern slavery is an organised crime, it can often involve criminals who are better resourced and organised than other types of offenders. This means they may pro-actively seek out opportunities, and take steps to minimise risk. For example, where a situational crime prevention approach would suggest targeting offenders by enhancing the capabilities of the 'guardians', interventions for modern slavery need to consider the possibility that the 'guardian' may be involved in the offending. The theory of what constitutes 'prevention' needs to take into account that offenders will not only take opportunities, they will also create them.[50] Finally, given the complexity of required referral networks and the role that non-government and international organisations play in responding to modern slavery, a key challenge is being able to account for each of these actors in a conceptual framework.

By using situational crime prevention theory as its basis, the government response component of the Index presents an evolution of the 'Three P' framework established by the UN Trafficking Protocol and TVPA Act, and utilised by the Trafficking in Persons report, as it begins to incorporate government responses to specific risk factors. As the government response component continues to evolve, it will incorporate an assessment of these broader 'prevention' measures, such as the importance of strengthening social and moral condemnation of slavery, and the development of social norms that seek to strengthen legal controls.[51]

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[49] K Von Lampe, "The Application of the Framework of Situational Crime Prevention to Organised Crime", *Criminology and Criminal Justice,* 11 (2), (2011): p. 145 – 163.

[50] Edward Kleemans, Melvin Soudijn & Anton Weenink, "Organized crime, situational crime prevention and routine activity theiry", *Trends in Organized Crime,* 15 (2) K Von Lampe, "The Application of the Framework of Situational Crime Prevention to Organised Crime", *Criminology and Criminal Justice,* 11 (2), (2011): p. 145 – 163

[51] Gerry Mackie, "Effective Rule of Law Requires Construction of A Social Norm of Legal Obedience" (2012) *University of Chicago Political Theory Workshop*: http://www.sas.upenn.edu/ppe/Events/uniconf_2013/documents/ Mackie.G_EffectiveRuleofLawRequiresConstructionofASocialNormofLegalObedience.pdf

This theoretical framework informed the conceptual framework and underpinning performance indicators which determine the strength of the government response. All information was collected via desk-based research, interviews or questionnaires against the conceptual framework, which was broken into five milestones, including:

1. Survivors are identified, and supported to exit and remain out of slavery;
2. Criminal justice mechanisms that address modern slavery are in place in every jurisdiction;
3. Coordination and accountability measures are in place;
4. Risk factors that enable modern slavery, such as attitudes, social systems and institutions, are addressed; and
5. Governments have policies in place to prevent slavery in public supply chains and in the supply chains of businesses operating in their territory.

Each milestone was underpinned by activities, which were broken further into key performance indicators, that if met would indicate the government was implementing a response. Each activity was rated on a 0 - 2 scale, where 0 denoted there was no activity or no information, 1 that governments were taking some action to conduct the activity, and 2 that governments were meeting over 50 percent of the indicators. These were aggregated to give a total score out of a possible 64 points. The 0 - 2 scale was adopted to remove any major biases and, given it was the first attempt at rating governments based on their responses, this scale also allowed for a level of leniency to account for the fact that there may be missing information.

Negative indicators were included in the framework to identify and track poor practice or government action that facilitated slavery. These included actions such as criminalisation of victims for crimes committed while enslaved, or the detaining or deportation of foreign victims. These were rated on a 0 to - 1 scale, and then subtracted from the total score. Based on the final aggregate score, governments were awarded a credit-style rating, as denoted by an alphabetical grade ranging from AAA, AA, A, BBB etc through to D. This was applied by assigning countries to equally distributed bands based on their aggregate score. The country ratings were moderated against other countries to test the data collection and scoring. Governments that received any negative points were not able to receive a rating higher than BBB regardless of their aggregate score. Each 'credit rating', or alphabetic grading, was assigned a description to assist in understanding key elements of the response and to provide a relatable ranking system. It is important to note here that the descriptions for each grading were not finite and there were generally exceptions for each grade depending on the nature and

prevalence of modern slavery in a particular country, and the government's capacity to respond.[52] Ultimately, the grading descriptions were used to provide a generalized insight into the strength of a response as per an individual country's alphabetical grading.

Rating the Vietnam response to modern slavery: the methodology

Research into the Vietnamese response to modern slavery for the Index was informed by two different sources. First, interviews were undertaken with key government and non-government stakeholders between January 2014 and June 2014[53] in both Hanoi and Ho Chi Minh City. The inclusion of primary interview data allowed a more in-depth assessment of the government response. The second was through desk-based or secondary research on both the nature and response to modern slavery in Vietnam. On a broader methodological note, information was also sought through an online survey. In April 2014, surveys were sent to 167 governments requesting information about their response to modern slavery; 38 surveys were completed and incorporated in the overall assessment for the entire Index. While the Vietnam Government did not submit a response to the survey, the inclusion for other governments demonstrates the effort to triangulate data for each government.

Compared to other South East Asian nations, the Vietnamese response to modern slavery is relatively comprehensive. As Table 1 below shows, in 2014 Vietnam was given a CCC rating indicating that there are limited victim support services and the criminal justice framework criminalises some forms of modern slavery. Coordination and collaboration were considered strong components of the overall response, with evidence of a national action plan and associated coordination body, as well as an operational presence in key regional bodies working in this area. While there are efforts that seek to protect those vulnerable to modern slavery, there is little evidence to suggest that the government is regulating their own, or business supply chains currently operating in Vietnam as a way to address the issue. Table 1 outlines the score the Government received for its efforts against each milestone, including both the raw score, and the total percentage.

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[52] Please see www.globalslaveryindex.org for grading descriptions.

[53] Note: information was considered up to date at the date of the release of the 2014 Index.

Objective	Score (/64)	Score (%)
Survivors are identified, & supported to exit & remain out of slavery	7/18	38%
Criminal justice mechanisms that address modern slavery are in place in every jurisdiction	6/14	42%
Coordination & accountability measures are in place	7/12	58%
Risk factors that enable modern slavery, such as attitudes, social systems and institutions, are addressed	7/16	43%
Governments have policies in place to prevent slavery in public supply chains and in the supply chains of businesses operating in their territory	0/4	0%
TOTAL (-2 negative indicators)	25	39%
	Rating	CCC

Table 1: Vietnam Government response ratings

As Table 1 illustrates, the strongest components of the Vietnamese Government's response are coordination and accountability efforts, receiving 58 per cent. The Government has an up to date national action plan (NAP), to which they have allocated 80 billion Vietnamese Dong (VND), or approximately $15 million USD.[54] Supporting this is the National Steering Committee that was established in 2004 to implement the first NAP. The steering committee was later moved under the Steering Board for Crime Prevention and Control in 2013, which is chaired by the Deputy Prime Minister.[55] The Vietnam Women's Association was also granted a mandate to monitor, provide advice and publicly report on the implementation and progress of the NAP. There is a comparatively high level of strategic coordination among NGOs operating in the anti-trafficking space, and the Government has an active presence in regional bodies and coordination groups

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[54] Office to Monitor and Combat Trafficking in Persons "Trafficking in Persons Report: Vietnam Country Narrative" *United States Department of State,* (2014): p. 410, available from: http://www.state.gov/documents/organization/226849.pdf

[55] Ibid

including the Association of South East Asian States (ASEAN), the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), and the Bali Process including the trafficking specific Ad Hoc group.

Compared to other countries in the region, the Government has invested a significant amount of effort in coordinating the overall response to modern slavery. However, field sources indicated that despite promising actions on paper, there is limited implementation, particularly due to the allocation of funding. Sources indicate that of the 80 billion VND allocated to the implementation of the national action plan over a five-year period, only one billion VND had actually been distributed. Non-government service providers implied that it was highly unlikely the entire amount would be distributed. While the allocation of the funding demonstrates a level of commitment to the issue, a lack of resources could also explain why Vietnam scored lower on key performance indicators related to victim assistance or addressing risk.

Outside direct victim support, the Government scored poorly on victim assistance, particularly regarding efforts to identify victims. While there are three trafficking hotlines in Vietnam, NGOs reported that not all were operational, or effective. Further, training for police on identifying victims was limited, and there was no evidence that it was systematic. Researchers could also not identify if there were standard operating procedures to support police in identifying and supporting victims. It is also important to note that the Government received significant criticism for detaining sex workers and drug users in rehabilitation centres, a practice that was recorded against negative indicators and detracted from the overall rating.[56]

Interestingly, despite this relatively low score for victim support, there are some elements of the victim support services in Vietnam that can be held as good practice in the region. Vietnam is one of few countries which offers long-term support and reintegration services. Women in shelters are offered short-term emergency care, and can remain in the shelter to undertake counselling or training until they are able to re-enter the community and employment. Outside the shelter system, the Government supports trafficking self-help groups based on a peer-to-peer support model.[57] The community based victim support groups receive funding to hold the 'help sessions' in North and Central Vietnam. After the initial training conducted by international organisations, the model supports the group to become self-sufficient, and a forum for sharing experiences and information. It was noted

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[56] Human Rights Watch, "Ending Forced Labour in Vietnam's Drug Detention Centres", 6 November 2011, https://www.hrw.org/news/2011/11/16/ending-forced-labor-vietnams-drug-detention-centers

[57] UNIAP, "Vietnam National Practitioners Forums on (Re)integration of victims of human trafficking in the Greater Mekong Subregion", *Vietnam National Practitioners Forum,* Ho Chi Minh City, 20-22 October 2010, available from: http://un-act.org/publication/view/viet-nam-practitioner-forum-reintegration-victims-human-trafficking/

that the initial implementation was slow, as many victims did not want to come forward, largely due to the fear and shame associated with experiencing trafficking and exploitation in communities[58]. Field sources suggested, however, that the 'self-help' group model has proven effective in reintegrating victims into the community, with around 20 groups operating in 2014. At the time interviews were conducted, the Government was developing a long-term work plan for expanding the group model and a good-practice manual on how to implement the groups at the provincial level.

The Government received the lowest score for efforts to ensure that public and business supply chains are free from forced labour. There were no public procurement policies that prohibit the use of slavery, as well as evidence of government sanctioned forced labour in rehabilitation centres. This resulted in a negative point for the overall score. In addition to government sanctioned forced labour, there was evidence of police corruption and complicity in trafficking among local authorities, including officials at border crossings and checkpoints.[59]

Limitations:

Quantifying government responses to modern slavery and applying a rating across different contexts is complex, and as a result there remain limitations associated with the approach employed in the Index. Accounting for missing data was one such limitation. Data could be missing for a number of reasons, including activities not conducted, data not available in researcher languages,[60] or not publicly available. Collecting data for some milestones, such as milestone five, was also more challenging than others. Although a statistical extrapolation method was considered to account for missing data, it was decided that since information is largely limited in this field, recognition of the gaps in the data is justified. Highlighting gaps in information also provided an opportunity to engage with governments, enabling them to address the identified gaps and improve their rating. However, missing data remains a challenge in the assessment of government responses, where countries that provided information online tended to score better on the conceptual framework than those countries where information was more difficult to obtain.

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[58] Field sources

[59] Office to Monitor and Combat Trafficking in Persons "Trafficking in Persons Report: Vietnam Country Narrative" *United States Department of State,* (2014): p. 410, available from: http://www.state.gov/documents/organization/226849.pdf

[60] Research was conducted in French, Spanish, Italian, Russian, and Arabic.

Further, in its first edition, the government response component of the Index tended to focus on the existence of policies or legislation, rather than their implementation, in order to respond to modern slavery. For example, data was collected on counter trafficking legislation, or the existence of a national action plan, but did not include the quality of the legislation, or whether the national action plan was being implemented. Field research in Vietnam, however, revealed that while there was a national action plan, there were serious barriers to effective implementation. This was not adequately captured in 2014 as, despite the limitations to implementation, Vietnam still scored highly on the coordination and accountability milestone.

The conceptual framework also attempted to measure 167 governments, including the variances in legal and policy frameworks required if a country is a source, transit or destination country for victims of modern slavery. While Vietnam is considered a comparatively small labour sending nation[61] its contribution to the international labour force continues to grow, with more than 100,000 Vietnamese labourers travelling to Taiwan, Malaysia, South Korea and countries in the Middle East in 2014, and over 500,000 contract labourers currently working overseas.[62] In light of this, the conceptual framework seeks to identify what a government is doing to protect workers who go abroad. Given the interest in foreign employment, the Ministry of Labour, Invalids and Social Affairs (MOLISA) sought to protect work standards through bilateral agreements with destination countries.[63] Further to this, the Government also regulates private recruitment agencies that recruit within Vietnam for a commission.[64]

These performance indicators are therefore relevant to source countries such as Vietnam; however, their applicability to destination countries could be questioned, highlighting the challenges in applying a comprehensive framework to differing contexts. For example, in Malaysia, which is predominantly a labour-receiving country, the Government would not necessarily need to place the same emphasis on protections for Malaysian migrant labourers. As a result, Malaysia – by default – would not meet these the indicators relating to protecting workers abroad, and would receive a lower score on milestone four.

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[61] D Bèlanger, "Labor Migration and Trafficking among Vietnamese Migrants in Asia" *The ANNALS of the American Academy of Political and Social Science,* Vol. 653(1)

[62] Karl Miller, "From Humanitarian to Economic: The Changing Face of Vietnamese Migration" *Migration Policy Institute,* 29 April 2015, available from: http://www.migrationpolicy.org/article/humanitarian-economic-changing-face-vietnamese-migration.

[63] Ibid.

[64] Ibid.

The government response methodology has received critique[65] focused on the specific indicators used to determine the strength of a government response.[66] Chuang argued that the indicators used to determine the strength of a government response are "ultimately, dressed up variants of the standard penalization and rescue strategies that have dominated the anti-trafficking field for fifteen years."[67] While the government response component has primarily drawn on the learnings of the anti-trafficking field, it is important to note that the framework aims to go further than penalization and rescue strategies and will continue to build on this in the coming years. The conceptual framework was developed in collaboration with anti-trafficking experts and practitioners, social scientists, and individuals from the public health and harmful traditional practices fields. This is reflected in the inclusion of addressing risk factors as a standalone dimension, as well as the inclusion of negative indicators, or government actions which allow modern slavery to occur. The conceptual framework will continue to evolve and incorporate other approaches to measure government responses as these develop in the anti-trafficking and anti-slavery fields.

Next steps in measuring government responses to modern slavery

Understanding the nature of government responses to modern slavery requires a multi-dimensional and multi-disciplinary approach that can account for the inherent complexities and constant evolution of a global phenomenon. The first step involves developing a working consensus about what is already happening, and where we as a movement need to improve. In 2014, the Anti-Slavery Think Tank released a review of the anti-slavery movement since the 2000 United Nations Trafficking Protocol;[68] one of the key recommendations was an annual review of a global strategic framework that can be used as a basic template for the anti-slavery and trafficking community. While such frameworks do exist, such as the United Nations Global Action Plan on trafficking, annual reviews are limited to

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[65] J.A Chaung "Giving as Governance? Philantrocapitalism and Modern-Day Slavery Abolitionism" *UCLA Law Review,* (2015) 1516; Anne Gallagher, "The global slavery index is based on flawed data – why does no one say so?", *The Guardian,* 29 November 2014, Available from: http://www.theguardian.com/global-development/poverty-matters/2014/nov/28/global-slavery-index-walk-free-human-trafficking-anne-gallagher

[66] J.A Chaung "Giving as Governance? Philantrocapitalism and Modern-Day Slavery Abolitionism" *UCLA Law Review,* (2015) 1516

[67] Ibid.

[68] Liberty Asia, "From Experience: How to Combat Modern Slavery In Our Generation", (2014) *Anti-Slavery Think Tank:* https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf

changes in the number of prosecutions and number of victims identified.[69] Alternatively, the government response component of the Index attempts to capture and quantify a holistic response, including victim support mechanisms, the criminal justice framework, and responses to risk factors. Social systems and institutions are vital in preventing all vulnerable groups from being enslaved; so too are the programmes that prevent those who have been assisted from being re-enslaved.

With the government response component of the Index, there is a now a baseline assessment of government responses which aims to take into account the 'three P' framework, as well as broader risk factors. The Vietnam case study illustrates some of the limitations of applying this framework to varied contexts, some of which were addressed in the third edition of the Index, released in May 2016. For example, the conceptual framework was updated post release of the 2014 report to include indicators that assess implementation of responses. Indicators on the existence of shelters have been supplemented with indicators on whether these are available for men, women and children, if victims reside in the facilities, and if victims reside there voluntarily. This is the first step in the Index's continual improvement; eventually, the framework could also measure effectiveness of government actions - whether there has been an increase of referrals to victim support services due to better coordination, for example.

The next steps for assessing responses to modern slavery must include addressing insufficient and unstandardised data, and allocating the required resources to analyse it. There are available data that can be used to inform monitoring and evaluation efforts, however there needs to be increased focus – as a movement – to improve and standardise data collection methods and tools, and to seek innovative types of data and means in which it is gathered. New and emerging technologies exist, and each one presents an opportunity to better understand the issue. The work of Labour Voices, an international organization focused on responding to forced labour for example, provides an avenue for those experiencing labour exploitation, including forced labour and labour trafficking, to provide feedback as part of an early warning systems for businesses.[70]

Finally, this information has to be transparent and disseminated in a way that makes it easily digestible and applicable for those working on the ground. In May 2016, the Walk Free Foundation made government response data publicly available in a searchable database, which may assist academics, policy makers and

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[69] Sanja Miliojevic and Marie Segrave, "Evaluating Responses to Human Trafficking: A review of international, regional, and national counter-trafficking mechanisms", in *Human Trafficking: Exploring the International Nature, Concerns and Complexities,* ed. John Winterdyk, Benjamin Perrin and Philip Reichel, 235 – 263, Taylor & Francis Group

[70] See Labor Voices, "About", last modified 2014, available from: http://www.laborvoices.com

practitioners in their research and responses to modern slavery.[71] This platform will eventually become an interactive forum, whereby these groups can add their data and provide feedback on individual indicators or government responses.

In 2014, it was argued that the primary reason for the 'failure' to have more impact on ending modern slavery is the lack of measurement.[72] It states that this failure can be attributed to the "lack of initial baseline data… and the tools with which to assess progress."[73] The government response component of the Index provides the beginnings of a baseline against which progress can be measured. The methodology will be continually strengthened as more primary data becomes available, and governments contribute to the findings in an effort to improve their responses to modern slavery.

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[71] Available at http://www.globalslaveryindex.org/data/

[72] Liberty Asia, "From Experience: How to Combat Modern Slavery In Our Generation", *Anti-Slavery Think Tank* (2014): p. 59*: https://static1.squarespace.com/static/53038dd2e4b0f8636b5fa8c3/t/530b1588e4b032b4d4b3260e/1393235336032/How-to-Combat-Slavery-in-Our-Generation_Anti-Slavery-Think-Tank_FINAL-23Feb2014.pdf*

[73] Ibid.

Thinking Beyond the Escape: Evaluating the Reintegration of Child Soldiers in Uganda

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Abstract

While the Lord's Resistance Army has gained notoriety for its brutal tactics and abduction of Ugandan children, little attention has been given to the return and reintegration of these formerly abducted child soldiers. The absence of a formal reintegration program in Uganda has placed the burden of reintegration on international NGOs, but reliance on non-local organizations to successfully reintegrate child soldiers has proven challenging. This paper seeks to evaluate whether the process of reintegration in Uganda has been successful. With an overwhelming lack of up to date and methodologically sound research, variables such as PTSD, domestic violence, alcoholism, violent crime, and primary education rates are evaluated to indicate the current state of Northern Uganda. These variables indicate an unstable environment in Northern Uganda and suggest reintegration has proven unsuccessful in the Acholi region. The successful reintegration of child soldiers is demonstrated to be not merely a Ugandan issue, but an international issue.

Beads of sweat run down her face. She runs as fast as she can, periodically looking back in fear that they have become aware of her escape. As she runs, the recollection of events from the past year overwhelm her tired mind. She remembers the abduction, and being forced to kill her parents after watching her sister die for refusing. She remembers a grueling initiation in the Lord's Resistance Army (LRA) and how she was given to an older soldier as his wife. She remembers nights of torture – being raped and forced to watch the death of new recruits. As she feels the weight of her baby on her back, she remembers giving birth in the bush. These memories are interrupted by the sounds ahead; she has made it to the city. Now, she will turn herself into the police; now, she is free. She will return to her life in her village and try to put the brutal experiences of the past behind her. Will she succeed?

This amalgamated story speaks to a grim reality of many child soldiers in Uganda. With a plethora of traumatic experiences endured during their defining years, the former child soldiers in Uganda must work to return to the routine of their daily lives. When these former child soldiers are released, captured or escape

from captivity, they enter an informal disarmament, demobilization, and reintegration process, which helps them regain the normalcy of their life before their abductions. The process of reintegration proves to be most challenging. The decades long civil war in Uganda has left the Acholi population in Northern Uganda in shambles. While roads, buildings, and homes have been reconstructed in the years since the LRA has departed the country, the people of Northern Uganda have yet to fully rebuild their lives. The Acholi people have suffered dramatically for the last 20 years, and they continue to suffer the consequences of returning ex-combatants. The Disarmament, Demobilization, and Reintegration (DDR) program in Uganda fails to adequately reintegrate former child soldiers in a way that is positive for these children and their communities. As former child soldiers, these children are desensitized and exposed to extreme forms of violence; they inevitably suffer from symptoms of Post Traumatic Stress Disorder (PTSD) which negatively impacts their ability to continue formal education and advance developmentally. The consequences of their abduction has brought both suffering and chaos to the northern regions of Uganda. As the LRA continues to terrorize other central African states, the issue of reintegrating former child soldiers becomes an international issue with serious consequences, as we see in Uganda. Without a change in the way these children are reintegrated into their communities, perhaps through the utilization of traditional mechanisms of healing and justice, Uganda and its government will continue to suffer.

The Current State of DDR in Uganda

By and large, the government of Uganda has neither a formal nor national Disarmament, Demobilization, and Reintegration program (DDR). The government of Uganda deals with returning child soldiers from the LRA in an unusual way. Disarmament is not a primary concern in Uganda because when the children are discovered and/or captured by the Ugandan army, they are immediately disarmed and removed from the bush - as the majority of these children were trafficked, disarmament is traditionally voluntary. Demobilization is a short process in Uganda. The children are often brought back to the military barracks and then brought to reception centers throughout Uganda, where, the process of demobilization also involves the awarding of amnesty.

Fourteen years after the civil war began, the government of Uganda enacted the Amnesty Act of 2000. This act called for blanket amnesty for all Ugandans that had engaged in armed rebellion against the government since the beginning of 1986.[1] To obtain amnesty, a Ugandan must simply renounce all involvement with

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[1] Government of Uganda. *Amnesty of Act of 2000*. Chapter 294.

the armed rebellion, and in doing so, they receive a certificate of amnesty. The act called for 12 years of blanket amnesty, and was extended in May of 2012 to include an additional two years. A provision was made in 2006, however, that allowed the Minister of Internal Affairs, backed by Parliament, to deny amnesty to particular individuals. Although this amendment was made, the provision has never been used. In the first twelve years of the Amnesty Act of 2000, Ugandans granted amnesty totaled 26,232.[2]

Amnesty was originally supported by the citizens of Uganda, but as time progressed, blanket amnesty became a point of contention. Many citizens believed that returning children should not be punished; they had been abducted and forced to commit many atrocities, and furthermore, many children had been abducted under the watch of the Ugandan military. It appeared that no one could protect the children of Northern Uganda, and as a result, they should not be found culpable. The issue lies with the ex-combatants that return after many years in the bush and are now legally adults. The Ugandan population is divided on this issue. Many believe that because the children were abducted they cannot be held responsible, whereas others believe that when they turned 18, they became responsible for their actions and must be held accountable for the atrocities they committed while in captivity.

The Ugandan Amnesty Act of 2000 has "been an effective tool for undermining the cohesion of the LRA,"[3] but the issue of whether justice is truly being delivered to the victims of the decades-long conflict remains to be decided. The Amnesty Act has encouraged many children and adults to defect from the LRA; children are told that they can return home without fear of retribution. This has encouraged thousands to leave the rebels and has simultaneously diminished the power of the LRA. Blanket amnesty has, however, posed a problem during the reintegration process. "Victims find it hard to forgive those who perpetrated acts against them without their victimhood being accounted for, which if done right will cool their hearts and tune them to negotiate for reconciliation."[4] This presents a challenge in reintegrating ex-combatants.

Reintegration is the last step of the DDR program. This incorporates the treatment and resettlement of returning child soldiers. The Ugandan government provides little in terms of assistance and certainly no comprehensive assistance. The disarmament and demobilization of ex-combatants is the responsibility of the

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[2] Damian Kato, "The Amnesty Commission DDR in Uganda" (presentation, Uganda).

[3] Barney Afako, "Undermining the Lord's Resistance Army:The role of Uganda's Amnesty Act," Conciliation Resourses, August 2012, accessed October 4, 2014, http://www.c-r.org/comment/undermining-lra-uganda-amnesty-act-barney-afako.

[4] Isaac Okwir Odiya, "Reparation of War Victims: A Challenge for Community Reconciliation," special issue, *Voices Sharing Victim-Centered Views on Justice and Reconciliation in Uganda*, no. 2 (September 2013): 26.

government of Uganda entirely, but, when it comes to reintegration, it appears the government passes the brunt of the responsibility onto independent NGOs and Faith Based Organizations. The face of the government in the process of reintegration is the Amnesty Commission, which provides some skills training and a one-time reinsertion kit. This is the extent of government aid to the returning child soldiers.

Weaknesses of DDR

The little aid the government presents to ex-combatants has become another point of contention and increases the difficulty of reintegration. While skills training is an absolute necessity for returning child soldiers, the skills training that is offered by the Amnesty Commission (and many NGOs) is not market driven. Approximately 13,000 Northern Ugandans have gone through the DDR process as set forth by the Amnesty Commission and they have received training in carpentry, motor vehicle repair, brick laying, tailoring, and bicycle repair.[5] The Amnesty Commission is training a vast amount of ex-combatants in the same skills that may or may not be needed within their communities. Giving child soldiers skills that are not demanded by the market in the communities in which they live is not helpful. It becomes a process of frustration for many returning children and adults that cannot find work nor contribute an income.

Furthermore, the one-time reinsertion kits distributed by the Amnesty Commission and several NGOs have caused flagrant resentment within the communities. These kits provide non-food items such as cups, plates, mattresses, and gerry cans; seeds; and 163 USD.[6] These packages give returning soldiers a foundation to build their new lives. Many ex-combatants find that they are returning to very different communities than those they had left. Many are without parents and relatives, and these packages give them something to start with. The idea of presenting child soldiers with these packages seems honorable and beneficial, but it ultimately creates alienation within the communities to which they are returning.

During the war, Northern Ugandans were forced into Internally Displaced People Camps (IDP Camps) - these camps were breeding grounds for gender-based violence, disease, and starvation. The camps were, in theory, protected by the

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[5] Barney Afako, "Undermining the Lord's Resistance Army:The role of Uganda's Amnesty Act," Conciliation Resourses, August 2012, accessed October 4, 2014, http://www.c-r.org/comment/undermining-lra-uganda-amnesty-act-barney-afako.

[6] Margaret Angucia, "Children and War in Africa: The Crisis Continues in Northern Uganda," *International Journal on World Peace 26*, no. 3 (September 2000): 77-95, accessed September 28, 2014, http://www.jstor.org/stable/20752896.

Ugandan army, but they were often raided by the LRA and international food aid was often prevented from reaching these camps. For years, Northern Ugandans lived in terrible conditions and immense fear; they suffered tremendously. For many Northern Ugandans, their suffering goes unnoticed by the government and NGOs. Instead, the perpetrators of their suffering receive material benefits. The emotions that arise because of these perceived injustices are understandable, even rational.

The emotions of Northern Ugandans result in resentment toward children returning from the bush. These children are seen as partly responsible for their immense suffering, the reason they were put into IDP camps, and often, the reason they lost family members. The cause of their pain and suffering returns to their community and is rewarded with material goods and even provided with vocational skills - skill trainings unavailable to them. Undoubtedly, this creates a tension within the community that is both understandable and expected. This tension makes it nearly impossible for returning children to feel welcomed and able to reintegrate. As a result, many children do not report to the authorities or go through the DDR process in an effort to avoid stigmatization and resentment from members of their home community. Choosing to self-demobilize and reintegrate on their own gives these children a way to not be identified as murderers, looters, or corrupt.

The remainder of the DDR efforts are left to NGOs and Faith Based Organizations. The two most prominent are WorldVision and Gulu Support the Children Organization (GUSCO). Many of the existing organizations are neither local nor Ugandan. This in itself presents an issue. For 12 years, IDP camps were a reality in Northern Uganda. During this time, there was an influx in the number of NGOs (nearly 200) in Uganda. When the guns fell silent in 2006, however, all but 30 NGOs left the region, ignoring the many issues that had yet to be addressed.[7] A primary issue is the rehabilitation and reintegration of returning child soldiers. Non-local organizations are able to provide short-term solutions. They provide material benefits and, sometimes, they are able to provide counseling. Recovery and reintegration, however, are not short-term processes. They are inherently long term and can potentially last a lifetime. These organizations cannot provide the long-term care these children need. As the influx of children entering DDR declined, many organizations began to leave, ending their relationships with the former child soldiers. Without long-term commitment and relationships, ongoing counseling and outreach is impossible. Many of these NGOs engage in group therapy, but they are unable to deliver one-on-one attention - something from which many of these children may benefit.

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[7] Honorable Norbert Mao, "Post-Conflict in Northern Uganda" (lecture, Gulu, Uganda, July 10, 2013)

Another issue with having non-local NGOs handling the reintegration of child soldiers is that, by and large, the organizations are not familiar with the region and its deep history. Consequently, the Acholi culture is overlooked. The communities and families in Northern Uganda know what does and does not work in their situations; it would seem that their involvement in reintegration would be absolutely essential.[8] With blanket amnesty in place in Uganda, it is important for the Ugandan people to go through their own process of acceptance and forgiveness. During their time in the IDP camps, the Acholi people's cultural values of privacy and self-reliance were infringed upon. After the closure of the IDP camps, the Acholi people pushed for self-sufficiency and a return to cultural norms within their communities.[9] Both an honoring and respect for cultural practices could be established by re-implementing Acholi healing rituals as part of the reintegration process in Northern Uganda, but because the majority of NGOs in Northern Uganda are not Ugandan these healing rituals are often overlooked, specifically the cleansing ceremony, *mato oput*.

Mato oput is a common cleansing ceremony that was performed during the onset of the war. It is a process of compensation, predominately symbolic, and its goal is peace. Traditionally, *mato oput* is not for capital offenses, but it became the main cultural practice in receiving former child soldiers at the beginning of the war. As the war dragged on, the ceremony became costly and more difficult to perform. It became challenging to identify the victims and for clan elders to come up with a solution that was fair to all parties. *Mato oput* was very important in the beginning of the conflict due to the confessional nature of the ritual. During the ceremony, the perpetrator tells the truth - confessing their crimes and acknowledging their wrongdoing - allowing victims to feel a sense of justice and closure. This truth telling process was quite significant for the grieving community, and it was their way of achieving traditional justice. When the Ugandan government offered blanket amnesty, ex-combatants were no longer forced to disclose their behavior, robbing the Acholi and other neighboring communities of closure. *Mato oput* may not be a solution in every case, but the value and symbolism of this mechanism of traditional justice should be continued. It is imperative that the suffering of the community be acknowledged by the former child soldiers.[10] This acknowledgement could pave the way for easier reintegration into their communities. As long as this recognition goes unnoticed, the

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[8] Patrick J. Bracken and celia Petty, eds., *Rethinking the Trauma of War* (New York: Free Association Books, 1998), 71.

[9] Chief Jeremiah Muttu, "Traditional Instituions in Acholiland" (lecture, Gulu, Uganda, July 9, 2014)

[10] Chief Jeremiah Muttu.

reintegration process in Uganda will prove unsuccessful, but it is not merely a lack of closure that presents a challenge to reintegration.

Stigmatization is one of the primary obstacles in the successful reintegration of child soldiers. Many returning children were forced to commit atrocities against their own family members, neighbors, and community. Community members know exactly who was abducted and what types of crimes they committed. It is not uncommon for a newly abducted child to be forced to kill their parents or neighbors in public during the raid of a community. There is no hiding once ex-combatants return. The return of children to their community often triggers feelings of resentment on behalf of the families whose children will never return home. It is not atypical for children to be forced to kill their friends, and upon returning to their former homes, they must face the families of those they have harmed. The community generally knows when a child has returned from the bush and is living amongst them. These returning children are unaffectionately nicknamed "Rebel-Children." They are particularly vulnerable in comparison to all the war-affected in Uganda.[11] Rebel-Children are considered burdens of the community. They are stigmatized, alienated socially, uneducated, often have disabilities or health problems, and live in chronic poverty without skill sets that are transferable to jobs.[12]

Addressing the issue of stigmatization is undoubtedly critical, but the NGOs do not do enough to educate the community on the experiences of the children in terms of a flight or fight response. As previously mentioned, the Acholi community divides on the issue of who should receive amnesty. Foreign NGOs do not do enough to bridge the gap between the perceptions of the community and the realities of an abducted child soldier. They also fail to consider that these children are of different social class, gender, and education level. A particular issue with DDR in Uganda is that few females are involved. The challenges that females face are drastically different than their male counterparts. In the bush, the majority of females are sexually assaulted and traditional gender roles are blurred. Upon returning to their communities, females are often a target for further sexual assault, are forced into marriages, or have illegitimate children. The challenges these females face warrant specific attention.

It would make sense that because these former child soldiers experience so many challenges and emotions upon returning to their communities that mental illness care and support would be crucial to their reintegration process. The NGO community and Ugandan government, however, fail to offer this kind of support. NGO and government reception centers generally offer immediate medical care,

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[11] Wessells, 101.

[12] Wessells, 133.

family reunification, and counseling in the form of "group discussions and advice giving."[13] The children stay typically anywhere from one week to months, depending on the length of time they were in captivity. The issue, however, is that a negligible amount of ex-combatants who come through these reception centers receive follow-up care. The Amnesty Commission and Ugandan government offer no follow-up care whatsoever. These reception centers consider their main priority to be family reunification. They assume that once a child is in the care of their family they will be fine because the child's family knows best. As a result, the majority of former child soldiers receive little to no mental health care, further skill training, or educational support.

Ex-Combatants and Issues of PTSD

It is absolutely imperative that ex-combatants receive mental health care. When young children are exposed to traumatic and violent experiences, they become more vulnerable and may develop over-active imaginations that are incapable of deciphering between fantasy and reality; these conditions are symptomatic of "psychotic features that are frequent in combat veterans with PTSD."[14] For these children, this leads to social isolation and as they become older, substance abuse and rebellious behavior manifested in physical fights.[15] Furthermore, responses to trauma, when they go untreated, can contribute to cycles of violence and war. War stories that entail gross violence are passed down and encourage fighting and children's participation in armed rebellion. This leads to the creation of an "other," a call for revenge, that ignites irrational fears and fuels suspicions which create the illusion of a more dangerous world.[16]

While research in the field is lacking overall, much research was conducted during the heightened parts of the war. Unfortunately, after 2006, many NGOs and researchers departed Northern Uganda, leaving an essential gap in the research on returning child soldiers. Much of the research that was conducted was based on interviews with former child soldiers and juxtaposed against children that did not engage in the armed rebellion. This presents several problems. By conducting research through qualitative interviews with relatively small samples, it becomes

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[13] Chris Blattman and Jeannie Annan, "Child Combatants in Northern Uganda: Reintegration Myths and Realities," In *Security and Post-Conflict Reconstrustion: Dealing with Fighters in the Aftermath of War,* 2008. Accessed September 28, 2014. http://chrisblattman.com/documents/research/2008.DDR.pdf.

[14] Mark B. Hamner et al., "Psychotic Features in Chronic Posttraumatic Stress Disorder and Schizophrenia: Comparative Study," *Journal of Nervous & Mental Disease* 188, no. 4 (April 2000), accessed October 25, 2015.

[15] Wessells, 128.

[16] Wessells, 130.

difficult to understand the difference between the reintegration of one particular child in a particular community and the reintegration of returning child soldiers as a group. The differentiation between the two is critical when evaluating the success or failure of Ugandan reintegration programs. One particular researcher, Christopher Blattman, explains that the vast amount of studies on child soldiers in Uganda, "suffer from small sample sizes, unrepresentative samples, or an absence of control groups or aural identification."[17] There was little research and data available on mental health conditions of Northern Ugandans before the war, which has made analyzing the data less reliable.

Despite the lack of prior data, research has shown that there is an increased level of PTSD in children that were abducted and forcibly recruited into the LRA. Specifically, one study, conducted years after children had returned home, illustrated that 48 percent of children that were in captivity for at least a month exhibited PTSD. Thirty-three percent of children that were in captivity for under a month demonstrated PTSD, and as a comparison, 8.4 percent of non-abducted children exhibited PTSD.[18] The number of non-abducted children presenting with PTSD appears high because the IDP camps and fear of being abducted created a traumatic environment for many children. Furthermore, while the majority of children were not diagnosed with PTSD, 82 percent presented with symptoms of PTSD.[19] This means that the deteriorating mental health situation in Northern Uganda is chronic, and because the government and NGOs are not directly addressing mental health during reintegration, PTSD in former child soldiers is failing to be addressed.

The repercussions of untreated traumatic exposure are not only detrimental to the individual that experienced the trauma but to the community as well, and addressing these issues should be the first priority of NGOs and the Ugandan government after attending to physical health. One study determined that former child soldiers struggle with the ability to control their aggressive impulses - demonstrating an inability to handle difficult situations without implementing violence. Furthermore, they exhibit an inability to think of non-violent solutions

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[17] Jeannie Annan et al., "Civil War, Reintegration, and Gender in Northern Uganda," *Journal of Conflict Resolution 55*, no. 6 (August 2011): 877-908, accessed October 20, 2014. http://jcr.sagepub.com/content/55/6/877.

[18] Elisabeth Schauer and Thomas Elbert. "They Psychological Impact of Child Soldiering," In *Trauma Rehabilitation After War and Conflict*, 2010. Accessed September 28, 2014. http://www.icc-cpi.int/iccdocs/doc/doc636752.pdf.

[19] Schauer, 323.

and alternatives.[20] Researchers believe that this reflects an absence of "adequate social skills" due to having spent their years of critical development in the bush.[21]

The deterioration of the mental health of former child soldiers is responsible for an oversimplified understanding of good and bad. These children experience cognitive distortion and employ simplistic models when discerning between good and bad behaviors. They struggle to see a grey area in their world of black and white. They also struggle with forming a personal and collective identity.[22] In the bush, child soldiers were taught to put the group first; the collective group was the most important unit in their life. When they return home, this military identification does not simply disappear. The importance of the collective group becomes manifested in their moral sensibilities. The children understand what is good and what is bad but their emotions and morals are inappropriately confined to the "in-group." For them, a dichotomy exists between themselves and their personal relationships and the other. Their existing morals do not apply to everyone - only to those they have built relationships with. The children are capable of having values and morals; they do not, however, understand that these morals and principles apply to all people. The ease in which these children are able to create an other and the impulse of violence should be of grave concern to those studying the levels of PTSD in Northern Uganda.

While untreated PTSD presents an array of long term issues developmentally for former child soldiers (all of which negatively impact the communities into which they are reintegrating), the failure to continue education is compounded upon by the effects of PTSD and presents another critical issue in Northern Uganda. While in captivity, education for children is brought to a halt. When children are reintegrated into their communities, they return to school. This is a difficult transition for many former child soldiers. PTSD makes it incredibly difficult to concentrate in school, causing frustration for many former child soldiers and leading them to drop out. The prevalence of PTSD among former child soldiers affects their ability to continue their education. Education is a critical component to livelihood in Uganda. Without education, many of these former child soldiers find themselves in a position in which they are unable to move on from their tragic experiences. The two largest voids child soldiers experience are in education and their livelihood, and these never fully close.[23] Blattman argues that these are the most prevalent issues amongst returning child soldiers, not physical and psychological issues. It appears, however, that they are very much

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[20] Schauer, 333.

[21] Schauer, 335.

[22] Schauer, 337.

[23] Blattman, 205.

interconnected. The psychological issues that children experience contribute to their inability to obtain their education and maintain a job, and as this generation of child soldiers ages, these psychological issues will undoubtably continue to plague their relationships with those in their community and their ability to be productive members of society.

Yet, how to best address the deteriorating mental health status is still unclear. While PTSD is generally understood as a disorder that has no cultural bounds, its treatment is thought to differ within cultures. There is a significant amount of research and case studies on PTSD in industrialized countries, but little is known about treatment methods in non-industrialized countries.[24] While the Western culture addresses PTSD with therapeutic modalities that include one-on-one therapy and techniques such as EMDR (Eye Movement Desensitization and Reprocessing), these techniques are not yet proven to be effective treatment in developing and non-industrialized countries such as Uganda.[25] In order for these therapeutic modalities to be recommended in developing countries, more methodologically sound and rigorous research must be conducted.

Evaluating Uganda Today

Despite the fact that the guns fell silent in 2006, Northern Uganda is still in turmoil. There are several pressing needs in Northern Uganda. Education and livelihood support are at the top of the list. Children need secondary school scholarships, and there needs to be an accelerated adult education program. Child care is a necessity in Northern Uganda, as many females have returned from the bush with children, and because these new mothers are so young, many do not know how to properly care for an infant. Health services in the form of psycho-support are absolutely critical. As previously discussed, there is little to no follow-up care in Northern Uganda, and many former child soldiers will battle with PTSD symptoms for the remainder of their lives. A significant population suffering from mental health disorders will have dire consequences in the many years following reconstruction.

The overall lack of research on the reintegration of former child soldiers makes it incredibly difficult to access whether the makeshift DDR program in Northern Uganda is working. Essentially no recent research has been done to assess the situation in Northern Uganda. The civil war gained a significant amount of international civil service organizations attention during the 1990's and early

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[24] Thomas Harlacher, "Traditional Ways of Coping with Consequences of Traumatic Stress in Acholiland: Northern Ugandan Ethnography from a Western Psychological Perspective" (PhD diss., University of Freiburg, 2009), 82.

[25] Nilamadhab Kar, "Cognitive Behavioral Therapy for the Treatment of Post-Traumatic Stress Disorder: A Review," *Neuropsychiatric Disease and Treatment* 7, no. 1 (April 2011): 167-181. Accessed October 25, 2015.

2000's. But when the war left Northern Uganda for other central African countries, the interest in the subject matter ceased. What research that does exist is largely case based: in the format of qualitative interviews with former participants. Thus, there is no research to indicate what works and what does not work, and more importantly, what should be done.

The current and past efforts to reintegrate former child soldiers in Uganda has been based on immediate needs; rules of thumb, according to what has worked in other countries; myths and assumptions.[26] The situation in Uganda, however, is drastically different than underage recruitment in other African countries. The LRA does not recruit children; it forcibly abducts children and employs heinous initiation rights in order to obtain blind devotion and desensitize the children. The situation differs from other countries in that there is no national DDR program; the government has done little to help in the reintegration process and little to protect the children from abduction in the first place. The issue in Uganda is essentially seen as a regional issue instead of a national one. For this reason, Northern Ugandans exhibit disenchantment with the government for its lack of effort in protection and recovery.

Without appropriate and thorough research, it is difficult to determine what is working and the true numbers of mental illness in Northern Uganda. Each study that evaluates PTSD and other mental health illnesses reports different numbers. While these numbers do vary, it is clear that mental health is an issue and that the children who were held in captivity by the LRA exhibit a higher likelihood of exhibiting PTSD symptoms. It is also clear, that the NGOs and government do little to ameliorate these conditions, and with minimal research, it is impossible to advocate for specific therapeutic modalities or critique those being used in Uganda.

Because of a lack of current and up-to-date research, the efficacy of reintegration in Uganda is difficult to evaluate. The negative effects of PTSD are known to be both serious and far reaching.[27] These negative effects can effect an individual's education, relationships, health, substance abuse, and occupational functioning.[28] Without up-to-date research on the reintegration process, variables such as the rate of domestic violence, alcoholism, school drop-out and crime are the most indicative of how Uganda is fairing post-conflict. By evaluating the trends in data, it will be clear whether DDR, more specifically the reintegration process, is working or if the effects of children in the bush are resonating throughout Uganda over time. It is important to note, however, that the population

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[26] Blattman, 104.

[27] AnxietyBC, "Post-Traumatic Stress Disorder," accessed December 20, 2015, http://www.anxietybc.com/parenting/post-traumatic-stress-disorder.

[28] Ibid.

of child soldiers in Uganda is a small percentage. The generally accepted number of children who have been abducted is 40,000; yet, the population of Uganda is approximately 35.9 million people.[29] When we look at the number of war-effected Ugandans, it is a much more larger portion of the population. Approximately 1.6 million Ugandans were forced into 218 IDP camps during the height of the civil war.[30] This leaves approximately 4.5 percent of Ugandans directly impacted by the civil war. This is a vast percent of the population that has been affected, and considering, they are all confined within the same geographic region, this issue becomes more significant. Furthermore, in Uganda, community life is vital. Communities live in close proximity and neighbors develop close-knit relations. When one or several members of the community are negatively impacted, a ripple is created throughout the whole community. Thus it is fair to say, this small percentage of the population has a great impact on the livelihood and communities within Acholiland.

When looking at rates of domestic violence in Uganda, the data is sparse. There exists no comprehensive research on domestic violence in Uganda over the years. The U.S. Department of State's Bureau of Democracy, Human Rights and Labor releases a Country Report on Human Rights each year. Using these documents, the fluctuation in domestic violence can be evaluated. These reports, however, are solely based on "factual reporting" from U.S embassies, and no methodology is given. Thus, these reports are merely based on what countries choose to report, and the reports cannot ensure accurate data.

As one looks at the trends in data over the years, discrepancies are revealed, but a clear increase in gender-based violence is uncovered. These numbers do not consistently reflect the reported increase or decrease of domestic violence. It is also worth noting that within these country reports, rape is separated from the reports of domestic violence. It is only following 2009 that the number of rape cases begin to be consistently mentioned. The country reports also mention data taken from various surveys accessing gender-based violence in Uganda. These surveys suggest that the number of cases reported are grossly underestimated. In an undisclosed survey, 70 percent of all women in Eastern and Northern Uganda reported they had been victims of domestic violence.[31] Notably, these are the two regions that were most affected by the LRA. According to the 2006 Uganda Law Reform

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[29] "The World Factbook," Central Intelligence Agency, last modified June 20, 2014, accessed November 1, 2014, https://www.cia.gov/library/publications/the-world-factbook/geos/ug.html.

[30] "Global Appeal: Uganda," United Nations High Commission for Refugees, 2006, accessed November 1, 2014, http://www.unhcr.org/4371d1ab0.pdf.

[31] Department of State, *Human Rights Report: Uganda*, 2008.

Commission study, domestic violence is most common in northern Uganda, where it is reported to have occurred in 78 percent of homes.[32]

The percentages according to the surveys show an increasing or continuous amount of sexual violence, while at times, the State Department reports decreasing numbers. It is fair to conclude that the domestic violence situation in Uganda is not improving. While the criminalization of domestic violence was a step in the right direction, it is widely known and understood by Ugandans that it is not enforced. Human Rights Watch reported in its 2010 country report that discrimination and violence is flagrant in Uganda against females particularly in Northern Uganda. Their report outlines that women with disabilities (many of which can be attributed to the LRA) experience the worst discrimination and violence. They are the most likely to be targeted for sexual assault, as are returning female ex-combatants, and they experience obstacles when it comes to participating in their community and government.[33]

With a large portion of the northern population in Uganda having been subjected to IDP camps, mass violence, and/or forced into the LRA, finding a method in which to cope with these traumatic experiences is necessary. One of such coping mechanisms is the consumption of alcohol. Increased rates of alcoholism following the civil war are indicative of a society that is failing to recover from the traumatic events of the civil war. Alcoholism in Northern Uganda is flagrant. It is rare to walk through the streets of Gulu, one of the towns most effected by the civil war, without seeing an Acholi drinking a beer, Ugandan gin, or the local brew. According to the WHO Global Status Report on Alcohol in 2004, Uganda was the world's leading consumer of alcoholic beverages and had the highest per capita intake of alcohol. Uganda led the world with an average of 19.47 liters. This was nearly four times the world average in 2004.[34] The 2014 report, which uses data from 2010, reported that this has risen. The average per capita intake of alcohol in Uganda rose to 23.7 liters. This data is based on Ugandan citizens aged 15 and above.[35] While there are no sufficient regional data, it has been reported that alcoholism in Northern Uganda is quite high.[36] Alcoholism in

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[32] Department of State, *Human Rights Report: Uganda*, 2013.

[33] Human Rights Watch, *"As if We Weren't Human: Discrimination and Violence against Women with Disabilities in Northern Uganda* (USA: Human Rights Watch, 2010), 24-40.

[34] World Health Organization, *Global Status Report on Alcohol 2004,* 2004.

[35] World Health Organization, *Global Status Report on Alcohol 2014,* 2014.

[36] Sarah Tumwebaze, "The Mental Health Burden in Northern Uganda," Saturday Monitor, last modified October 23, 2014, accessed December 20, 2015, http://www.monitor.co.ug/artsculture/Reviews/The-mental-health-burden-in-northern-Uganda/-/691232/2496010/-/wcdahxz/-/index.html.

this region has been linked to the high incidence of suicide, mental illness, and domestic violence.

Similar to the spread of alcoholism, primary school completion remains a large hurdle in Northern Uganda. Ugandan children are failing to progress throughout the education system, and this contributes to a lack of higher education in Uganda, a wilting economy, and an increase in street youth. The rate of completion fluctuates from 2005 to 2011. In 2005, the completion rate was 57.5 percent and in 2011 it was 54.94 percent, the lowest rate since 2007.[37] There is, however, no clear trend to suggest that drop-out rates have been on the decline since the end of the civil war in Uganda. According to this data, they have been on the decline since 2009. In 2010, UNESCO released a report in which Uganda had the lowest proportion of children completing primary school, and the following year, another report declared Uganda as having the highest rate of drop outs in Eastern Africa.[38] The situation in Northern Uganda, however, is much different and much more complex than the situation in the rest of the country. Teachers do not want to teach in Northern Uganda, and the drop-out rates are significantly different.[39] While drop-out rates are not published by region, one rural school in Acholiland explained in 2013 that they had 150 children in Primary One and only 48 Children in Primary Seven.[40] That yields a 68 percent drop-out rate for that particular school. The school principal attributed this high rate of drop-outs to several causes. Because the LRA is currently operating outside of Uganda and has decreased the number of its soldiers (and in particular the number of abducted Ugandans in its ranks) the drop-out rate is not indicative of the number of children that were abducted or were killed in the violence - although a decade ago, this would have been the case as schools were often operating within IDP camps. The principal also stated that this number does encompass a large number of children who did not return to school after the war. Instead, this particular drop-out rate is reflective of a vast number of females becoming pregnant and married early. Some of these pregnancies and marriages were a result of forced marriage and having children in the bush.[41]

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[37] "Uganda — Primary Completion Rate," Indexmundi, accessed October 20, 2014.

[38] Conan Businge and Chris Kiwawulo, "School Dropout Rate Worrying Experts," New Vision News, May 25, 2011, accessed October 20, 2014, http://www.newvision.co.ug/new_vision/news/1011052/school-dropout-rate-worrying-experts.

[39] Eric Odong, interview by author, Uganda, July 12, 2013.

[40] Ibid.

[41] Ibid.

According to a recent UN report, conflict and violence is twice more likely to occur in countries with education inequalities.[42] While the high drop-out rate of primary schools in Northern Uganda can certainly be attributed to the Civil War, the consequences of a general lack of education afflict the region - arguably contributing to the high levels of violent crime. Since the dissipation of IDP camps in 2006, the north has been plagued with land disputes. Conflict over ancestral land has continued for the last eight years, and the disputes often turn violent. Violent crime as a whole has been an issue for Acholiland.[43] Crime waves in the northern region have hit periodically throughout the last four years. In the past year, organized crime in the form of gangs has appeared in the region. Armed robberies and murders of boda boda drivers have become increasingly frequent.[44] In 2010, Uganda Radio Network reported that the district of Gulu had the highest number of criminal activity (murder, theft, rape, and defilement were amongst the most common crimes) in Northern Uganda. Furthermore, Human Rights Watch 2014 Uganda reports a plethora of street youth that are experiencing violence both from law enforcement and their communities. In Lira, a town in Acholiland, there have been reported murders of street children by mobs.[45] Human Rights Watch also reports, "The forced disarmament operations in the remote northern Karamoja region and its consequences of death and loss of livelihoods for the local populations also continue to fuel an influx of street children into Kampala."[46] The United States Department of State Bureau of Diplomatic Security has rated the crime in Uganda as "critical."[47] It is clear that violence is increasing in Northern Uganda and the object of this violence tends to be ex-combatants from the LRA.

Call for Change

While it is obvious to those who carefully examine the situation in Uganda that it is deteriorating, it is not nearly as obvious what should be done. It is impossible to conclusively call for a particular action to be taken based on the lack

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[42] UNICEF, "Does Horizontal Education Inequality Lead to Violent Conflict?" April 2015. http://learningforpeace.unicef.org/media-center/stories/conflict-is-twice-more-likely-in-countries-with-education-inequalities-says-new-unicef-report/.

[43] Ibid.

[44] United States Department of State Bureau of Diplomatic Security, "Uganda 2015 Crime and Safety Report," April 15, 2015. https://www.osac.gov/pages/ContentReportDetails.aspx?cid=17446.

[45] Human Rights Watch, *"Where Do You Want Us to Go?" Abuses against Street Children in Uganda* (USA: Human Rights Watch, 2014), 7.

[46] Ibid, 18.

[47] United States Department of State Bureau of Diplomatic Security.

of research that is available on ex-combatant reintegration. Yet, it seems that incorporating traditional coping methods for exposure to traumatic stress would be beneficial, and it certainly wouldn't be harmful. The Acholi have several traditional healing methods and forms of traditional justice.

For instance, *gomo tong* is a symbolic ceremony conducted in an effort to bring clans and communities together to acknowledge the end of violence, and it suggests if the peace is broken the aggressor will be harmed. Both *gomo tong* and *mato oput*, discussed earlier, are two of the best known traditional cleansing rituals associated with former child soldiers in Uganda. In fact, the UN has stated that these types of traditional justice mechanisms best serve the children.[48] The two rituals are independent of another, but they are often performed side by side. *Mato oput* places an influence on telling the truth and demonstrating remorse. This is incredibly beneficial to the Acholi community in the wake of the LRA, as they feel that they have been largely ignored. Thus, the acknowledgement of the crimes committed against them and distributed compensation attempt to remove the resentment the community feels toward these former child soldiers.

These traditional rituals not only bring cathartic relief to the ex-combatants, but they also address the grievances of their communities. Traditional Western therapeutic modalities may not be the most appropriate forms for treating PTSD in Northern Uganda, but these traditional forms of justice seem to have positive results.[49] Though they are beneficial, performance of these ceremonies has declined because the clan must have the money and resources to perform the ceremony (which often involves monetary compensation and the slaughtering of a goat) and the victim must be identified. The communities have been devastated by the civil war and do not always have the financial means to have a ceremony for each transgression, and many former combatants do not know the names or clans of their victims. While the latter issue may not be solvable - other than adapting these rituals to accommodate each particular situation - perhaps the government of Uganda and the NGO/FBO community within the country can provide the financial means to enable these rituals to continue.

The Government of Uganda likes to frame the issue of returning child soldiers as a Northern Ugandan (Acholi) issue, but simply confining the issue to Northern Uganda ignores the large scale effects of the LRA and reintegration process. Improper and unsuccessful reintegration effects the entirety of Uganda,

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[48] UNICEF, "Addressing The Potential and Limits of 'Mato Oput' Process as A Basis for Accountability, Justice and Reconciliation for Children in Northern Uganda," 22. http://www.unicef-irc.org/files/documents/d-3712-Addressing-the-potential.pdf.

[49] International IDEA, "Northern Uganda: Tradition Based Practices in the Acholi Region," in *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences,* 2008. Accessed December 20, 2015. http://www.idea.int/publications/traditional_justice/upload/Chapter_4_Northern_Uganda_tradition-based_practices_in_the_Acholi_region.pdf

and as the LRA has moved through Sudan, Central African Republic, and Democratic Republic of Congo, the citizenships of other countries have been negatively impacted as well. As one prominent Ugandan lawyer and politician, Norbert Mao, stated, "The Lord's Resistance Army has the potential of becoming the sub-saharan al-Qaeda."[50]

As is seen in the current state of Northern Uganda, the traumatic experiences child soldiers are exposed to during their formative years have dire consequences. The increase in domestic violence, violent crime, alcoholism and lack of primary school completion post-conflict suggest that the Acholi region and Northern Uganda have not recovered from the war. It suggests that former child soldiers have failed to be successfully reintegrated into these northern communities. When high rates of domestic violence, violent crime, alcoholism, and a widespread lack of education occur in conjunction in a small geographic region, a country and its population cannot be expected to thrive. Lack of education can lead to gender inequality, and this can lead to both violent crime and domestic violence. Alcoholism only further perpetuates these negative processes. These issues compound each other and lead to turmoil and poverty. Many believe the war has left Uganda - that the LRA is no longer of immediate concern, but war does not simply end when the guns fall silent. As Uganda's history has shown, a country must diligently work to address the reintegration of child soldiers. If a country fails to reintegrate these children properly, a generation is created in which animosity, poverty, and violence is simply inevitable. All of which are consequences that are not merely confined to that country's borders; these are consequences the international community will have to deal with, whether it be financially or militantly.

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[50] Norbert Mao

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