

DRAGICA BUKOVČAN*, MARIJA FUJIMURA**

Trafficking In Persons

At present trafficking in persons (human trafficking or trafficking in human beings) can be considered one of the major problems to be dealt with within the framework of transnational organized crime. Article 3, paragraph (a) of the United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*¹ defines this kind of illegal activity 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 others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.¹" This Protocol has been adopted by the General Assembly of the United Nations on November, 15th, 2000. This late date could lead to the assumption that trafficking in human beings is relatively new form of criminal conduct. But this kind of assumption is wrong. Trafficking in human beings is not a new trend in modern society. It can be traced all the way back to the very beginnings of organized human society, when people were first divided into 'the strong' and 'the weak' - into those who have power and those who are deprived of all rights. One could argue that these two things are not the same, but in fact they are. In the past this kind of negative social phenomenon was called slavery and nowadays we call it trafficking in human beings, but that's just the semantics. The basic problem remains more or less the same. The only difference between the two notions is the fact that today people are more and more aware of the urgent need to protect the weaker members of

* dr. sc. Dragica Bukovčan, profesorica visoke škole u mirovini.

** Marija Fujimura, dipl. krim.

¹ Hrv.: Protokol o prevenciji, suzbijanju i kažnjavanju trgovine ljudima, posebno ženama i djecom (2000.) - *dopuna* Konvencije UN protiv transnacionalnog organiziranog kriminala.

the society and stop their victimization.

As much as we would like to think that our society has greatly evolved since the first organized societies, one simply cannot overlook the fact that the same motives which drove the members of such societies to sell human beings like livestock, drive traffickers to do the same things today. And even though these motives may vary from one trafficker or trafficker group to another, it should be noticed that one of them appears to be the most dominant: easy profit accompanied by a relatively low risk of retribution. The profits are measured in billions of dollars. Just as an example, according to the United Nations Office for Drug Control and Crime Prevention, the profit from trafficking in human beings amounts to \$ 7 billion each year and in Southeast Asia alone, trafficking in human beings represents between 2 and 14 per cent of regions gross domestic product.

Just like any other illegal activity, trafficking in human beings involves certain risks, such as the risk of being caught, prosecuted, convicted and punished or even the risk of revenge by the victims. Combined with today's overall social climate of the "developed" world and almost total absence of social critique, these risks are far too insignificant to divert potential traffickers from putting their plans into action. There are several factors which make these risks seem so insignificant. First, there is the risk of being caught. This kind of risk seems insignificant because traffickers target countries from the poorer regions of the world, i.e. economically undeveloped or underdeveloped countries going through the process of transition. Having in mind the problems with which the authorities in those countries have to deal with on daily basis, it is no wonder that traffickers slip by unnoticed. In addition to that the transportation routes usually go through such countries because it is relatively easy to bribe border guards to look the other way and ensure a safe passage. In such countries it is also relatively easy to simply sneak across the border which is very porous and often unmanned, and local people can be relatively easily recruited to "help", which is even more money effective. Second, there is the risk of having to suffer legal consequences for taking illegal actions. In order to be able to prosecute, convict and punish a trafficker, the law enforcement authorities have to catch him/her first. And this is easier said than done. But even if the authorities do catch some members of a trafficking group, the chances that they will be convicted in the end are slim because the victims are so terrified and helpless (due to various intimidation techniques) that they are very reluctant, if not completely unwilling, to testify. Since the traffickers usually act within a highly organized group founded on a strict hierarchy, a trafficker who gets caught is usually too low in the pyramid that his / her arrest could jeopardize the "big fish" that runs the whole business. In other words, these people are expandable and their getting caught represents a minor problem for such an organisation.

Besides the primary opportunity for easy profit, there are also other factors which make trafficking in human beings a thriving business today. One of them is the fact that a great number of people are involved in this kind of illegal activity. This means that there are a lot of middlemen between the person who handles and transfers the "merchandise" from the country of origin to the country of destination, the "big fish" who sets the whole business going, and the final buyer for such "merchandise". Traffickers are fairly sure that among all those people involved, the chances that they will get caught are very slim. Unfortunately, in most cases they are right. There is also the fact that the idea of easy profit attracts the attention of many organized crime groups, so trafficking in human beings has become one of the forms of organized crime. Just like other forms of organized crime, trafficking in human beings has

globalized. What once used to be a regionally limited problem involving only a few countries (as their "merchandise" wasn't able to withstand long, typically lethal means and ways of transportation, traffickers used to use only specific routes or regions) today has become an epidemic of world-wide proportions. Advance in modern technology is partly the reason for such an increase in trafficking simply for making the whole procedure much easier. For example, advanced communication technologies enable traffickers to receive relevant information in only a few seconds. Another reason for such globalization may lay in the fact that different criminal organizations tend to merge or to form cooperative relationships in order to expand the area on which they conduct their illegal activities and thus increase their profit. Modern means of transportation, easiness in crossing borders, the ever increasing number of people in international transfers and always improving quality and ease of forging documents as well as an enormous labour black market are also factors that play a significant role in the overall picture of the trafficking-in-human-beings- problem.

What makes the problem even more difficult to solve is the fact that victims by definition are "willing" participants, no matter where their "willingness" comes from, be it from necessity, fear or helplessness. When they are caught by the trafficking machine, they can see no other way except to play along. Many people in this world are deprived of the basic living conditions. They have very little or no food, no money, no health care, no roof over their heads and absolutely no hope that things will get better. Such people are so desperate to get out of their miserable situation that they are more than willing to accept the first offer that comes by. This offer is very often given by traffickers who lure these unfortunate people by promises of better life. These promises often come in a form of legitimate job offers. It is not difficult to think of a woman, a young person, a family trying to survive in a country where the only certainty is the fact that things aren't going to get any better. In a situation like this, a stranger comes along offering them a chance to go to a Western country. And to sweeten the deal, he adds a solid promise that a decent and well paid job will be waiting for them in the promised country, giving them the opportunity to be able even to send some money back to their families. In such an offer they see a one-way ticket from hell and at that moment they don't realise that hell is exactly what is waiting for them if they accept. The similar situation is with the parents, watching their children slowly die of starvation or illness and not being able to do anything to prevent that. It is understandable that they are willing to give away their children to complete strangers who offer to take these children as they were their own and who promise to provide a better life for them. And by the time these people, the victims, realize what has happened it is usually too late to prevent the inevitable because by then they are already placed in conditions completely controlled by the traffickers. In other words, the victims are either physically confined, have their identity documents taken away or are even being kept under control by force-feeding with drugs. When children are involved, the situation is even worse because they are completely dependent on the trafficker. That means that they need the trafficker to survive, since the trafficker is their only source of food, water, shelter or health care. All the victims have one thing in common and that's the fear of trying to escape or to ask other people for help. This fear is induced either by the use of physical force or by various psychological techniques, such as threatening to hurt the victim's family if he / she doesn't cooperate or using the victim's fear of authorities (which is the result of chaos which rules in the countries they came from) to achieve complete obedience.

The problem is a complex one and of such proportions as to have warranted the attention of the United Nations. What is or what can be done to combat and eventually eradicate

trafficking in human beings that has, over the past decade become a global epidemic? According to the US State Department data, it is estimated that 600,000 to 800,000 men, women and children are trafficked across international borders each year. But this data must be taken tentatively. Due to the covert nature of this type of crime, it is very hard to produce accurate data about the real extent of the problem. So if we don't even know what we are up against, how can we fight it? Both sides of the problem must be approached. Victims must be helped and protected and the slave holders must be made socially unacceptable. The United Nations *Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* are the right steps taken in this direction. Awareness and definition of the problem are the basic prerequisites in an attempt to solve it. These documents laid the foundation necessary to create international cooperation between many different law enforcement agencies which is another big step towards successful solving of the problem. There are many more issues, however, to be considered before any real progress becomes visible. It takes time, patience, skill and money.

Further reason why we haven't been very successful in combating trafficking in human beings is the fact that our full attention is focused solely on breaking trafficking rings. By doing so, we completely ignore victims, their needs and their rights. Victims must be stopped being treated like illegal entrants. In order to achieve our goal (i.e. to efficiently combat trafficking) we need to find solutions other than deportation because it just sends the victims right back into the social environment they were so desperate to escape from. This way we only protect ourselves and do little to solve the problem. Furthermore, we must ask ourselves what has happened to our society. It must be something terrible since there are people out there who actually got the idea of making money by putting price tags on other people's lives. What kind of society do we live in, when there are people out there who measure the value of human life by a few dollars? In India you can buy young girls, many of them still under 18, for a mere price of \$ 1.000, in Kosovo for G 50 to G 3500, and in Africa for even lesser price. This kind of gruesome trading is happening around us daily. We cannot continue to turn our heads the other way and pretend that it is somebody else's problem. Finally, we have to stop wondering what went wrong and start acting. The urgent problem of trafficking in human beings requires the involvement of all strata of the society and the broad international cooperation of countries all over the world. It means the building up of both new moral values and better economic conditions. In other words, trafficking in human beings can be fought successfully only if the whole international community takes action. In the meantime, it is our responsibility to work on the promotion of those values individually and in our immediate environment using techniques and methods available. We have to utilize the best of our abilities in order to stop trafficking in human beings as much as possible.

Sources of information:

1. <http://www.wikipedia.com>; *Trafficking in human beings* (Wikipedia, the free encyclopaedia, last modified 6 October, 2006)
2. <http://www.undoc.org>; *Trafficking in human beings*; Report: Trafficking in human beings: Global Patterns (April 2006)" (United Nations Office on Drugs and Crime, last modified 23 October 2006)
3. <http://www.undoc.org>; *What if the victim consents? Can children consent?* (United Nations Office on Drugs and Crime, last updated 3 October 2006) <http://ww2.psepc-sppcc.gc.ca>; Fact Sheet: Trafficking in Human Beings (Public Safety and Emergency Preparedness Canada, published 29 July 2003, last updated 29 July 2003)
4. <http://www.amnesty.org.uk>; *Protect victims of trafficking in the UK* (Amnesty International UK, published in 2005, last updated 20 July 2006) <http://www.amnesty.ca>; *Kosovo: Facts and figures on trafficking of women and girls for forced prostitution in Kosovo* (Amnesty International Canada, published in 2006)
5. <http://www.ecre.org>; *An overview of proposals addressing migrant smuggling and trafficking in persons* (European Council on Refugees and Exiles, published in July 2001)
6. Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (*UN 2000*)