

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

**020 Workshop: Corruption and
Human Trafficking: The Grease that
Facilitates the Crime**

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BACKGROUND PAPER

**WORKSHOP 020
CORRUPTION: THE GREASE THAT TURNS THE WHEEL OF HUMAN
TRAFFICKING**

<u>INTRODUCTION</u>	2
<u>DEFINITIONS</u>	2
Trafficking in Persons	2
Corruption	3
<u>RELATION OF CORRUPTION TO TRAFFICKING IN PERSONS</u>	3
<u>THE WAY FORWARD</u>	5

INTRODUCTION

Corruption is one of the major contributing factors to the crime of trafficking in persons. It is both an underlying root cause and a facilitating tool to carry out and sustain this illicit trade. Worse corruption can also ensure safe havens for the profits collected as a result of human misery. Unfortunately, there has been very little exploration into the linkages of the two phenomena. When thinking of the images that join corruption and trafficking, one can easily imagine the border guard who is pocketing a few bills to not check a passport, or imagine the immigration officer who is willing to accept forged documents for a price, or the police officer who accepts a fee to turn a blind eye to a cry for help.

This sounds simple. However, the linkages between corruption and human trafficking are far more complicated and multifaceted. The international community has adopted legal frameworks to deal with each of these issues, but has not looked at how the two major international agreements can complement one another. Both the United Nations Convention against Corruption (UNCAC)¹ and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children² deal with the issues in isolation. This forum is an opportunity to create a dialogue on how the two issues can be brought together.

DEFINITIONS

Trafficking in Persons

The Protocol against Trafficking in Persons provides the first internationally agreed upon definition of 'trafficking in persons'. According to the Protocol, the crime basically consists of three elements:

- | | |
|----------------------------------------------|--------------------------------------------------------------------------------------|
| <i>(i) Acts</i> | such as transport, transfer, harbouring, receipt of a person, |
| <i>by (ii) Means of</i> | of deception, coercion, abuse of a position of vulnerability and others ³ |
| <i>for (iii) the Purpose of Exploitation</i> | including sexual exploitation, labour exploitation, removal of organs, etc. |

Trafficking in persons can also be seen as a process, consisting of at least three stages, normally recruitment, transport and exploitation. An additional fourth phase would be the subsequent laundering of the proceeds of the crime. Trafficking in persons does not require an illegal border crossing and corruption can also fuel so-called internal trafficking. The Protocol against Trafficking in Persons, though supplementing the

¹ The UNCAC became the first legally binding, global anti-corruption instrument in Dec 2005; status as at 24 Jan 2008: 140 signatories, 107 parties

² The Trafficking in Persons Protocol entered into force 25 Dec 2003; status as at 24 Jan 2008: 117 signatories, 116 parties

³ Trafficking in children does not require the use of any means: children - persons under 18 years of age - are anyway not competent to give consent for themselves and thus do not have to be tricked, forced, etc.

Convention against Transnational Organized Crime, also does not necessitate the illegal actions of an organized criminal group.

Corruption

The most commonly-used definitions of corruption for development practitioners are probably those advanced by the World Bank and Transparency International (TI). The World Bank's working definition of corruption basically is "the abuse of public power for private benefit". TI takes a broader approach: "the misuse of entrusted power for private gain".

However, there is no single, universally-accepted definition of corruption. The UNCAC, rather than defining the phenomenon, provides a wide range of individual acts of corruption, including bribery, embezzlement of public funds, money laundering and obstruction of justice. It not only lists acts of corruption but also requires States to establish them as criminal, civil or administrative offences. The Convention addresses various areas including preventive measures, criminalization and law enforcement, international cooperation, and recovery of corruption assets.

Many media reports focus on grand corruption, the millions stolen by corrupt political leaders. However, the cost of corruption also occurs very much at the petty levels, the few bills passed to the corrupt officials may at times dwarf the large individual corruption cases. For that reason corruption must be attacked on both fronts, especially to get control of the illicit trafficking in persons.

RELATION OF CORRUPTION TO TRAFFICKING IN PERSONS

Corruption can emerge before, during and after the actual trafficking crime, which means that corruption is not limited to countries of origin and transit countries, but also facilitates the continued exploitation of trafficking victims once at their destination.

Police officers, labour inspectors and others working in the field of administrative controls, health workers, NGO staff, and other actors, may be prepared to turn a blind eye to trafficking situations that come to their attention for a 'small fee'. Corrupt practices may also play a role after the actual identification and rescue of a trafficked victim, e.g. before, during and after possible criminal proceedings. Such practices are applied by the traffickers to avoid conviction and otherwise obstruct the actions of those who should assist and protect the trafficked victims and investigate, prosecute and convict the traffickers. Traffickers often have the means and feel no inhibitions against bribing their way through the criminal justice system and investigators assigned to the case all too often fail to overcome the temptation. Corruption can establish close ties between traffickers and those who are actually charged with bringing them to justice.

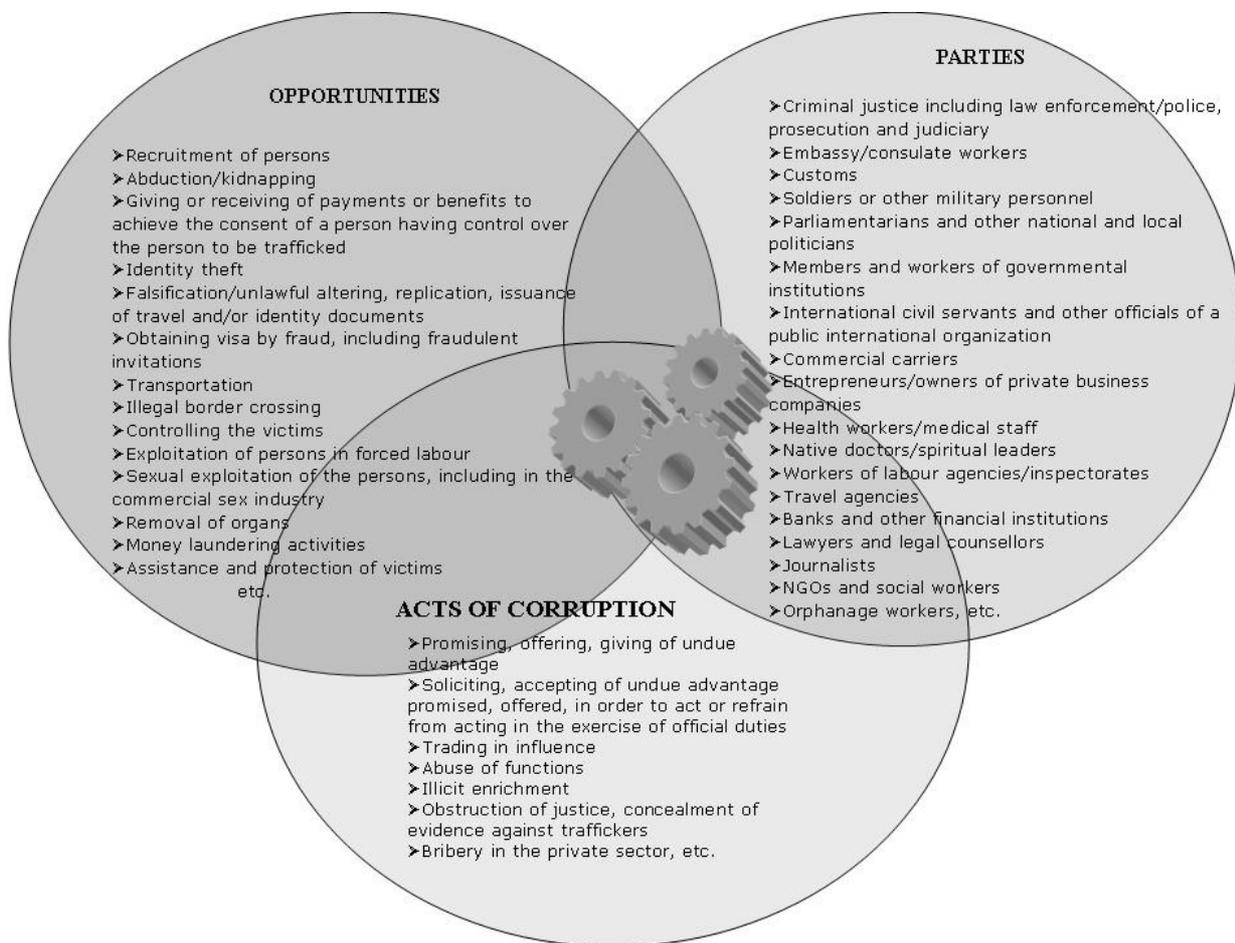
Cases are known of criminal justice practitioners who back a particular trafficking ring by exclusively arraigning other, rival trafficking networks.

There are also reported instances of law enforcement officers and prosecutors demanding sexual services and financial or other payments from the victims in exchange for pursuing their case. For a trafficked person, this amounts to re-victimization. There are also reports of immigration officials requesting returnees to pay them bribes.

Corruption can be one of the main reasons why victims are unwilling to turn to the police and cooperate with the criminal justice system.

Also persons who are involved in victims assistance work have been reported to make their support dependent on unlawful payments from the victim.

The list of possibilities for corruption to sustain the crime of trafficking in persons seems endless, the graph below can only illustrate some aspects⁴:



It can be a vicious circle: corruption is used to facilitate the recruitment, transport and

⁴ See also Manuel Lezertua, Council of Europe, (PACO – Programme against corruption and organised crime in South-eastern Europe), “Corruption and human trafficking – what does it involve?” at the 11th International Anti-Corruption Conference, Seoul, Republic of Korea, 25 – 28 May 2003

exploitation of victims of trafficking, prevent justice and ensure that the vast profits made through this inhumane criminal activity remain in the hands of the traffickers. And the very assets enable the criminals to exert even greater influence on public and private officials who actively or passively participate in trafficking in persons.

Corruption ensures that trafficking in persons remains a low-risk, high-profit crime. The prevalence and existing levels of corruption can well influence which routes the traffickers take, their modus operandi, and other trafficking patterns. Corruption may also result in less alertness towards the risks of trafficking: in some areas the existence of corruption is so prevalent, so omnipresent in people's everyday life that many people may not even see a difference between obtaining identification documents or a necessary travel paper legally or illegally, as one would be asked for a bribe in either case.

However, corruption not only plays a role in the actual trafficking and post-trafficking scenarios, but also with regard to the breeding grounds for trafficking in persons. Corruption, has been identified as one of the main obstacles to economic and social development⁵. It is known to be interlinked with poverty and lack of opportunities, with insecurity, the establishment of criminal environments, the absence of the rule of law, etc., with all of these factors being among the root causes for trafficking in persons. Corruption can also play a role in the demand side of the crime, e.g. when the violation of laws and regulations on the protection of migrants and migrant workers is treated like a peccadillo.

THE WAY FORWARD

The development of effective strategies against corruption and human trafficking require the establishment of an adequate legal and regulatory framework. Such a framework is now available at the international level in the form of the UNCAC and the Protocol against Trafficking in Persons. The existence of these instruments is a powerful manifestation of the collective political will of the international community to put in place benchmarks.

The challenge the international community is facing is to ensure that these international instruments go beyond being a sign of a mere aspiration and become functional instruments. In order to meet that challenge it is crucial to bear in mind that it is not the Government, the private sector, or civil society alone who can deal with these problems, we need to combine our efforts to curb these interrelated phenomena.

Information is key: information about the extent and linkages of the two phenomena, the modus operandi of the criminals involved, etc. We need to understand these

⁵ E.g. United Nations Office on Drugs and Crime, Global Programme against Corruption, "UN Anti-Corruption Toolkit", 2004; Worldbank at <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/EXTANTICORRUPTION/0,,contentMDK:21540659~menuPK:384461~pagePK:148956~piPK:216618~theSitePK:384455,00.html>, accessed 16 January 2008

linkages, considering that they will vary according to the specific context. It is also necessary to raise the awareness of all the actors that could be potentially involved in the trafficking process by means of corruption.

We also need to understand and explore the mutually reinforcing nature of the UNCAC and the Protocol against Trafficking in Persons.

At the policy level, when dealing with trafficking in persons, it is key to recognize corruption and try to formulate responses that removes this lubricant that facilitates trafficking in persons.

At the operational level, there is the need to integrate interventions in both areas of anti-corruption and anti-human trafficking. To meet this need it is important to bring together practitioners working in the areas of anti-corruption and anti-human trafficking to adopt an integrated approach when dealing with the two phenomena

Anti-corruption measures can relate to various aspects of trafficking in persons. Preventive measures should address possible corruption at the recruitment, transport and exploitation stages of trafficking, during criminal investigations of trafficking and the provision of protection of and assistance to victims.

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

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