

**TRAFFICKING IN WOMEN IN AFRICA:
ANALYSIS OF APPROACHES TO POLICY**

**TRAFFICKING IN WOMEN IN AFRICA:
ANALYSIS OF APPROACHES TO POLICY**

By

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ABSTRACT

Trafficking in women has been identified as one of the worst forms of human rights violations. Heightened awareness points to the increasing scope of this phenomenon that extends into almost every part of the world. Despite a lack of available, reliable research, Africa has recently been recognized as a region in which the incidence of trafficking in women is particularly alarming. This paper contends that as African governments currently face the challenging task of developing policies to prevent and suppress trafficking in humans, an analysis of current approaches used to address the problem is of critical importance. This is especially crucial since many criticize current anti-trafficking measures as not only inadequate and ineffective, but as further exacerbating situations of abuse and further undermining fundamental human rights of the women who are trafficked. This study argues that any viable policy developed in Africa with the intention of combating trafficking must have the needs of the victims of trafficking front and centre.

This paper lays the foundation for analysis by first exploring the current situation and relevant issues pertaining to trafficking in women, with a focus on Africa. It then analyzes four different approaches to developing anti-trafficking measures by considering different conceptualizations of trafficking, by exploring the strategies proposed under each approach, by unmasking underlying political motives, and by examining whose needs, whether those of the state or those of the women, are ultimately addressed. The strengths and weaknesses of each approach are identified. This paper contends that reframing current studies on trafficking in women based on this type of analysis establishes the necessary groundwork for the needs of women trafficked to be meaningfully considered. Finally, this paper highlights areas of future consideration. It emphasizes ways in which gender-responsive and rights-based perspectives might be integrated in order that measures taken should not adversely affect those women who are trafficked.

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1. INTRODUCTION

1.1 The Presenting Problem

While anything but a new phenomenon, trafficking in human beings is clearly on the increase worldwide. It is increasing not only in magnitude, but also in scope, sophistication and complexity - a “global business that affects almost all countries and reaps enormous profits for traffickers and their intermediaries” (Raymond, D’Cunha, Dzuhayatin, Hynes, Rodriguez, and Santos, 2003, p.1). Researchers differ on the numbers of humans trafficked. Although United Nations (UN) reports estimate that four million women and children are trafficked each year (United Nations Office of Drugs and Crime [UNODC], 2004), all estimates remain preliminary due to the clandestine nature of this crime. It has been projected that the annual revenue collected from trafficking in humans exceeds seven billion U.S. dollars (Ibid). Profits from human trafficking rank third among all illicit organized crimes, after the smuggling of illegal drugs and weapons. While profits earned rival those of weapons and drug smuggling, penalties for human trafficking, in comparison with those for the smuggling of illegal arms and drugs, are either significantly lower or non-existent in most countries (United Nations International Children’s Emergency Fund [UNICEF], 2003).

During the past decade, research on and policy development for issues of human trafficking have focused on particular regions of the world, regions such as East Asia and Europe. Specific countries within these regions have become known as popular “source” countries or countries of “destination” for trafficking. Recently, however, increased awareness suggests that trafficking in humans extends far beyond these regions to almost

every part of the world. In the past few years, Africa has been identified as a major site for a diverse range of trafficking activity (International Organization for Migration [IOM], 2003). Given heightened international interest by organizations such as the International Organization for Migration, Human Rights Watch, and UNICEF, African governments are currently under tremendous pressure to address the issue of trafficking in humans, particularly with respect to women and children. Certain initiatives have already been undertaken to address this problem, and it has become a concern of significant proportions on a number of government agendas (UNICEF, 2003). As governments in Africa debate which policies to implement, it is anticipated that anti-trafficking strategies developed in other countries will be considered in order to identify “successful” approaches. It is the purpose of this paper to contribute to this examination by examining the scope of pertinent issues in Africa and by conducting an analysis of the strengths and weaknesses of four existing approaches employed to counter trafficking in women.

Men, women and children are trafficked for many purposes, including exploitative labour, child-begging, servile marriage (in the form of mail-order brides), and sexual exploitation. Trafficking in humans represents a horrendous abuse of human rights, including “rape, torture, forced abortions, starvation and threats of torturing or murdering family members” (World Revolution [WR], 2003, p.1). It is an unspeakable crime against humanity. The complexities of the issues concerning trafficking in humans have implications that extend to many other international political realms, realms such as illegal immigration and transnational organized crime. Policy development is thus a challenging undertaking. As a result of the complexity of the issues involved, a wide

range of anti-trafficking strategies based on different approaches has been implemented. Among the approaches are the four following: *moral-based* approach, *labour* approach, *migration* approach and *organized crime* approach.

1.2 The Problem

A number of writers (such as: Aghatise, 2002; Heyzer, 2002; Wijers and van Doorninck, 2002) contend that many anti-trafficking strategies based on the above four approaches to countering trafficking in humans are *inadequate*, and fall short of what is required to address the *needs of the victims* of trafficking. Many of these writers argue that anti-trafficking strategies often serve only to exacerbate existing situations of vulnerability, thus actually contributing to or supporting the problem. Furthermore, there are those who claim that actions taken by the state to prevent and suppress trafficking often further undermine and violate the fundamental human rights of the men, women and children concerned (D’Cunha, 2002).

Perhaps one needs to ask why the victims of horrendous abuses through trafficking should suffer further violations at the hands of the state, the very institution obligated by international human rights legislation to provide assistance and protection. One might even question whether underlying political and economic motives may guide the development of certain anti-trafficking measures designed to serve the interests of the state rather than the interests of the victims. These complex questions require careful contextual and conceptual analyses of both the causes of trafficking and the approaches taken to address it. Envisioning such a contextualized approach, with the interests of the “victims” of trafficking clearly front and centre, is the essential stimulus for this study.

Any viable policy developed within an African context should not adversely affect the human rights and dignity of persons, in particular the rights of those who have been trafficked. There are two principles set out in the *Recommended Principles on Human Rights and Human Trafficking* (UNOHDC, 2004) that are of particular relevance to this paper's analysis:

1. The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims;
2. States have a responsibility under international law to act with due diligence to prevent trafficking, to investigate and prosecute traffickers, and to assist and protect trafficked persons.

1.3 Objectives of the Study

The overall aim of this study is to present a careful and detailed analysis of the existing approaches to combating trafficking in order to provide the necessary foundation for newly envisioned effective anti-trafficking strategies. The specific objectives are:

1. To examine the nature, scope and distribution of trafficking in women in Africa;
2. To analyze the strengths and weaknesses of four approaches used to develop policies for preventing and suppressing trafficking;
3. To identify possibilities for further integration of gender-responsive and rights-based perspectives in approaches to prevent and suppress trafficking in women.

1.4 Conceptual Framework

This paper reflects an abolitionist perspective, which argues that trafficking for any purpose is a violation of human rights and a crime against humanity. This perspective acknowledges that women are trafficked for a variety of purposes. However, with regard to trafficking for purposes of the sex industry, prostitution will be considered as a form of sexual exploitation, which takes advantage of women made vulnerable by

factors such as poverty, economic development policies and practices (Poulin, 2003).

Prostitution is understood as a manifestation of the inequality, degradation and oppression experienced by women around the world. The abolitionist stance does not deny that some women do consent to their involvement in prostitution, but maintains that consent is irrelevant, since women who consent are still subject to exploitation (Miles, 2003).

Although men and children are also trafficked worldwide, this paper will limit its focus to issues pertaining to women, firstly because women and children comprise the majority of those who are trafficked, and secondly, because policy strategies relating to trafficking in children are developed according to different legal frameworks and international standards.

The use of the term “victim” throughout this paper is an acknowledgement that women can be “victimized” without being eternal victims, and thus, does not deny the agency of any woman. In addition, when referring to prostitution, the sex industry and the sexual exploitation of women, the following discussion refers to heterosexual relationships, in light of the fact that this is the underlying assumption throughout the literature examined. Given that the global sex industry is not limited to heterosexual relationships, this is an area that begs further research and exploration.

1.5 Rationale

Many current approaches to combating trafficking are actually inadequate and ineffective, and may, in fact, further undermine the rights of the victims concerned. As African governments begin to develop strategies to combat trafficking, this study argues that an analysis of existing approaches is a critical undertaking both as a foundation for a

meaningful response and as protection against further violation of victims of trafficking at the hands of the state.

Several of the articles on issues of trafficking considered by this study mention, either directly or indirectly, one or two of the four approaches identified in this paper (Aghatise, 2002; Brown, 2003; D’Cunha, 2002; Empower, 2003; Heyzer, 2002; IOM, 2003; Limanowska, 2002; Rajalakshmi, 2003; Raymond, 2002; and UNICEF, 2003). A small number of these articles briefly discuss the implications of one or two of these (Aghatise, 2002; Empower, 2003; Heyzer, 2002; Rajalakshmi, 2003). Only two papers, however, demonstrate an interest in all four. The article, *Only Rights Can Stop Wrongs: A Critical Assessment of Anti-Trafficking Strategies*, by Wijers and van Doorninck (2002), critiques the strengths and weaknesses of each approach according to human rights standards. Its authors argue that the needs of women are not addressed by current approaches, and their rights are often further violated when their “voices are not heard” (p.1). Thus, participation of the women who are trafficked is essential for the development of effective change strategies.

However, the Wijers and van Doorninck article has some serious limitations: a very brief article, it is more an opinion paper than an academic study; its underlying bias advocates for the legalization of prostitution, in contrast with the abolitionist approach reflected in this paper; its context is European, demonstrating no interest in analysis within the African context; and it provides few supporting examples of strategies based on the four approaches. Thus, although this present study analyzes the same four approaches, it is concerned to extend both the context and the vision.

The second article identifying all four approaches is: *Agendas and Ideological Bases of Anti-Trafficking Actors: Representations, Moralities and Realities in US/Southeast Asian Experiences*, a political science thesis written by Christina Arnold (2004). Arnold, founding director of Project Hope International (PHI), a volunteer non-profit organization dedicated to countering human trafficking, is concerned primarily with assessing strategies proven ineffective, and the lessons learned from these mistakes. Although Arnold sets out to critique various anti-trafficking approaches, she focuses her arguments almost exclusively on a negative critique of two specific anti-trafficking organizations that employ strategies based on the *organized crime approach*. Her writing reads too much like a personal attack on “competing” organizations, a venting of frustration over the fact that they received funding when PHI did not. In addition, Arnold’s study is limited to trafficking concerns in Southeast Asia and the United States, as opposed to the African context. Although Arnold’s discussion does offer new insight into negative aspects of the *organized crime approach*, overall, it affords little in the way of comprehensive academic analysis of various approaches to the problem of trafficking in women.

Thus, the literature reviewed makes evident the critical need for a reframing of current research in a way that establishes the groundwork for a careful consideration of the needs of women trafficked, especially in the African context. This, then, is the concern of this paper: to offer a careful and detailed analysis of the existing literature such that this meaningful, detailed and well-supported analysis will provide the necessary foundation for newly envisioned effective strategies.

2. METHODOLOGY

This paper's research draws primarily from secondary sources related to issues of trafficking in humans, particularly women, and focuses on the following areas: (1) trafficking in women in Africa, (2) an analysis of four approaches to developing policy responses to trafficking, and (3) human rights and gender-responsive perspectives. This has allowed the researcher to utilize the extensive literature available in order to develop a contextual analysis of the social problem and of various approaches to combating trafficking in women. Articles written by those currently working alongside women who have been trafficked are integrated throughout the discussion and analysis, and are instrumental in supporting this study.

2.1 Limitations

This research relies upon a number of sources written on trafficking in humans in regions outside Africa, such as Europe and East Asia. There are two issues that constrain the range of literature. Firstly, there has been little research conducted to date on issues of trafficking in humans in Africa. Secondly, there are few policies on trafficking in humans in African countries, since its presence as an issue of particular importance on African political agendas is relatively new, and many have yet to make it a priority.

This study has other limitations. Its broad reach makes it impossible to fully explore the complexity of the wide range of issues identified throughout the discussion and the analysis, and it is therefore beyond the scope of this paper to do justice to each concern raised. Furthermore, this research focuses exclusively on an examination of secondary literature and thus does not directly include the experiences and opinions of

women who have been trafficked. The researcher acknowledges the risk of appearing pretentious in researching and analyzing issues related to trafficking in women when she has no personal experience, particularly when considering a situation in Africa, a continent that includes many so-called “developing countries”. However, the researcher trusts that in relying upon a number of articles written by those who work alongside women who are trafficked, in critically examining the role of structural forces, and in focusing on the necessity for including both human rights and gender-responsive approaches, she will avoid supporting oppressive Western values and perspectives.

Ultimately, it is the vision of this researcher that through this study, awareness regarding issues of trafficking in women in African might be heightened, and that the seeming “invisibility” of the horrendous abuse of human rights might be further exposed. Given the extremely complex nature of the issues related to trafficking, the use of a variety of approaches to developing policies is critical in order to effectively challenge systems of trafficking, and in order to protect the women concerned. Rather than setting out to identify only one approach as ideal, it is therefore the purpose of this paper to outline the strengths and weaknesses of *each* model, particularly with regard to outcomes for the women who are trafficked.

2.2 Four Approaches Used To Combat Trafficking

The four approaches to policy development regarding trafficking in humans as outlined in this paper are referred to directly or by implication in the literature on trafficking in humans. The four approaches are as follows: (1) Moral-Based Approach; (2) Labour Approach (3) Migration Approach; and (4) Organized Crime Approach.

Defining and summarizing each model proved quite difficult. There were no concise definitions or summaries of any of the approaches in the materials examined. This may be attributable to the fact that the issue of trafficking in humans remains a relatively new concern on political agendas. Perhaps the novel nature of addressing this phenomenon is reflected in the fact that many of the four approaches appear in a state of flux, constantly informed by various bodies of emerging research, and instructed by various special interest groups vying for political recognition. This reality compounds the difficulty encountered in defining each individual approach. Furthermore, upon closer examination, it is evident that certain characteristics of the different models overlap. Deporting women who have been trafficked, for example, is a strategy used in both the migration approach and in the organized crime approach. Likewise, it is impossible to analyze certain measures from a labour approach without engaging in moral-based discussions.

2.3 Framework for Policy Analysis

Any type of policy analysis is challenging, and the number of issues to be examined can be overwhelming. This paper relies on Gil's (1976) analytic framework for its analysis of approaches to policy development regarding trafficking in women. This framework was chosen primarily for its emphasis on exploring the underlying *structural causes* of the social problem of concern, that of trafficking in women. Gil's model consists of three main objectives: (1) "to gain understanding of the issues that constitute the focus of a given social policy"; (2) "to discern the chain of substantive events resulting from the implementation of a given social policy"; and (3) "to generate

alternative policies aimed at the same or at different objectives concerning the focal issues” (p.31-32). These three objectives provide a natural structure for the scope of this thesis: Section 3 examines the scope of the problem of trafficking in Africa, Sections 4-8 analyze the different approaches and events resulting from the implementation of strategies employed, and Section 9 offers possibilities for alternative approaches and policies in this area.

Based on Gil’s model, five questions were chosen by the researcher in order to conduct an analysis of the four approaches used to address trafficking in women. The questions are applied to each framework as follows: (1) How is trafficking in human beings understood and conceptualized? (2) What are the proposed strategies for addressing trafficking? (3) What are the ideological or political underpinnings? (4) Whose needs are addressed through the proposed strategies? (5) What are the potential unsought consequences? It is important to note that the answers to these questions are not explicitly outlined; rather they are integrated as they arise within the overall analysis of each approach.

3. UNDERSTANDING THE ISSUES PERTAINING TO TRAFFICKING IN WOMEN IN AFRICA

Prior to conducting an analysis of the effectiveness of each of the four approaches taken to address trafficking, it is critical to examine relevant issues. According to Gil's analytic framework (1976), the first objective in policy analysis is to explore the issues that constitute the focus of the specific policy being analyzed, which "involves exploration of the nature, scope and distribution of these issues, and of causal theories concerning underlying dynamics (Gil, 1976, p.31). This section is informed by two related bodies of literature: firstly, literature on trafficking in human beings, particularly women in Africa, and secondly, literature concerned with gender-responsive and rights-based perspectives.

3.1 Global Trafficking in Women

Trafficking in human beings worldwide, with women and children being the majority of those trafficked, is a multi-billion dollar business, ever increasing in magnitude (Aghatise, 2002; D'Cunha, 2003; Poulin, 2003). Women and children are trafficked to, from and through every region of the world, using diverse and sophisticated mechanisms and methods that have become new forms of 'slavery'. Trafficking in humans varies in purpose, including: labour; servile marriage; child labour; and sexual exploitation. The latter is usually considered the leading purpose for women and girls.

In recent years, international political awareness of this phenomenon has increased in certain areas of the world, particularly in Europe and Africa. This growing awareness is the result of a combination of factors, particularly the increase in focus around global issues of HIV/AIDS, illegal migration and transnational crime (IOM,

2003). The media has also played a significant role in bringing attention to various aspects of trafficking in humans, often portraying the issues in sensationalist ways, influencing public perception and subsequent government responses (Dekic, 2003). This growing recognition has led to a rise in resources allocated to combat trafficking, as evidenced by the number of international committees convened and conventions held, and by the development of subsequent international tools and standards such as the ILO Convention on the Worst Forms of Child Labour (1999); the UN Special Rapporteur on the Sale of Children (1999); and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN, 2000).

Trafficking in women has recently become an important concern on the agenda of a number of African governments, as seen in the development of recent initiatives such as the *Plan of Action*, adopted by the Economic Community of West African States (ECOWAS) in 2001 (UNICEF, 2003). Many countries, however, have yet to make it a priority (IOM, 2003). International interest in trafficking in humans in the African context is also evidenced by the fact that three major studies have been conducted in the past three years by the International Labour Organization (2003); the Human Rights Watch (2003); and UNICEF (2003). Despite this attention, however, there remains an absence of reliable estimates and statistics regarding specific numbers of women trafficked in Africa. This lack of available, consistent information can be attributed to the clandestine nature of trafficking, the complexity involved in gathering data in African countries, and a continued lack of political will among many governments to make this a priority (Wennerholm, 2003).

3.2 Challenges in Defining Trafficking in Humans

The lack of a precise, modern and internationally recognized definition of trafficking in humans is a major deterrent in research and in policy development (Trepanier, 2003; UNICEF, 2003; Raymond, 2003). A definition encompassing a wide range of aspects of trafficking in persons emerged from UN negotiations on transnational organized crime (Trepanier, 2003). The *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (hereafter referred to as the Trafficking Protocol), was adopted by the General Assembly in 2000, and defines trafficking in persons as follows:

Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of and other forms of sexual exploitation, forced labour services, slavery or practices similar to slavery, servitude or the removal of organs. (Trafficking Protocol, 2000, Article 3 (a)).

While a number of African countries have signed the Trafficking Protocol (2000), there are only a few who have ratified it, in part because trafficking in women is not a critical concern on the political agendas of a number of countries. This is important, since this instrument is not enforceable until ratified by forty countries (IOM, 2003).

One of the recurring discussions noted throughout the literature is the current controversial debate between various state representatives and non-governmental organizations around the world over the distinction between *consent* and *coercion*, particularly with regard to trafficking for purposes of prostitution.

On one side of the debate, representing a traditional approach towards prostitution, are those who deny that consensual prostitution exists, and who believe that prostitution is a form of sexual exploitation that reduces women's bodies to commodities (Miles, 2003). On the other side of this debate are those who argue for a distinction between "forced prostitution" and "voluntary prostitution" in order to acknowledge "women's rights to freely choose prostitution as a way to make a living, and, by extension, to choose to migrate for sex work" (Trepanier, 2003, p.49). This debate has caused deep divisions among many groups, and has been the source of much controversy at the international level in developing an agreed-upon definition of trafficking. At present, according to the Trafficking Protocol, the consent of a trafficked victim to the intended exploitation will be deemed irrelevant (Article 3(b)). Raymond and Hynes (2002) argue that this is a critical component of a rights-based perspective:

Exploitation, rather than coercion, is the operative concept in this definition. A definition of trafficking, based on a human rights framework, should protect all who are trafficked, drawing no distinctions between deserving and undeserving victims of trafficking, that is, those who can prove they were forced and those who cannot. Any definition based on the victim's consent places the burden of proof on the victim and offers a loophole for traffickers to use the alleged consent of the victim in their own defense. (Hynes and Raymond, 2002, p.198-199)

Many anti-trafficking groups are advocating for a change in this definition, since the conceptual understanding directly influences the direction of policy development. This will be further discussed in the sections analyzing the different approaches.

3.3 Trafficking Patterns

It is difficult to analyze issues regarding women who are trafficked since they are not a homogeneous population. Exploring these issues in Africa proves particularly challenging, since each country is unique in its geographic, socio-economic and political

characteristics, all of which are interconnected with regard to issues of trafficking in humans. Trafficking patterns vary from country to country, depending on contributing factors such as geography, the “demand” for trafficked women for various purposes, and the permeability of borders. Some countries, for example, have been identified principally as “source” countries. Malawi is one such country where studies reveal that women are trafficked through South Africa (transit country) primarily to Germany, the Netherlands and Belgium (IOM, 2003; UNICEF, 2003).

Other countries such as South Africa have been recognized as both countries of “transit” *and* “destination”. Many women are trafficked into South Africa for the purpose of exploitation in the growing sex industry within the major cities. Research has documented that they are trafficked from Thailand, China and Eastern European countries (IOM, 2003; UNICEF, 2003). Refugees fleeing other African countries are also among the numbers trafficked into South Africa (IOM, 2003). According to a number of sources, on the other hand, a large percentage of women trafficked to Italy originate in Nigeria, the majority of women coming from the Edo (Benin) ethnic group, found in the Southern region (Aghatise, 2002; Elabor-Idemudia, 2003). It is also recognized that Nigerian women from other ethnic groups are trafficked to twelve different countries while Nigeria itself is a country of destination for women from ten different countries (UNICEF, 2003).

3.4 Traffickers

Traffickers, while occupying a central place between the “supply” and “demand” for trafficking in humans, are also not a homogeneous group. Traffickers may be part of organized transnational criminal groups, or may be smaller scale operations, linked by a

chain of middlemen (Hughes, 2000; UNICEF, 2003). There are also many instances of 'independent' traffickers, as documented, for example, in South Africa where refugee men, becoming aware of "economic opportunities", send for female relatives in their country of origin, forcing them into sexual exploitation or domestic labour upon arrival (IOM, 2003).

A common theme throughout the literature is the similarity of tactics used to recruit, transport and exploit victims. In most cases, women are lured with promises of employment or educational opportunities abroad (Hughes, 2002). Offers appear appealing and credible coming from historically more prosperous countries such as South Africa or Northern Europe. Exploitation, whether for domestic labour or prostitution purposes, is facilitated largely by relocation of women from a place with which they are familiar, to one which is unknown (Aghatise, 2002; Elabor-Idemudia, 2003). This exacerbates their already vulnerable situation. Upon arrival at their destination, victims are placed in conditions controlled by traffickers while they are exploited to earn illicit revenues. Many are physically confined, their travel or identity documents taken away, and they or their families are threatened if they do not cooperate (UNODC, 2004).

A number of other forms of control have also been documented in each of the recent studies in Africa, including violence and psychological control such as threatening the harm of family members back home and threatening to report a woman's illegal status as migrants to authorities (Aghatise, 2002; UNICEF, 2003). Interestingly, reports by both UNICEF (2003) and the IOM (2002) highlight the use of cultural rites by some traffickers as a means of control, a factor that is also noted in a number of papers written on trafficking in Africa. In the trafficking of Nigerian women to Italy, for example,

Aghatise (2002) notes that the use of “juju” rites, which hold significant meaning for many Nigerians, exert psychological control such that any need for traffickers to use physical control is eliminated.

3.5 Abuse and Exploitation

Throughout the trafficking process, including transportation and arrival in countries of transit or destination, the women who are trafficked experience horrendous abuse, exploitation and violation of human rights. The list of humiliations and violence for many women who are trafficked is endless, as are the health consequences. According to a comparative study conducted by Raymond et al. (2003), in addition to HIV/AIDS and STDs (which often constitute the primary focus in research relating to prostitution and trafficking), trafficked women are at a much higher risk of cervical cancer, complications due to self-induced abortions, fertility complications, vaginal bleeding, physical harm related to self-injury, issues related to substance abuse, and injuries sustained from the violence inflicted upon them, among numerous other health consequences (p.66). The needs, therefore, of these women are far-reaching, including access to necessary services such as counseling, health care, shelter, food and other basic needs, not to mention legal assistance and protection, recourse and redress, to name only a few. It is in the context of these needs that this paper carries out its analysis of various approaches to developing anti-trafficking strategies. Clearly, the needs of the victims must be at the forefront of any policies developed. Measures must therefore not only take into account the violations and abuse committed against them, but should take caution not to further reinforce them these abuses and violations.

3.6 “Push” Factors

In exploring root causes of trafficking in women in Africa, a number of complex and interrelated themes emerge in the literature. These themes are often divided into two categories: “push” factors (those generating the “supply”), and “pull” factors (those generating the “demand”), which together contribute to a context in which trafficking in women flourishes*. While reports and analyses on trafficking in women typically recognize poverty as one of the most visible “push” factors, they also emphasize that poverty is only one aspect of a much larger picture. One of the related discussions is the role that macroeconomic policies promoted by international lending organizations such as the World Bank (WB) and the International Monetary Fund (IMF) have played in contributing to the experiences of poverty for women. In countries like Malawi and Nigeria, governments under “Structural Adjustment Programs” (SAPs) have been required to make cuts to public services such as education and health care, and have been forced to open markets to industries and privatize services and industries (Aghatise, 2002; Mitra, 2003).

Recent international economic developments have in many cases had a disproportionate impact on women and children, the majority of who live in developing countries. For those states that have carried a large burden of foreign debt, structural adjustment programs and measures, although beneficial in certain ways in the long term, have led to a reduction in social expenditures, thereby adversely affecting women, particularly in Africa and in the least developed countries. This is exacerbated when

* Please Refer to Appendix A for a Visual Representation.

responsibilities for basic social services have shifted from governments to women (“Fourth World Conference Report”, 2002).

For example, in the past couple of years, Malawi has experienced widespread famine, brought on by a combination of erratic weather conditions, the impact of HIV/AIDS, and the controversial sale of the national strategic grain reserves which was one of the ‘conditionalities’ imposed by SAPs developed by the WB and the IMF (“UN Report”). This contributed greatly to the utter desperation experienced by many women attempting to provide food for their dependants, increasing their likelihood of being trafficked. Macro and microeconomic policies and programs, including structural adjustment, have not been designed to take into account the impact on women and children, especially those living in poverty (“Fourth World Conference Report”, 2002). This notion of the *feminization of poverty* in which women are often most affected by loss of employment, even indirectly in situations where male family members lose their jobs, increasing the pressure on women, was a theme repeated throughout the literature reviewed.

Economic recession in many developed and developing countries, as well as ongoing restructuring in countries with economies in transition has had a disproportionately negative impact on women’s employment. Women often have no choice but to take employment that lacks long-term job security or involves dangerous working conditions, to work in unprotected home-based production or to be unemployed (“Fourth World Conference Report”, 2002; UNIFEM, 2002). Many women enter the labour market in under-remunerated and undervalued jobs, seeking to improve their household income; others decide to migrate for the same purpose. Without any reduction

in their other responsibilities, this has increased the total burden of work for women, and has thus increased their vulnerability to being trafficked.

In Africa (as in other regions of the world), the effects of HIV/AIDS compound these “push” factors (IOM, 2003). Women trafficked for purposes of prostitution are amongst the most vulnerable groups exposed to HIV infection due to their lack of negotiating power in condom-use and other exploitative conditions under which they are often forced to work such as servicing multiple ‘customers’ in the same hour (Loff, Overs and Longo, 2003). Young girls orphaned, and women widowed by AIDS can be more vulnerable to trafficking due to the increasing poverty of their households, and because of the stigmatization and marginalization they may experience in their communities (UNICEF, 2003).

3.7 “Pull” Factors

One of the emerging issues in the literature is the lack of attention given to “pull” factors, as *root causes* of trafficking in women. At the macro level, economic and social changes as processes within the current phase of globalization are altering marketing traditions and labour requirements. On the one hand, there has been a major increase in the demand for cheap labour in many regions of the world, while on the other hand, there has been a decrease in legal rights for migration worldwide (Wijers and van Doorninck, 2002). Furthermore, women are increasingly perceived as being more suitable for labour-intensive work. According to Heyzer, (2002), “young women are in particular “demand” because they are regarded as more compliant and less likely to rebel against substandard working conditions” (p.4). Trafficking flourishes under circumstances

where there is an immense gap between strict immigration policies and the enormous “demand” for migrant labour in destination countries (Limanowska, 2004). The recent shifts in trends in migration patterns, known as the *feminization of migration flows*, are evidenced in the sharp increase in the numbers and proportions of women migrants moving in search of work (UNIFEM, 2002).

Another contributing factor pertaining to the “pull” side of trafficking, particularly for sexual exploitation, identified in much of the literature was the issue of male “demand” for sex. Raymond et al. (2003) argue that the “customer” plays the most invisible role in promoting prostitution and the sex industry:

Myths about male sexuality, reluctance to problematize the supposed male “need” for commercial sex, male sexual expectations, and the way in which sex has been tolerated as a male right in a commodity culture are all part of this demand (Raymond et al., 2003, p.2).

The increasing globalization of the sex industry is one of the most significant contributing factors in this “demand”. Capitalist globalization today involves an unprecedented “commodification” of human beings for exchange in a sexual market (Poulin, 2003). Within this context, sex tourism has become a new industry in which airline and hotel chains have developed relationships with local businesses in countries all over the world. There is an ever-increasing demand for young and “exotic” bodies from Africa: “the sexual labour of young brown women in these playgrounds for the West has become increasingly important for national economies” (Kempadoo, 2003, p.14). Many countries in Africa, such as Malawi, under structural adjustment programs of the WB and the IMF have been “encouraged” to increase their tourism and entertainment industries as development strategies, of which sex tourism is a major part (Poulin, 2003).

3.8 Normative Framework

In striving to combat issues of trafficking in humans, an international normative framework has slowly developed in recent years (UNICEF, 2003), including major related initiatives such as the Convention on the Rights of the Child and its Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000) as well as the Trafficking Protocol (2000) discussed earlier. More specifically in Africa, a growing number of regional and sub-regional frameworks are being developed, and these are related to issues of trafficking in women. Examples include the African Charter on Human and People's Rights (1981) and the African Charter on the Rights and Welfare of the Child (1990). At the sub-regional level, the ECOWAS has adopted a Declaration and Plan of Action against trafficking in persons (2002-2003). Like most other initiatives attempting to prevent and suppress trafficking in humans, the focus of these measures remains primarily on laws and criminal legislation. The development of policies regarding trafficking in humans is criticized for its lack of concern with human rights.

3.9 Gender Responsive and Rights-Based Approaches

At both macro and micro levels, the focus on addressing issues of trafficking in women remains embedded primarily in an approach of maintaining law and order. One of the major themes apparent throughout the literature on the complexities involved in combating trafficking is the need for the interests of women to be at the forefront, rather than the interests of the state. Governments are often motivated by other priorities such as combating illegal migration or transnational organized crime in order to protect national security. Strategies tend to focus on punitive measures, and there is a lack of attention to

preventative initiatives. The onus is often discriminatorily placed on those who are victims of coercive and deceptive events rather than on those factors generating the demand for exploitative labour and services of women (D’Cunha, 2002; IOM, 2003; UNICEF, 2003). Although dominant discourse and interventions around issues of trafficking seemingly focus on women, they are not *gender responsive*, and, for the most part, lack a rights-based orientation. A number of key concepts have been drawn from various discussions around gender and rights-based perspectives. They are identified here in order to provide further insight into analyses of approaches to policy development concerning trafficking in women.

Gender-Responsive Perspective

According to UNIFEM (2003) a gender-responsive perspective:

- Distinguishes between the concepts of sex (fixed biological distinctions) and gender (the different social roles, attributes and conduct that society deems appropriate for men and women);
- Refers to the relationship, the relative status and position between men and women, with women more disadvantaged in most contexts (largely socially determined);
- Recognizes that prevailing gender stereotypes and women’s less valued social roles marginalize them from ownership and control over material and non-material resources;
- Considers the interaction between gender and other social categories such as class, ethnicity;
- Holds that as gender inequalities are socially conditioned, they can be “transformed in the direction of justice, equality, and fair partnerships between men and women” (D’Cunha, 2002, p.7).

A gender approach would thus be woman-centred though not woman-exclusive, and would explore factors such as differential and discriminatory policy, legal, and practice and program impacts. More specifically, a gender perspective on trafficking would

therefore recognize the similarities and differences in the trafficking experiences of women, men and children in relation to vulnerabilities to trafficking, violations, consequences and differential policy and program impacts (D’Cunha, 2002), and works towards *empowering* potential victims and those trafficked to access services and remedies, and to claim their fundamental human rights. Approaches that produce gender stereotypes and reinforce gender discrimination, for example, must be challenged.

In exploring a gender responsive approach to the problem of trafficking in humans, there is an increasing acknowledgement throughout the literature for the need for a rights-based approach, since gender discrimination is now recognized as a fundamental denial of human rights (D’Cunha, 2002; Aghatise, 2002; Aradau, 2003). Heyzer (2002) argues that “women’s human rights must therefore lie at the core of any credible anti-trafficking strategy, for violations of human rights are both a cause and a consequence of trafficking in persons” (p.11).

Rights-Based Approach

Key concepts that emerge throughout the literature with regard to a rights-based approach include the following:

- Maintaining the universality, inalienability, indivisibility and interdependence of rights (D’Cunha, 2002);
- Maintaining that rights apply equally to all people (D’Cunha, 2002);
- Ensuring non-discrimination, equality and equity (D’Cunha, 2002);
- Recognizing and guaranteeing new woman-specific rights in the private sphere in order to reduce vulnerability (Aghatise, 2002; Agbu, 2003);

- Integrating concepts of empowerment, in both structural and individual realms (Heyzer, UNIFEM, 2002).

A human rights approach draws attention to the obligation of the state to take action towards prevention while maintaining a focus on the role of structural forces. While recognizing the critical role of a human rights approach in combating trafficking in women, the complementary roles of criminal law and human rights must likewise be emphasized prior to analyzing the various anti-trafficking strategies. This study thus contends that a human rights approach can render anti-trafficking laws more effective, and can ensure that these laws address the situation of all stakeholders, including actual and potential victims and their communities.

4. EXISTING APPROACHES TO ANTI-TRAFFICKING STRATEGIES

According to Gil's model (1976) as previously discussed, the policy analyst must discern the chain of events resulting, or expected to result, from the implementation of a given social policy. This section will explore a range of four approaches to anti-trafficking policies by analyzing *examples* of strategies proposed from within each approach. It will critique each model by applying the five questions identified earlier (though not always in the same order) according to Gil's model for analysis. Its focus remains on discerning possible outcomes for those victims of trafficking. The strengths of each framework will thus be highlighted, as well as potential weaknesses and challenges. While acknowledging the need for a range of approaches in order to effectively address the complexity of the issues related to the trafficking in women, it will challenge the lack of gender-responsive and rights-based perspectives.

5. MORAL-BASED APPROACH

As governments over the years in many countries have responded to demands to combat trafficking in women, the most common model used in formulating strategies has been the *moral-based approach*. This model defines trafficking in humans exclusively in terms of its relationship to systems of prostitution. It is the most widely used approach, doubtless because prostitution is the leading purpose for which many women are trafficked. In addition, media representations of trafficking in humans have tended to focus their attention solely in this area. Reports of forced prostitution, sexual exploitation and related issues provide a much more sensational story than accounts of trafficking for

the purpose of domestic labour, for example (Dekic, 2003). Public opinions are significantly influenced by media representations, which in turn largely inform the approach taken by the state in the development of policies to address trafficking in women. Moreover, any focus in the media on prostitution is likely to stir a public uprising. It often strikes a 'moral' cord within the heart of many societies, given that prostitution is predominantly viewed as "immoral" and socially unacceptable.

Policies developed in response to the phenomenon of trafficking from a moral-based approach which equates trafficking with prostitution either (1) develop legislation which criminalizes aspects of prostitution, such as the act of selling sexual services, or (2) increase the resources allocated for the enforcement of already existing laws.

Many African countries, such as Malawi, South Africa, and Kenya have legislation that *criminalizes* all aspects of prostitution, and recent initiatives in each of the three countries are strengthening enforcement of these laws (IOM, 2003; UNICEF, 2003). A pertinent example of legislation created based on a moral approach is India's *Immoral Traffic Prevention Act (ITPA)* (1986). The *Act* explicitly criminalizes the act of prostitution as a primary strategy to prevent and suppress trafficking in women. In this statute, trafficking is conceptualized solely in terms of its relationship to the sex industry. According to Rajalakshmi (2003), this is best exemplified by the fact that "case laws based on the ITPA reveal that often the terms prostitution and trafficking are used interchangeably" (p.112).

While all aspects of prostitution are viewed as "immoral" in most societies, many strategies aim to address both prostitution and trafficking by targeting *only* the women involved as prostitutes. It is argued that the women involved are more "visible" than

their “customers” and are therefore more easily apprehended by law enforcement officials (Miles, 2003). Furthermore, according to this line of reasoning, by reducing the “supply” of women as prostitutes, the “demand” for their services will in turn decrease.

In terms of reducing the “demand”, however, this strategy is clearly ineffective. Male demand for sexual services has not decreased where women’s involvement in prostitution is criminalized (Raymond, 2002). This study argues that reducing the “supply” will actually *increase* the financial return to traffickers, thus providing further incentives to traffic women. Such attempts to reduce the “supply” thus carry the risk actually contributing to a context in which trafficking flourishes.

When criminalized, systems of prostitution are pushed underground. This has adverse consequences for the women involved. Those women who have been trafficked for purposes of the sex industry are further isolated, stigmatized, and are less likely to access necessary services because of the illegal nature of their means of (forced or “voluntary”) livelihood: “persons trafficked into the [sex] industry are less likely to be able to access assistance or service providers be able to access them under a criminalized situation” (Arnott, 2003, p.190). A criminalized system of prostitution increases a woman’s dependency on those who exploit her. This in turn provides traffickers and exploiters further means of control over all aspects of a woman’s life. Moreover, working and living conditions are worsened, and are even more dangerous for women due to the underground nature of the “work”.

If they are found guilty, women apprehended for their involvement in prostitution are typically sentenced to time in prison (UNICEF, 2003). Here, these victims of trafficking are offered no opportunity for redress against their traffickers or exploiters,

nor are they provided access to critical services such as health care. In addition, if apprehended, women are likely to experience further abuse, violence and other violations of their rights by other inmates or prison officials.

Even in situations where *all* aspects of prostitution are criminalized (for both men and women), there are high levels of gender discrimination in both sentencing and punishment. Aghatise (2003), Elabor-Idemudia (2003) and Hughes (2002) all argue that sentences for women involved in prostitution are typically much more severe in comparison with those for men found guilty. Rajalakshmi (2003) remarks that in India under the ITPA (1986), traffickers and men who are convicted are often given extremely short sentences. Furthermore, he identifies the fact that the courts have the discretion to decide whether to send a woman to a “corrective home” (which have worse conditions than prisons) in lieu of a prison based on their judgement of her character, state of health and mental condition. Rajalakshmi argues that: “none of the[se] three concepts are defined in the *Act* and all are extremely gender-biased. Nowhere does the *Act* seek to constitute specialized centers to reform traffickers or men.” (p.111). Here, the victim herself becomes an offender in the eyes of the law, and is further burdened to correct herself. In light of this scenario, this study notes the significance of the fact that even when anti-trafficking policies are non-discriminatory on paper, they are often discriminatory towards women in their implementation. Any viable policy developed with the intention of addressing trafficking in women must therefore acknowledge and seek to challenge existing gender inequalities that may be manifest in its implementation.

Criminalizing and targeting the women involved in prostitution discounts the many “push” and “pull” factors, particularly the *feminization of poverty*, in which macro

and micro levels of gender oppression and discrimination place women at greater risk of vulnerability to trafficking. Even if trafficking were only associated with prostitution, this type of strategy ignores the countless factors that contribute to the need to or the desire to prostitute oneself in lieu of other viable opportunities of livelihood. Furthermore, upon closer examination, it is clear that targeting solely the women involved in prostitution not only disregards underlying gender discrimination as a root cause of trafficking, but is also itself evidence of this same institutional, structural and societal gender discrimination. It blames the women involved for the “societal impurity” caused by the reality and presence of prostitution, while absolving the men who exploit them or who purchase their services.

It is important to note that some countries have passed legislation that criminalizes *only* those who exploit and purchase the sexual services of women. Based on the abolitionist perspective underlying this paper’s analysis, this paper contends that these measures are critical in the attempt to prevent and suppress trafficking by serving as a disincentive, which will directly impact on the “demand”. It is also important to acknowledge, however, that this is only *one* of many valuable strategies. Employed on its own it is ineffective, since it ignores the countless other “push” and “pull” factors that contribute to the trafficking in women. Moreover, this strategy is not without risks, particularly the fact that when any aspect of prostitution is criminalized, systems of prostitution are likely to be pushed further underground. As discussed earlier, this creates even more dangerous, isolating and abusive circumstances for the women.

This study argues that one of the principle underlying motives of strategies developed based on a moral approach is that of maintaining a “pure” and “moral” society.

Targeting only the women involved ignores the many instances in which women are trapped in a cycle of abuse and exploitation, and are forced into prostitution by their traffickers and other exploiters by use of physical and psychological force and violence. Women who are punished according to the laws of a moral-based approach are treated as criminals rather than as victims or as rights-bearing human beings. Strategies that target women involved in prostitution reflect an ideological underpinning that blames women (and not men) involved in prostitution, thus reinforcing gender discrimination.

Furthermore, this study argues that strategies developed based on a moral approach are implemented in order to meet the needs of the *state* in maintaining a “pure” and “moral” society, rather than the needs of women who are trafficked. The narrow conceptualization of trafficking as linked only to prostitution, the moral condemnation of prostitution, and the tendency to fault primarily the women, together render methods founded on a moral-based approach non-gender-responsive and lacking the integration of a rights-based perspective. Moreover, these strategies often exacerbate the already precarious positions of women, contributing to their vulnerability to trafficking and often further violating their fundamental human rights.

6. LABOUR APPROACH

In recent years, a number of anti-trafficking organizations have begun to challenge traditional approaches such as the moral-based model used to address trafficking in women. According to the *labour approach*, the problem of trafficking in women is conceptualized as being linked to issues of unprotected and unregulated labour, such as domestic labour, and prostitution and entertainment industries. It places trafficking within a context of the impact of factors such as the increasing demand for cheap labour, macroeconomic policies, and the growing informal sector on the *feminization of poverty*.

Strategies are developed for the purpose of (1) gaining recognition of women's work in the informal sectors as legitimate work; (2) obtaining labour law protection for the women involved in these types of work; and (3) improving working conditions. In order for these policies to take effect, change is required in the areas of labour regulation and civil law. Such change would include improvements in the social and legal protection of the rights of women, and the inclusion of women and women's work in areas such as domestic labour. A labour approach identifies the necessity of developing policies in both source and destination countries given that issues related to labour are part of both the "push" and "pull" factors that contribute to a context in which trafficking in women flourishes.

Changes in the social and legal protection of the rights of women and their work would provide women with instruments for defending themselves against situations of exploitation. These proposed strategies are similar to mechanisms that have been

developed with the purpose of combating violence and abuse in labour sectors since the beginning of the twentieth century (Ibid). There are few current policies based on this framework. Wijers and van Doorninck (2002), however, provide one example of aspects of this approach in the 1996 Resolution of the European Parliament which:

Welcomes the ILO (International Labour Organization) and WHO (World Health Organization) initiatives to draw up standards for the informal economy...and believes that it is advisable to draw up legislation on unregulated work with the Union in order to reduce the vulnerability and lack of rights of persons working in this sector, and to ensure access to health care, social services and insurance. (Wijers and van Doorninck, 2002, p.5)

Based on gender-responsive and rights-based perspectives identified in Section 3, strategies based on this framework would be congruent with the concern of this particular study: that policies developed to suppress and prevent trafficking in women must have the needs of actual or potential victims of trafficking at their core, and must maintain and uphold their rights and dignity. A labour approach clearly acknowledges levels of gender discrimination at both micro and macro levels, seeks to address root causes of trafficking, and works towards bringing about change at the structural levels of society in the direction of equity, equality and social justice for women.

There is one particular area of concern with this approach, based on this paper's abolitionist perspective. Those working from a "pro-sex work" approach argue that prostitution for women can be a freely chosen occupation, and make the case that women have the right to ownership over their own bodies. Some pro-sex work feminists portray women in prostitution as breaking the traditional sexual roles for women, and thus the notion of 'victimhood' is refuted and the agency of women is emphasized (Miles, 2003). This stance therefore seeks to protect the rights of all workers, including sex workers, through the *legalization* of prostitution, and through networks of sex workers' rights

collectives (Ibid). Proponents of this position thus argue for the decriminalization of *all* aspects of prostitution whenever it stems from a personal decision between consenting adults. This decriminalizing strategy, of *all* components of prostitution, stands in contrast with the position of this paper which views prostitution as a form of sexual exploitation which manipulates women made vulnerable by factors such as poverty and economic development policies and practices (Poulin, 2003). It would serve to preserve primarily the interests of those who exploit women and those who purchase their services. This paper maintains that those who exploit women must be punished by the state. A legalized system of prostitution is therefore not supported.

Sex workers' rights collectives lobby governments to legalize prostitution in order to improve the health and working conditions for women involved in prostitution. Governments considering this policy strategy, however, often use these objectives to mask other economic and political motives. For example, legalized prostitution is a major source of revenue for the government. In the Netherlands, for example, the sex industry constitutes at least five per cent of the Gross Domestic Product (Miles, 2003). There is also significant international pressure for countries to provide decent employment for women. In recognizing prostitution as "work" through legalization, a country can thus increase its employment statistics for women, claiming the provision of decent and sustainable work. In light of this understanding, this paper claims that a legalized system of prostitution in fact serves to maintain the interests of *state*.

Furthermore, this paper argues that rather than helping to end trafficking in women, legalized prostitution industries are in fact a significant *root cause* of trafficking for the sex industry. For example, Raymond (2003) claims that based on a number of

recent studies conducted in countries like the Netherlands and Germany where prostitution is legalized, eighty to eighty-five percent of women in brothels have been trafficked from other countries. In these situations, rather than controlling the sex industry, legalized systems of the sex industry further contributes to the “demand” for women to work as prostitutes.

In terms of other aspects of informal, unprotected and unregulated labour, however, the labour approach to preventing and suppressing trafficking in women is one that is critical in the development of policies such that the needs of women who are trafficked may be meaningfully considered.

7. MIGRATION APPROACH

In recent years, the avenues for regular, legal and safe migration have decreased, due to increased border controls and restrictive policies adopted in countries around the world. As previously discussed, there are a number of “push” factors that have contributed to the *feminization of migration*, particularly those changes in “supply”, such as poverty, armed conflict and unemployment that have increased the number of women attempting to migrate in search of work. At the same time, there are also significant “pull” factors under the current phase of globalization that have contributed to the demand for the labour of women in many parts of the world. In addition to countless other root causes, an absence of the legal right to migrate further magnifies the vulnerability of women to trafficking. According to Limanowska (2002), trafficking in humans flourishes under circumstances where there is a major gap between strict immigration policies and the enormous demand for migrant labour in destination countries.

One of the major trends has been to use a *migration approach* as a foundation for developing policies to address the phenomenon of trafficking in women. This approach perceives the problem of trafficking as simply another form of undocumented and illegal migration. Strategies implemented according to this framework are therefore established for the purpose of addressing *illegal migration*, an issue that is currently of major international concern.

Equating trafficking in women with problems of illegal migration may suggest a number of alternative political motives. Underlying the present focus on the problem of

illegal migration is an overarching concern with national security, particularly on the part of industrialized countries. Kapur (2003) argues that the “developed world” increasingly perceives the “outsider as dangerous, from which the nation must be protected” (p.10). This is evident, for example, in the current “global war on terror” led by the United States, which has fuelled the perception that the “other” is a threat to national security and must therefore be kept away (Ibid). This heightened anxiety around the “outsider” further contributes to the tension and complexity of the issues for women who are trafficked by increasing the likelihood of racial discrimination and stigmatization. This is of particular concern at both micro and macro levels of society as experienced by women in countries of transit or origin. Reinforced racial stereotypes in turn interact and influence the already-existing discrimination of women based on their gender.

7.1 Criminalizing Trafficked Women as “Illegal Immigrants”

Governments utilizing the migration approach, an approach equating trafficking with illegal migration, typically choose from three main policy strategies. The first punishes women who are trafficked based on their illegitimate status in the country of transit or destination. Legislation reflecting this stance requires that victims of trafficking be apprehended, imprisoned and subsequently deported to their country of origin. According to a research study completed by the International Labour Organization on Malawian women trafficked to South Africa (IOM, 2003), the few who escape captivity are often either recaptured by their traffickers or arrested by law enforcement officials. If arrested, “they may spend a few days in jail, and are rarely, if ever, interviewed for their experiences as victims. Instead, they are treated as criminals in breach of immigration laws and deported.”(p.18). Here, similar to the strategy of criminalizing women for their

involvement in prostitution as discussed earlier, it is the women who are criminalized and punished for their “actions”.

Using a gender-responsive and rights-based perspective allows this paper to identify a number of concerns with this strategy. The illegal status of a trafficked woman increases her dependency on her trafficker(s), and heightens her need to live a hidden and invisible life. This in turn prevents her from being able to access services such as health care or protection from those who are exploiting her. “Illegal immigrant” measures target the individual as a trespasser and as exclusively responsible for the larger problems contributing to illegal migration (Brown, 2003). It focuses on a woman’s current status as an illegal migrant, and as such, on the breach of immigration regulations committed against the *state*, rather than on the elements of abuse and on the violations committed against her. The “illegal immigrant” approach does not take into account structural or root causes of trafficking, nor does it seek to address them. The state assumes no responsibility for protecting victims, nor does it offer them assistance. A trafficked woman in this policy context is denied access to basic rights and freedoms, and experiences further violation of her rights and human dignity by being incarcerated and deported.

Another major concern identified in this study with this approach which conceptualizes trafficking as a problem of illegal migration, is the tendency to confuse the *smuggling of persons* and human trafficking. The difference between these two crimes, however, is crucial. Smuggling involves the facilitation of illegal immigration. Individuals pay those who help them enter another country through illegal means, which therefore constitutes an offence against the *state*. Trafficking in persons, on the other

hand, involves the use of deceit, violence and abuse for the purpose of exploiting one's labour. This latter phenomenon constitutes an internationally recognized violation of human rights, and gives rise to certain obligations on the part of the state under international human rights law to provide victims thereof with a range of possible remedies for such violations (Wijers and van Doorninck, 2002). Even in countries where a distinction is made between smuggling and trafficking, however, there is a great incentive and underlying motive for governments to identify women who have been trafficked as smuggled persons. This absolves the state from any administrative or financial responsibility under international human rights law (Heyzer, 2002).

A gender-responsive and rights-based perspective to trafficking also allows this analysis to identify a lack of consideration for a trafficked woman's needs upon deportation. This constitutes a major concern. Deportation forces women to return to situations which many of them have fled for various reasons, situations for example of poverty, abuse, unemployment and marginalization. Not only will a deported woman face these same issues, but also she is often treated as criminal upon return to her country of origin. An absence of anti-trafficking policies in the country of origin further contributes to the violation of rights committed against victims of trafficking. Relating the experience of trafficked Malawian women deported from South Africa, Boe (IOM, 2003) writes: "the deported victim faces similar stigmatization in Malawi, where the lack of trafficking legislation perpetuates the criminalization of the victim, and where few, if any, support services exist to assist with her reintegration" (p.18). Criminalizing women who have been trafficked as illegal migrants, and deporting them, thus serves the interests

of the *state*, rather than the interests of the victims, and exacerbates the situation of abuse and violation of human rights.

7.2 Criminalizing Traffickers

A second strategy founded on the migration approach and used by many governments to combat trafficking is to criminalize the traffickers, focusing on their role in enabling or harbouring “illegal” persons in the country of transit or destination. This type of legislation is critical in the fight to counter the global trafficking in women, and will be further discussed in the *organized crime approach* section. Those who traffick in women must be punished by the state. The development and enforcement of legislation is essential for setting appropriate norms, and for eliminating the immunity of traffickers and exploiters (UNDP, 2002). Legislation of this sort serves as a measure of deterrence, a valuable strategy for dealing with those who traffick in women. On its own however, this study argues that this strategy is ineffective. It does not address the root or structural causes contributing to the increasing feminization of migration, or those factors increasing the vulnerability of women to being trafficked.

7.3 Increasing Border Controls

A third strategy based upon the migration approach is that of increasing and strengthening border controls. This type of measure is important, particularly in many African countries whose borders are easily permeable. In the IOM report on trafficking in Africa (2003), Boe records the relative ease with which traffickers can transport their victims. For example, “from Malawi, it is a simple matter to walk across international borders into Tanzania or Zambia, and Mozambique, undocumented and undetected, and

then to South Africa” (Boe, 2003, p.9). Strengthening border controls would allow for increased identification of the victims of trafficking and their traffickers.

Upon closer examination, based on gender-responsive and rights-based perspectives, however, it is clear that this method holds many possible risks and negative consequences for women. One of the risks in the prevention of the entry of possible victims is that in many countries these anti-trafficking measures have led to restrictions in the movement of women, thus impeding on their fundamental human right to freedom of mobility. Often, repressive immigration measures are used, such as tighter visa policies for women, stricter border control of young single women, and closer supervision of mixed marriages. Strategies often include intercepting suspecting trafficking, and many instances have been documented recently in Africa (particularly in Southern Africa) as being successful in preventing many women from being trafficked any further (IOM, 2003). Once intercepted, however, this study contends that it is likely that women will again face the situations that contributed to the need or desire to migrate, leaving them vulnerable to being trafficked a second time. This is particularly true in situations where a woman has no viable alternatives for providing for dependents. In addition, according to Raymond et al. (2003), tightening borders has little effect on traffickers.

While anti-trafficking strategies are not the only driving forces behind the following measures, they have played a significant role in informing the development of the policies in the following countries: in Nepal and Romania, where the profiling of women at borders is practised based not only on their sex, but also on their economic and marital status; in Poland and Myanmar, countries which legally prohibit women from leaving the country without permission; and in Bangladesh which refuses to let single

women leave the country (Brown, 2003). These measures ignore any root causes contributing to the vulnerability of women to being trafficked such as the feminization of poverty. They do not consider the factors that create the need and desire for women to migrate, particularly as a livelihood strategy for a woman and her dependents. They do not promote the right to migrate, and the right to do so safely without being trafficked. Moreover, they further exacerbate the discrimination experienced by women based on their gender. In support of this argument, Brown (2003) maintains that caution is critical in developing policies based on this strategy: "There is a fine line between strengthening borders without prejudicing the free movement of persons and thus compromising internationally recognized human rights" (p.16). Anti-trafficking strategies must not infringe upon the right of *all* persons to freedom of movement.

Used alone, this study contends that strategies of increased border control do not address the "push" and "pull" factors contributing to trafficking in women, and carry with them the risk of increasing the discrimination of women based on their gender. Without addressing root causes such as poverty, unemployment and the demands for the labour of women, stricter laws around immigration will only push trafficking further underground, forcing women to move and travel through even more illicit channels, while remaining vulnerable, stigmatized and illegitimate.



8. ORGANIZED CRIME APPROACH

At present, there is a focus at the international level on addressing the problem of transnational organized crime, particularly with respect to the smuggling of illegal drugs and weapons. This is evidenced in the development of the UN Protocol on Transnational Crime Prevention (2000), and in the number of countries that have signed (147) and ratified (81) it (United Nations Office on Drugs and Crime, 2004). Here, as with issues of illegal migration, the attention given to combating transnational organized crime must be understood within a context of an overarching concern with the security of the state.

Recently, as issues relating to the global trafficking in women have come to the forefront of international political agendas, there has been a growing acknowledgement of the link between the trafficking in women and cross-border criminal enterprises. Hughes (2000) argues that, “the money made from the...exploitation of trafficked women enriches transnational criminal networks. Trafficking in women has arguably the highest profit margin and lowest risk of almost any type of illegal activity.” (p.9). Reports by both the IOM (Boe, 2003) and UNICEF (2003) identify the key role that organized crime plays in a large percentage of the trafficking in women that occurs in many African countries.

Anti-trafficking measures based on an *organized crime approach* focus on law enforcement strategies which aim to prevent and combat crime, and protect innocent “victims” by criminalizing those who traffic women. These measures are of critical importance based on the heinous nature of the crime, as discussed earlier in the *migration approach* section. Criminal laws serve various purposes, particularly those of

maintaining law and order, providing standards for the purpose of deterrence, and ensuring that those the victims are 'protected'.

Despite recent attention, however, on the relationship between trafficking in women and organized crime, many countries have yet to criminalize trafficking in persons apart from issues of prostitution or migration. According to Boe (UNICEF, 2003), "many countries have yet to criminalize trafficking in persons, despite the obvious consequences of failing to do so" (p.9). Even in countries where trafficking in humans is criminalized, there are often major discrepancies between penalties for the trafficking of illegal drugs and weapons which tend to be severe, and trafficking in women which tend to be much more lenient (Heyzer, 2002). According to the *Report Based on the International Workshop: Policies to Combat Human Trafficking* (2003), "few traffickers have been apprehended. More effective law enforcement will create a disincentive for traffickers and will therefore have a direct impact on "demand"" (p.15). In a concept paper written on trafficking for purposes of prostitution in Italy, Aghatise (2002) argues that:

The terms of imprisonment are too lenient and in a certain sense, a slap on our collective faces, seeing the gravity of the offences committed by traffickers. The girls have to face a lot of sacrifice and fear to report these people, only to find that in a matter of a few months, these people [traffickers] can get out after having succeeded in negotiating the terms of their sentencing. (Aghatise, 2002, p.23)

When linked with transnational criminal networks, trafficking in women is perceived primarily as an offence against the state. This paper argues that to a certain extent, the "victims" whom these strategies aim to protect are not only women who are trafficked, but also common civilians, whose lives are threatened by the presence of these criminal enterprises. A pertinent example of this underlying perception is found in the words of Mikhail Lebed, Chief of Criminal Investigations for the Ukrainian Ministry of

the Interior: “It [trafficking in women] is a human tragedy, but also, frankly, a national crisis. Gangsters make more from these women in a week than we have in our law-enforcement budget for the whole year” (cited in: Brown, 2004, p.13). Within this context of conceptualizing the crime of trafficking in women primarily as a crime against the state, it is highly unlikely that the needs of the victims will be addressed as set out according to gender responsive and rights-based perspectives.

In seeking to discern underlying motives guiding the development (or lack thereof) of policies, one of the major concerns with combating trafficking from an organized crime approach is the influence of levels of corruption among law enforcement personnel and government officials in the actual implementation of measures. Hughes (2000) argues that the relationship between trafficking, organized crime and state officials is a major contributing factor to the development and implementation (or lack thereof) of policies and laws:

As the influence of criminal networks deepens, the corruption goes beyond an act of occasionally ignoring illegal activity to providing protection by blocking legislation that would hinder the activities of groups (Hughes, 2000, p.9).

Documenting the blurred line between criminal networks and the state in a number of African countries, Boe (UNICEF, 2003) argues that strategies based on an organized crime approach will remain ineffective without also simultaneously addressing weakened and corrupted government infrastructures. This study asserts therefore that in order to effectively address trafficking, a critical aspect is to identify and eradicate any public sector involvement or complicity to trafficking.

Police action under legislation developed under an organized crime approach to trafficking is characterized almost exclusively by bar and workplace raids. Here, police and other officials descend upon a bar, brothel, factory or other place where trafficked women are exploited, and capture traffickers and exploiters, “rescuing” the women being exploited. This study argues that this type of strategy is an effective way of identifying and apprehending traffickers. It is important to note, however, that it [this strategy] holds certain risks for women who are trafficked. Among them, based on this paper’s analysis, is the likelihood that the places where women are being exploited will be moved to even less visible locations, increasing a trafficked woman’s isolation, which in turn increases her vulnerabilities through reinforced dependency on her exploiters, and through further limiting her ability to access necessary services.

In addition, in many situations where women are “rescued”, they are treated not unlike criminals, and their rights are rarely protected or upheld. Often, for example, women who are rescued are forced into locked-up confinement for their own “protection”, without access to a telephone, legal advice or other assistance (Arnold, 2004). They are frequently held in confinement until they agree to testify against their traffickers. In many instances, protection and care are withheld and made conditional until the trafficked woman agrees to testify in legal proceedings. In many countries, once a woman has testified, she is deported to her country of origin, where she faces those vulnerabilities that contributed to her being trafficked (as discussed in the illegal migration approach section) as well as the fear of possible encounters with her traffickers. *If* released without being deported, most women find themselves with nowhere to stay, no money and unable to access other basic needs including medical care (Empower, 2003).

Of particular concern for this paper in this approach is the heavy reliance of the state on the testimony of women who have been trafficked, a common complexity in most criminal justice systems. One of the major difficulties in prosecuting traffickers is collecting evidence against them. The victims' testimonies are often the only available evidence in trafficking cases. Victims are unwilling to testify, for a number of reasons. When no witnesses are willing to testify, traffickers will likely be identified by police, but will be neither prosecuted nor sentenced. Heyzer (2002) argues that police are often under pressure to show results from anti-trafficking actions in order to prove their effectiveness. She argues that the consequences for the victims in these circumstances are rarely considered:

Effectiveness, however, is usually measured by the numbers of identified victims, collected interviews and files in the database, rather than the numbers of arrested traffickers and successfully prosecuted cases...Police focus their attention not on the perpetrators but on the victims...in negative ways: repeated interviews, combined with a lack of understanding of the process, lack of knowledge of their rights as victims or witnesses, often re-traumatize victims of trafficking (Heyzer, 2002, p.18).

According to Wijers and van Doorninck (2002), alleged victims are often forced to undergo a medical examination (called "fit to travel" examination), are forced to answer questions, many personal and embarrassing, and are often deported to their country of origin after they have fulfilled their responsibilities as witnesses. Here the needs of the *state* clearly take precedence over the needs of the victim. Kapur (2003) uses the term "disposable witness" for these circumstances. It is the position of this paper that protection and care must not be withheld from a trafficked woman based on the conditionality of her willingness to testify in legal proceedings, nor should she be

deported based on the illegality of her residence or for her involvement in illegal activities when they stem from her situation as a trafficked person.

9. REFLECTIONS AND CONCLUSIONS

9.1 Summary

Increased awareness of the prevalence of trafficking in women has led to the identification of Africa as a region in which the incidence of trafficking is particularly alarming. African governments now face international political demands to either develop laws and policies to prevent and suppress trafficking in women, or to build upon already existing ones. In light of many contentions that current approaches to anti-trafficking strategies are ineffective, inadequate, often further violate the rights of women, and exacerbate already precarious and vulnerable situations, this paper argues that an analysis of the four current approaches and their impact on the women who are trafficked is both a critical and valuable undertaking. This study maintains that the human rights of those women trafficked must be at the centre of all efforts to prevent and suppress trafficking, and of all attempts to protect, assist and provide redress for victims thereof. Furthermore, the role of the state in developing strategies in accordance with international human rights law is underscored as critical.

The paper contends that this type of analysis - a reframing of current research - is critical for laying the necessary groundwork for a meaningful consideration of the needs of trafficked women. Two of the articles reviewed demonstrate an interest in the four approaches, and it is this writer's concern to summarize the strengths and weaknesses of each article as part of a comprehensive academic analysis. In particular, this researcher notes the underlying biases of these papers that stand in contrast to the abolitionist perspective that guides this study. The fact that neither article examines

issues pertaining to the African context is highlighted. This study thus expands both the content and the vision established in the two articles.

The analysis of this present research explores relevant issues pertaining to trafficking in women in African in order to heighten awareness regarding the nature and scope of this phenomenon, and in order to provide insight into the underlying dynamics and causal theories. This examination focuses its attention on the numerous structural causes contributing to the incidence of trafficking, dividing them into “push” and “pull” factors. The analysis likewise identifies those needs of the victims of trafficking that must be at the forefront of any viable policy responses. Major concepts of both gender-responsive and rights-based perspectives are highlighted, which must be integrated with any approach to anti-trafficking measures.

In its analysis of the four approaches to combating trafficking in women, five questions guide this study: it is concerned with identifying conceptualizations of trafficking, examining strategies proposed by each approach, unmasking underlying political agendas, determining possible unsought consequences, and establishing whose needs are ultimately met upon implementation, whether those of the women or those of the state. The strengths and weaknesses of each approach, particularly in a context of gender-responsive and rights-based perspectives are highlighted.

A number of themes emerge from this analysis. Overall, this study argues that in developing anti-trafficking strategies, it is most often the needs of the *state*, guided by underlying political motives and incentives that are ultimately met upon implementation. This is true, for example, in measures based upon a moral approach, particularly those

that criminalize prostitution and target the women involved. Here, it is the priority of the state in maintaining a “pure” society that is maintained. The needs of trafficked women are not addressed in any way. While meeting the needs of the state, as opposed to those of the women who are trafficked is on its own deplorable, this study contends that certain anti-trafficking methods actually (1) contribute to already precarious and vulnerable situations, those contexts in which trafficking flourishes, and (2) further exacerbate the rights of women who are trafficked.

A legalized system of prostitution, for example, a strategy based on the labour approach, exacerbates the “demand” of women to work as prostitutes, and thus increases the number of women trafficked in order to meet this “demand”. Furthermore, even when systems of prostitution are legalized, an “underground” level of the sex industry usually exists. Here the services of women are “cheaper”, and traffickers have further opportunities for exploiting their services (i.e. longer hours, servicing multiple “customer”). This underground level is made possible because of women who are trafficked and are thus in a country illegally, or who are rejected based on unmet health requirements (such as HIV/AIDS). As discussed earlier, these underground systems of prostitution results in worsened conditions for the women involved and only increase the abuse and exploitation experienced by them.

A number of effective strategies for preventing and suppressing trafficking in women, *while* maintaining the rights and needs of trafficked women at the forefront emerge from this study’s exploration and analysis. Developing measures (identified based on the labour approach) in order to gain recognition for women’s work in informal sectors, obtain labour law protection for women involved in this type of work, and

improve working conditions are examples of strategies potentially effective in curbing trafficking *while* upholding the dignity and maintaining the human rights of women who are trafficked. In addition, strengthening border controls for example, a strategy based on the migration approach, provides opportunities for identifying traffickers. Criminalizing traffickers and those who exploit the services and labour of women based on an organized crime approach is also a critical measure in the fight against trafficking. This paper demonstrates that it is imperative that countries develop this type of legislation so that individuals are held responsible and punished accordingly.

While the strengths of various strategies based on the different approaches are identified, the inherent risks of adverse consequences for women trafficked must be underscored. Examples of these unsought consequences include re-traumatizing victims of trafficking (based on an organized crime approach), and developing repressive migration laws that infringe on *women's* rights to migrate (based on the labour approach). A recurring theme throughout the analysis is that even measures identified as critical in the fight against trafficking must be developed and implemented with *caution*, always with the needs of trafficked women at the forefront, and simultaneously with other strategies that will provide protection, assistance and redress for the victims. For example, based on an organized crime approach, conducting “raids” on illegal brothels in an attempt to apprehend traffickers and exploiters, can be contemplated only when the needs of the women “rescued” have been considered, and measures have been taken to ensure that protection and assistance is provided.

9.2 Where To From Here?

This paper underscores the urgency of the situation with regard to trafficking in women worldwide, specifically in Africa, and focuses on laying the groundwork by defining possible directions for future research and policy development. This represents but a first step. The critical work has yet to begin. Who will carry out this crucial undertaking? Researchers are needed “on site” in the African countries most affected by this phenomenon, researchers who have clearly defined the issues as set out in this paper, researchers who are aware of the strengths and shortcomings of the various possible approaches and who are committed to an integrated and victim-centered agenda. These researchers can provide detailed contextual data, a critical basis for policy development.

Research requires support. Governments and international organizations need to be made clearly aware that this is a problem that must be addressed now. International cooperation and coordinated efforts will assure maximum results for efforts expended. Shared insights will more quickly advance the fight against human trafficking.

Foundational to the future endeavours of those involved must be a keen sense of the necessity of heightening worldwide awareness of this seemingly invisible phenomenon. The widespread nature of this “crime against humanity” must be brought to the world’s attention. Nothing of significance will take place until the world has seen the reality of what amounts to its “new take” on human slavery. Of course, further research and accumulation of statistical data will assist in bringing this reality to worldwide attention in a way that will motivate those in power to action: the two must happen simultaneously.

To even begin to combat the devastating effect of trafficking in humans, African nations will be dependent on motivated leaders, those who will challenge structural issues and the desperate need for policy shifts. Many are the hurdles that will need to be overcome in this fight against trafficking in women worldwide and specifically in Africa. Clearly all researchers and various players are not of one mind. This paper through its analysis of the problem and presentation of possible solutions opens the door for beginning conversations among those concerned for these women. Central to these conversations will be the voice of the women themselves, who must be empowered to speak up for themselves. The participation of women who have been trafficked is therefore of critical importance in the development of any effective policy and structural changes in this fight against this horrendous crime against humanity.

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