



First published 2013
by Routledge
711 Third Avenue, New York, NY 10017

Simultaneously published in the UK
by Routledge
2 Park Square, Milton Park, Abingdon, Oxon OX14 4RN

Routledge is an imprint of the Taylor & Francis Group, an informa business

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Library of Congress Cataloging in Publication Data

Human trafficking: interdisciplinary perspectives/edited by
Mary C. Burke.

p. cm.—(Criminology and justice studies series)

Includes bibliographical references and index.

1. Human trafficking. I. Burke, Mary C. (Mary Cecilia)

HQ281.H877 2013

306.3'62—dc23

2012031005

ISBN: 978-0-415-89224-7 (hbk)
ISBN: 978-0-415-89225-4 (pbk)
ISBN: 978-0-203-06803-3 (ebk)

Typeset in Adobe Caslon, Trade Gothic and Copperplate Gothic
by Florence Production Ltd, Stoodleigh, Devon, UK



Printed and bound in the United States of America
by Edwards Brothers, Inc.

ROUTLEDGE

MAKING MONEY OUT OF MISERY: TRAFFICKING FOR LABOUR EXPLOITATION

DR JUNE KANE AM¹

This chapter looks at the relationship between human trafficking and what is often called “the world of work”. It aims to help readers to understand that at the end of most trafficking chains there is a situation of exploitative labour and that, in many ways, human trafficking is a corrupt form of labour migration.

The chapter first establishes labour and labour migration as fundamental rights, enshrined in human rights law and at the heart of every person’s desire to earn a living that will enable them to survive and promote the well-being of their family. It underlines that, when people are deprived of the right to move to seek work, for whatever reason, they may seek out alternative avenues to legal channels, and that this puts them at high risk of falling into the hands of traffickers. The international definition of trafficking as comprising three essential parts – recruitment, movement, exploitation – is explained in the context of trafficking for labour exploitation, and there is a brief exploration of where ‘demand’ for exploited labour occurs.

The chapter emphasizes the fundamental difference between forced labour and trafficking for labour exploitation. It emphasizes the imperative to differentiate between the two both in programming

¹ June Kane is an international expert in human rights, particularly human trafficking, child labour, and violence against children and women. She has written more than 30 books and major reports on these topics and, since 1992, has worked as a researcher, strategist and trainer for UN agencies and the European Commission. In 2007 Dr Kane was made a Member of the Order of Australia (AM) for her work in combating the exploitation of children. In 2011, June Kane launched her own website for sharing lessons and to provide training in human trafficking, child labour and violence against women and children: www.kaneinternational.com.au.”

terms and in responses to the needs of victims. Finally, the chapter considers briefly how trafficking into sexual exploitation relates to the labour trafficking context and outlines some ways in which so-called ‘labour actors’ can contribute to ending this heinous denial of human rights.

At the end of this chapter, students should:

- Understand how human trafficking relates to labour migration and the desire for decent work;
- Know the principal relevant international labour conventions, in particular how they relate to human trafficking;
- Understand the specific case of child trafficking and the relationship between trafficking and child labour;
- Recognize the difference between trafficking into labour exploitation and migration that results in forced labour;
- Understand the three main elements of trafficking into labour exploitation (recruitment, movement and exploitation) and how they fit together;
- Have gained an insight into the concept of sex trafficking as a variant of trafficking for labour exploitation (and why this concept is sometimes controversial);
- Appreciate the role that ‘labour actors’ can play in combating human trafficking.

Approaches to human trafficking: The world of work

Human trafficking is looked at in different ways by the various groups and individuals who work to put an end to it. For those working in law enforcement, it is primarily a **criminal problem**, cross-border or domestic, sometimes involving organized crime, sometimes just a series of criminal offences involving different individuals or groups who come together in a less structured, often temporary relationship.

Those whose work focuses on supporting victims of trafficking and people who may be at high risk of being trafficked, see human

trafficking as essentially a **human rights issue**, robbing people of their rights to live free from exploitation, in good health, with their families and in charge of their own destinies. Some may additionally address it from the **health angle**, focusing on the physical and psychological impact on victims and their families.

Advocates for women's rights and gender equity approach human trafficking as a form of **violence against women** and emphasize the role played by gender inequalities in the family and in society at large. Similarly, some see trafficking as a heinous **derogation of children's rights**, especially the right to education and to a childhood free of the burden of child labour.

Increasingly, governments look upon human trafficking as a **threat to national security**, particularly when it involves irregular movements of people across borders and when it is linked to other forms of organized crime such as money laundering, the smuggling of contraband or the trade in illicit drugs.

So which of these approaches is the right one? All of them. Human trafficking fits appropriately into each of these categories, and the fact that it is addressed from many different angles by people with different sets of skills and expertise is a positive thing. Human trafficking is such a complex process that it needs to be tackled on many different fronts at the same time, and it is clear that a multi-disciplinary approach to solving the problem must be taken.

For individuals and organizations specializing in what is often called "the world of work", human trafficking is also very much a **labour issue**, firmly rooted in labour market dynamics and the overwhelming need and desire of people to earn a living.

The right to decent work

All people who have reached the legal minimum age for work have a right to work -- without coercion, in decent conditions, for a fair wage -- to ensure their economic well-being and that of their families.

Alongside international and national laws relating to human trafficking, there exists a body of legislation that is designed to ensure that labour is regulated and policed so that people's labour rights are protected. These include, for example, the right to work in safe, non-hazardous conditions; to have set working hours with regulated time off and holiday; access to insurance that covers the worker who is unable to work because of sickness or injury; minimum guarantees including rates of pay, including for work done outside regular hours or at unsocial times; laws governing female workers' rights; and laws that stipulate a minimum age for work so that children are free to complete their education and gain the skills that will prepare them not only for work but for life. Taken together, these elements are often called 'decent work' and are enshrined in labour law.

Labour laws exist at international and national levels. International legal instruments are generally negotiated and adopted through the mechanisms of the International Labour Organization (ILO), the United Nations body that deals with all matters relating to the world of work. Member States of the ILO meet annually in conference to consider and adopt new instruments, and countries that then ratify these conventions undertake to report regularly on what they have done to translate the conventions into their national laws. Of vital importance to the effective implementation of international labour conventions is the fact that the ILO has a unique 'tripartite' governing body and membership, bringing together with the ILO governments, workers' organizations (trade unions) and employers' associations. These 'labour actors' are ideally placed not only to know and understand the realities of the world of work but also to act to turn the promises enshrined in international labour conventions into workplace realities.

International labour conventions cover, *inter alia*, workplace conditions (known as norms and standards), the rights of those migrating for work, gender equity, and the importance of fixing a minimum age for work and protecting children from premature entry into labour. There are also conventions relating to particular

occupations such as road transport, seafaring and construction and, since 2011, domestic work.²

Among the many conventions relating to labour rights, eight are considered 'fundamental'.³ Consolidating the spirit of these fundamental conventions, in 1998 the International Labour Conference adopted a *Declaration on Fundamental Principles and Rights at Work*. This embodies what might be considered the most basic rights that must be protected and upheld at all times and in all circumstances, and all Member States of the ILO – including those who have not ratified one or more of the conventions included in the fundamental conventions -- are required to report on the progress they are making in implementing the Declaration.

Human trafficking is both directly and indirectly covered through these international conventions. Where people enjoy freedom of association and collective bargaining, for example, their rights as workers are protected and they are less likely to be exploited. Action against forced or compulsory labour is instrumental in breaking down the motives for trafficking and the means of profiting from it. Abolishing child labour and protecting children from exploitation directly addresses the problem of employers who see in children a cheap and easily exploitable source of labour, and so thwarts the traffickers who provide such labour. Eliminating discrimination strikes at the heart of the exploitation of workers who are targeted because they are from another country, tribe or caste, of a different

² The ILO *Domestic Workers' Convention, 2011 (No.189)* is seen as a major breakthrough, since domestic work has long been a subject of dissension, with some states insisting that it is not 'real work' and should not be regulated, and others arguing that it is a major sector of labour, especially for women, that is so often open to abuse. Accepting that domestic work is 'legitimate' work and that those performing domestic duties have a right to the protections that labour law provides, is a vital step in ensuring workers' rights and women's rights.

³ These cover freedom of association and the right to collective bargaining (Conventions 87 and 98); the elimination of forced and compulsory labour (Conventions 29 and 105); the abolition of child labour (Conventions 138 and 182); and the elimination of discrimination in employment and occupation (Conventions 100 and 111).

colour, culture or religion, or are women whose position in family or community too often makes them subservient to those who wish to profit from their labour.⁴

At national level, labour laws are an important weapon in the anti-trafficking legislative armoury, especially where specific anti-trafficking laws do not exist. They allow labour inspectors and regulatory authorities to take action against unscrupulous employers who accept and exploit trafficked people, for example. Identifying and bringing wayward employers to justice may subsequently help in investigations of other links in the trafficking chain. Laws against abduction, deception, extortion, fraud, assault, rape and other crimes that traffickers may commit in the course of trafficking may also be used where specific laws against trafficking are not in place, and even when they are.

When people are excluded from labour markets

In addition to the laws that govern the conditions under which they work, people also have a right to move to find work if they wish or need to. A number of ILO conventions set out this right and the responsibility to guarantee it:

The *Migration for Employment Convention (Revised), 1949 (No.97)*, aims to regulate the conditions under which the migration of workers and their families takes place, and the *Migrant Workers (Supplementary Provisions) Convention, 1975 (No.143)* contains specific standards to counter illicit and clandestine labour trafficking which disturbs orderly migration and creates negative social and human consequences. States ratifying this convention undertake, for example, to investigate illegal migratory movements on their territory that aim to facilitate sub-standard employment.

⁴ This description is taken from: ILO: *Trafficking in human beings: New approaches to combating the problem*, ILO SAP-FL, May 2003, p.7.

States have the primary responsibility to regulate migration. Regulating migration, though, is not the same as preventing migration. Regulating migration means making migration safe and regular, so that people can exercise their right to migrate if they need or wish to. In fact, people may seek to migrate to find work for a number of reasons:

- In many developing countries, unemployment is linked inextricably to low rates of literacy. People simply do not have the basic skills that equip them for employment, except perhaps in casual manual work which is often acquired in the 'grey market' where workers have no contract, no security of employment, poor pay and conditions and no power to negotiate.
- Skilled workers may find themselves unemployed if the skills they have do not coincide with the skills demanded in the labour market. This might occur suddenly, if a particular industry relocates, for example, or it could result from a mismatch between the training on offer and the jobs available.
- Unemployment can also result when markets are disrupted by financial crisis, natural or man-made disasters, conflict or just national policy shifts that cause changes in the labour 'geography' of a country or region.
- Sometimes, people seek to move for work simply because they want to. In a world where global communications allow people to see what life is like in other places (sometimes not necessarily accurately) people may believe that there are better opportunities 'elsewhere'. This is particularly true of young people who are disproportionately affected by unemployment and who may be more mobile, unencumbered by family or debts.
- It may also be the case that there are geographical, social or economic factors that result in a demand for workers in one place and a surplus of workers in another. For example, there may be a high demand for seasonal agricultural workers in one part of a country alongside low employment in another, which will result in unemployed workers looking to move temporarily to find

seasonal work. This might also happen across a border, and there are known areas where seasonal workers have moved for generations to follow opportunities to earn a living. Sometimes this is done legally but often workers slip across borders that are not well policed.

- Women may find themselves excluded from labour markets because national policies discriminate against them, or local customs mean they are not able to compete with men for jobs, even where they are equally or even more qualified.

In short, there are many reasons – personal, structural, economic, geographical, societal and even historical – that prompt people to consider relocating, permanently or temporarily, in order to find work.

What happens, though, when would-be labour migrants find migration channels closed (permanently or temporarily)? And what if migration channels are open but people do not know about them, or cannot afford the costs involved? When migration channels are closed or inaccessible for some reason, then people who need or want to move to find work seek other ways to do this and become highly vulnerable to falling into the hands of traffickers.⁵

Recruitment and entry points

All human trafficking begins with a process or event that entraps the victim and sets her or him on the path to being trafficked. In the case of would-be labour migrants, alongside the legitimate 'entry point' into work there is the risk of encountering parallel entry points that lead to trafficking.

⁵ This chapter does not look at illegal (irregular) migration, where the would-be migrant knowingly contravenes labour laws and migrates without proper documentation; or people smuggling, where would-be migrants (often asylum seekers hoping to gain refugee status on arrival) pay for illegal transport. Trafficking is differentiated from these by the victim status of the person who is caught in the traps laid by traffickers.

For example, those wishing to find work in another place (not only in another country but perhaps in another part of their own country) often approach a recruitment agent to help them. For people who live in villages or small communities, this may be someone in the community who is known to have contacts that can find work or help with transport. In the cities of industrialized countries, recruitment may be done through an agency, via an advertisement in the newspaper or other media.

Regardless of the form, traffickers are known to set up parallel mechanisms that promise job placement, help with necessary documents, advice on transport or provision of the services themselves, and sometimes contacts that will provide accommodation. Each of the links in this 'trafficking chain' may comprise a legitimate service (the transport, for example) or a crime (for example document forgery, an illegal sweatshop), or the whole chain may consist of traffickers and intermediaries who knowingly break the law.

It is worth recalling here how the UN trafficking protocol (the Palermo Protocol) defines human trafficking: "...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."

The first part of this definition relates to the links in the trafficking chain. It starts with recruitment – that 'entry point' described above - - then involves movement, described here as transport or transfer,⁶

⁶ It should be noted that the US definition of human trafficking differs from the Palermo Protocol definition in that it does not require there to have been 'movement'. This can be problematic because it effectively looks only at the end result of trafficking: exploitation. It is important to differentiate trafficking victims from victims of 'simple' exploitation because they may need specific services (for example they may be in a country without legal documents). It is also vital to identify cases of trafficking in order

and ends in exploitation. This exactly parallels regular labour migration, which also begins with recruitment/entry into the process, involves temporary or permanent movement, but which ends in legitimate work. The difference between regular labour migration and human trafficking lies in the criminal nature of the different parts of the process and importantly in the exploitative outcomes of the trafficking, including forced labour, debt bondage (where the victim has entered into debt to finance what s/he believes to be legitimate and has to pay this off to the traffickers), or exploitative labour in dirty, dangerous, demeaning, often slavery-like conditions.

It is important to remember that, for trafficking to occur, the recruitment and transport must involve "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"⁷ – in other words, there has to be *ab initio* intent to exploit. Although common wisdom (and Hollywood movies!) tend to emphasize the violent abductions that sometimes do take place at the beginning of the trafficking chain, trickery, deception, lies and misrepresentation are more common. The promise of a job, exaggerated stories of the money to be made and the sad misrepresentations that exploit a person's hopes and dreams are more likely to be used to lure people into the hands of traffickers.

A typical example of how this works is the young woman in a small town who cannot find work and who has heard about other women from the community who have moved to the 'big city' and found well-paid work in restaurants and hotels. Tempted by an advertisement in the local paper for women to work in the city as waitresses, she pays a fee to the agent who placed the advert for help with transport and

to trace the whole trafficking chain and investigate all those involved from beginning to end, not only at the point of destination.

⁷ These conditions do not apply to people below the age of 18, considered to be children.

accommodation, believing his promises that the work, although it may involve unsocial hours, is well paid. He tells her she will work alongside other young women from her town and that he will try to find her accommodation in the same boarding house. When he quotes the cost of all these services, she does not have enough money, but he tells her that she will be able to pay him back from the money she earns. Soon the young woman is on her way to the city, full of hope and having promised her family she will send money back to them as soon as she has repaid her debt.

When she arrives in the city, she finds things are very different. She is housed in dingy rooms with a group of other women she doesn't know. The 'aunty' who looks after them locks the door at night and only opens it when someone comes to collect them to take them to work. This is not the restaurant that was promised but a nightclub where the 'waitresses' are expected to provide sexual services to the customers. Our young woman wants to go home, but she is trapped by the debt she entered into and scared to voice her objections because of threats of violence not only to her but also to her family.

In situations like this, it is not surprising that some of the young women may accept the drugs that are often offered to them. It is surprising, however, that some will eventually return to their homes and work as recruiters for the traffickers. One explanation for this is that the young women's situation once they return home has not changed: they are still unemployed, have earned almost no money from their exploitation and, having after all survived the trafficking experience, no matter how damaging it was, they may feel that other women will be able to survive it too and that they will therefore not do 'too much harm' by earning money as a recruiter. Many women, on the other hand, do not survive the trafficking experience, or emerge with long-term physical and psychological problems.

Trafficking victims – men, women and children – often endure physical violence at the hands of traffickers and intermediaries who aim to subdue them and reinforce the power relationship that is so

necessary to the success of the traffickers. Women and girls may be raped as part of this violence. Psychological trauma is also common, as victims are confronted with threats, isolation, feelings of helplessness and verbal abuse. Trafficking is particularly pernicious because it involves moving the victim away from her/his normal environment, robbing them of known protection services and safety nets. When people are trafficked into other countries, additionally, they may not know the language of the people with whom they come into contact, and find it impossible to even think of escaping because they do not know who to turn to or how to explain their situation. The fact that they are regularly told by traffickers that their documents are not legal, or that their exploiters take away their documentation, makes them even more unlikely to seek help.

The ultimate irony of trafficking into labour exploitation is that most trafficking victims never earn the money they were promised and which was one of the primary motivations for their desire to move in the first place.

Movement: The difference between human trafficking and forced labour

It will be clear from the example given above that 'movement' is at the heart of trafficking, because it is the means by which traffickers isolate victims from the environment in which they are safe and can seek help.

There is no defined extent of the movement; the essential point is that the victim is moved. Traffickers may move their victims within the country, for example from rural area to city, from city to coastal resort, from peri-urban settlements to farms. When trafficking does not cross national borders, it is called 'domestic' trafficking and, despite what common wisdom often suggests, it is known that most of the trafficking in the world is domestic.

Traffickers who move their victims to another country are guilty of ‘cross-border’ trafficking. They may move people on foot, by road, by sea or by air. Often these journeys are hazardous, involving for example dangerous mountain routes, leaky boats or modified vehicles in which victims are hidden. Sometimes, people are moved in regular transport, on scheduled flights, in buses or taxis. In such cases, traffickers may provide forged documents to fool border authorities, or corrupt border or immigration officers might be working with the traffickers.

These complex mechanisms may suggest that trafficking is hardly worthwhile for criminals who, after all, are engaged in this crime in order to make money. Often, however, traffickers use processes and personnel already engaged in moving illicit goods (drugs, arms, stolen vehicles, contraband). Additionally, it is a sad fact that human trafficking is a low-cost and low-risk criminal activity since, if they are intercepted, trafficking victims are relatively easy to replace and the ‘loss’ of a victim does not cost as much as losing a consignment of drugs or contraband. Because of the nature of the trafficking chain, moreover, it is most likely that, even when police or migration officers identify one link in the chain, they will not be able to trace it back to the initiator, especially where the chain has been constructed of casual relationships, people who do not work regularly together but as ‘freelance operators’ for one particular action in the chain.

It is the existence of these diverse elements, and the complex nature of the trafficking chain, that differentiates human trafficking from forced labour. Forced labour is a typical outcome of trafficking, and occurs at the point of exploitation. Victims of forced labour, for example, may have migrated willingly and without help (legally or irregularly) and have then been unlucky enough to enter employment which is coercive and exploitative. They may also not have moved at all but be in forced labour in the place where they live. The essential difference between ‘migration + forced labour’ and trafficking into labour exploitation is that, in the case of trafficking, the third parties

involved at the beginning of the process – at the entry point – had the *intention* of leading the person involved into exploitation.

The exploitative outcomes of human trafficking

What is often called the ‘exploitative labour outcome’ of trafficking can occur in many different labour sectors. The ILO has outlined the major areas of work that frequently harbour trafficking victims as: “agriculture, food processing, construction, textile and garment enterprises, retail, manufacturing, logging, mining, restaurants, domestic work and entertainment”,⁸ and there are other sectors into which trafficking occurs. To these also can be added begging and the commercial sex sector, on which there is more below.

Across the globe, the majority of trafficking victims find themselves exploited in **agriculture**, not only in the fields but also in fishing, flower-picking and packing, and related work. Because of the seasonal nature of agricultural work, trafficking victims are often moved from place to place as their traffickers undercut regular rates of pay for seasonal workers and offer teams of workers – sometimes entire families – as cheap labour. In this way, children are trafficked alongside their parents and enter into child labour.⁹

There is much debate over where the ‘demand’ for such cheap labour originates. Some commentators place the responsibility firmly in the hands of the consumer, who seeks out the lowest possible prices on foodstuffs. However the whole supply chain plays a part, from the supermarkets that put pressure on suppliers to keep costs low, to the suppliers who prevail on producers to cut prices, to the producers themselves who may knowingly recruit labourers from sources they

⁸ ILO: *Fighting human trafficking: The forced labour dimensions*, background paper for the Vienna Forum on Human Trafficking, February 2008.

⁹ In fact, ILO Convention No.182 on the Worst Forms of Child Labour defines any form of child exploitation that also involves trafficking as an ‘unconditional worst form of child labour’ from which children must be withdrawn immediately and that must be eliminated as a priority.

know to be suspect or just turn a blind eye to offers of labour that really are too good to be true, all with the aim of maintaining their profit margins.

Case study 1: The Gangmasters of Europe

For many years, the mosques and community centres servicing the ethnic South Asian population of England's second city, Birmingham, helped long-term and recent migrants to find work in the fruit and vegetable growing and packing business of the Midlands, the region of which Birmingham is the hub. The community leaders negotiated legal contracts and generally ensured the rights and well-being of the workers.

In the 1990s, though, they began to experience difficulties securing work for their community members because Eastern European 'gangmasters' were under-cutting the rates and had begun providing cheap labour, sometimes up to 200 men at a time, transported to the fields and packing plants in fleets of buses. The gangmasters not only owned the buses, they owned the accommodation the men lived in – and effectively owned the men themselves.

By 2001, the gangmaster system had become big business in the United Kingdom (UK), with an estimated turn-over of \$45 million a year. Some of the gangmasters operate in compliance with labour laws; many do not. Some use undocumented workers who have been shipped in and are effectively locked in to their accommodation when they are not working. They have no contracts, allowances, insurance or time off. They are charged high fees for transport and accommodation in sub-standard hostels. They are effectively in forced labour and, since they have been promised decent work before they set off, have been deceived and so are victims of human trafficking.

Trafficking into agricultural labour in Europe is not confined to the UK. Moroccan workers are trafficked to Spain; Switzerland and the Netherlands have large numbers of illegal migrant workers among whom some will have been trafficked.¹⁰

¹⁰ This true case study is adapted from: ILO, *Trafficking in human beings: New approaches to combating the problem*, ILO SAP-FL, May 2003.

After agriculture, the next most frequent destination sector for trafficked people is the broad category of 'service industries'. This ranges from high-end hotel work to street-based trades such as selling smallgoods or cleaning shoes.

Alongside legitimate workers, trafficked people may be found working in hotel kitchens, as chamber maids, cleaners and as tradespeople. They may work in restaurant kitchens or in retail stores or wholesale warehouses. They may be selling things on the street, for example flowers, newspapers, cigarettes, candy or shoelaces.

In some parts of the world, those working as street vendors may be under the control of 'handlers'. In a throw-back to the times of the English novelist Charles Dickens, a 'handler' will watch over trafficked street vendors to make sure they do not try to run away and that they earn enough money to satisfy the exploiter(s).¹¹ If they do not, they are regularly beaten or burned with cigarettes. Often linked to such street activity is petty crime, in particular pick-pocketing and bag-snatching.¹²

Many people, especially women, are trafficked into **domestic labour**. This has been a challenging sector for trafficking researchers and programmers because, until the adoption in June 2011 of the *Domestic Workers' Convention, 2011 (No.189)*, the private home was not considered as a 'workplace' and labour laws were both ignored and impossible to police. Working behind closed doors, the domestic worker is hidden away from labour inspectors and other observers and is readily exploited. Although men and boys may be trafficked into domestic labour, the majority of victims are women and girls.

¹¹ Reading the classic Dickens novel *Oliver Twist* gives a good insight into street gangs and their handlers and also into child labour. Although a masterpiece of fiction, the novel contributed to social awareness of these issues and to legislative change.

¹² It is important to remember that, as laid out in the Recommended *Principles and Guidelines on Human Trafficking* developed by the Office of the UN High Commissioner for Human Rights, trafficked people should not be held responsible for crimes committed in the course of their being trafficked, or at least their victim status should be taken into account as a mitigating circumstance.

Typically, they will have to rise before the rest of the household to prepare breakfast, and perhaps get children ready for school and take them there (a particular burden for children who may themselves be of school age but who are denied the right to education and have to wait and watch while the children of 'their' family enjoy that right). Domestic workers do the cleaning (often with toxic chemicals), cooking (perhaps in extreme heat or using equipment unsuitable to their age), other household tasks as necessary and, in extreme cases, may be expected to provide sexual services to the men in the household. These workers may be beaten if they make a mistake or disobey, are often given a label to replace their own name, and may be deprived of food and made to sleep in the kitchen or outhouse.¹³

When many people think of forced labour or human trafficking, however, the image that comes to mind is of rows of victims, generally women, heads down over a sewing machine or other piece of machinery, toiling in a warehouse-sized factory. In fact, 'manufacturing' as a sector is a major receiver of trafficking victims, even if the common image is not always correct. Men, women and children are trafficked to work in a broad range of manufacturing enterprises, and these range from large factories to cottage industry enterprises housed in a small apartment or basement room.

In recent years, the US Government and other countries that are major importers of manufactured goods have researched and black-listed goods coming from countries where there is a possibility that trafficked labour was used in their manufacture. Clothes, sports shoes, rattan and cane furniture, leather goods, jewellery and a range of other items are routinely excluded from US markets following reports of forced labour or trafficking victims being exploited in source factories.

¹³ For more on child domestic labour, see Kane, J: *Helping hands or shackled lives? Understanding child domestic labour and responses to it*, ILO-IPEC, Geneva 2004.

Case Study 2: Garment factories in Jordan

The US National Labour Committee (NLC) has reported that Jordanian garment factories supplying major outlets like Wal-Mart, Hanes and Macy's run advertisements in Bangladeshi newspapers announcing jobs that pay high wages, provide healthcare and accommodation, serve food that is "like the West" and offer a chance to see the country.¹⁴

The recruiters typically charge a fee of between US\$1,000 and US\$3,000 for arranging a three-year contract guaranteeing them work when they get to Jordan. Many would-be migrants go into debt in order to pay this fee, believing that they will be able to pay it off with wages they earn in their new job. When they arrive in Jordan, the Bangladeshi workers are immediately stripped of their passports. Typically they also soon find that they will not even receive the legal minimum wage and are often cheated of half the wages owed to them. Factory owners commonly require them to work more than 100 hours a week without overtime pay, enforce seven-day working weeks and provide only one or two days off a month. Workers told the NLC that they are beaten if they fall asleep. If they complain, they are beaten or threatened with deportation.

When their contracts expire, most of the workers are denied the return ticket promised them by employers and have to borrow money so that they can return to their homes. These workers are victims of human trafficking since, although they sought to migrate for work willingly, their recruitment into what amounts to debt bondage/forced labour was based *ab initio* on lies and misrepresentation – the deception required by the Palermo Protocol for trafficking to occur.¹⁵

Men in particular may be trafficked into **heavy industries, including construction and mining**. Incredibly, however, children are also trafficked into mining, particularly smaller-scale operations where narrow tunnels are dug and exploiters look for children who are small

¹⁴ S. Lazare, *Human trafficking in Jordan*, Multinational Monitor, May 2006.

¹⁵ Example adapted from Kane, J, *People on the move: Human trafficking in Jordan, Lebanon and Syria*, Euro-Mediterranean Centre for Applied Research on International Migration and ITC-ILO, San Domenico di Fiesole 2011.

enough to fit into them. Underground work of this kind, particularly in situations where safety is rarely a priority, is considered to be one of the worst forms of child labour.

Children are also trafficked into **begging**, although women and more rarely men are also exploited as beggars. As with those trafficked to work as street vendors, trafficking victims forced to beg are often under the control of a handler who will watch them from a safe distance. Different forms of trafficking into begging are known. In Thailand, for example, the government has run campaigns to discourage people from giving money to women they find begging with a baby on one of the many footbridges crossing the main roads in Bangkok. These women are most often Cambodian women who have paid a family to 'borrow' their infant in order to take her/him across the border to Thailand to exploit. The women are traffickers. Dealing with this particular example of child trafficking is a challenge, because the women are known to simply dispose of the babies if they think they are going to get caught.

In the major capitals of Western Europe, conversely, women who are trafficked from Eastern Europe to beg with babies in tow do all they can to protect the children – because they are often not their own. Traffickers who move whole families across the borders of Europe are known to split them up, diverting the men towards various forms of labour exploitation and taking children from their mothers and giving them to other women. The women are told that, if they ever want to see their own baby again, they must obey their traffickers.

Although begging is not exactly a form of labour, it is a way of earning money and the traffickers who force their victims to beg are making a profit by exploiting their time and effort.

Case Study 3: Doing 'ngangendong' in Bali

Children are often to be found begging – or selling smallgoods or flowers – in resorts where there are tourists who can be trusted to respond sympathetically to requests for help. In Denpasar, the main town in the island resort of Bali, Indonesia, for example, children are tricked into begging with false promises.

One 14 year-old boy told the story of a man who had approached his parents offering to take him to Denpasar to work, and to provide the finances to send him to junior high school in the evenings. The boy and his parents were happy but the boy soon realized that he would not be going to school. Instead, he was forced with other boys to do '*ngangendong*' – begging for goods, not money – and was expected to bring back at least 5-10 kilos of rice a day. The man sold the rice and kept all the money himself.

This boy had been trafficked, and note that the lies the trafficker told the parents in order to 'recruit' the boy are not relevant in this case, since the boy was under the age of 18. The fact that he had been moved in order to be exploited is sufficient to make him a trafficking victim.¹⁶

The special case of the "sex sector"

As is the case with begging, some commentators argue that sexual exploitation is not a labour issue, and insist that prostitution is not a 'sector' and that women exploited in prostitution should not be considered as "working in the sex sector" but as victims of human rights violations. This outrage at the sexual exploitation of women (and indeed of girls and boys) is understandable, but the truth is that in many countries prostitution is legal and is regulated in the same way as less controversial occupations. Where prostitution is legal, it

¹⁶ Case study adapted from: J.Kane, *Unbearable to the human heart: Child trafficking and action to eliminate it*, ILO-IPEC, Geneva 2002.

is in women's interests to enjoy all the protections that labour laws allow, including a negotiated contract, minimum pay, decent working conditions, access to sick pay, health insurance, holidays and agreed time off. Regular inspection of premises by labour inspectors is also in the women's interest, and health and safety regulations must also apply to these premises.

Regardless of the moral arguments put forward for or against prostitution, the truth is that in countries where it is legal, prostitution is effectively a labour sector. Just as with other sectors that receive trafficking victims, the sex sector often includes trafficked women alongside those who have elected to work legitimately. Very often of course, women and girls are trafficked into sexual exploitation in countries where prostitution is not legal and where they are put to work in clandestine brothels, massage parlours, hotels or on the streets. Frequently women who are trafficked into prostitution are fooled with promises of other kinds of work and only on arrival at their destination find that they are to be prostituted. Frequently also, however, women may agree to relocate in full cognizance of the work they are going to perform; rarely however do they have any idea of the conditions they will face. Reports of violence, coercion to have unsafe sex, threats against the victim and her family, forced administration of drugs, and slavery-like conditions are common. Since the women were thus effectively deceived when they agreed to move, they are also victims of trafficking.

The nature of 'demand' for the services of women trafficked into sexual exploitation is much debated. In regions of the world where trafficking into prostitution is a major problem, governments and non-governmental organizations frequently run campaigns targeting the 'clients' of brothels and other venues where sex can be bought. However research in Europe has suggested that most men express concern that the women providing sexual services to them might

have been forced to do so, or have been trafficked into exploitation.¹⁷ Indeed, they suggest that it is important to them that the woman whose body they buy is selling herself freely.

So where does the 'demand' lie? This is not an easy question to answer, because the truth is that many of the men interviewed also say that they prefer to buy services from 'foreign' women. This has been described as 'otherness', a means of distancing the person who is selling herself from the wife, mother, girlfriend, sister of the man who is buying. What it also means, however, is that the intermediaries involved in the prostitution 'business' – pimps, brothel owners and other operators -- look for women who satisfy this preference and so recruit women from other countries or different ethnic backgrounds. It is therefore the intermediaries who are generating the primary demand for 'other' women; the clients are generating secondary demand.

The links between child labour and the trafficking of children

Children are also trafficked into sexual exploitation. This is an extremely emotional topic that is often misrepresented.

Many people believe that child trafficking into sexual exploitation always involves paedophiles and so-called paedophile networks. In fact, the most common manifestation of child sex trafficking is the trafficking of adolescent girls and boys who have not yet reached adulthood but are close enough for clients to tell themselves that they are 'old enough' into brothels and other commercial sex venues. It is known that the prostitution of adolescents in the commercial sex sector is an extension of the adult sex market. Put bluntly, the adolescent girls and boys provide choice to those prostitute-users who are looking for someone younger. Often these men argue that,

¹⁷ J. O'Connell Davidson, *Review of evidence and debates on the demand side of trafficking*, unpublished manuscript supplied to the author, London 2002.

although they prefer young girls, for example, they thought the girl had reached the legitimate age to be working.

There are, of course, instances where the men involved not only know their victims are under-age but specifically seek out minors for sexual exploitation. This is a very specialised 'market' and there are intermediaries who make money from providing children for it. The men who buy sex from children are child sex abusers.

They may not, however, be paedophiles, but men who have normal sexual relationships with adult women and may indeed be married. Paedophilia, on the other hand, is a recognized sexual deviance in which perpetrators (usually men but very occasionally women) have a preference for sexual relations with a child who has not yet reached puberty, that is generally under the age of around 12 years. This sexual deviance has very specific characteristics: for example, paedophiles demonstrate difficulty in maintaining normal adult relationships with women; the men like to collect photographs of very young children to 'fix' the age of the child so that s/he does not grow older in their minds; they organize themselves into 'clubs' by using the photos as 'calling cards' to exchange with other paedophiles in order to build up around themselves a supportive group of like-minded abusers. This is what is often called a 'paedophile network'. With the enormous strides in technology, these networks and the exchange of images has gone on-line and given rise to a growing market in child pornography.

The commercial sexual exploitation of children, whether by paedophiles or by child sex abusers, does give rise to child trafficking, since traffickers will seek to supply children to these 'markets' where there is a shortfall in supply. The use of these terms may seem harsh and inappropriate, but it is vital to stress that the traffickers and intermediaries who make money out of the misery of trafficking victims, whether adult or children, see what they do as 'business'. Looking at their actions in the same financial, entrepreneurial and

organizational ways that they do is one way to get to the heart of their activities.

This is one way of looking, also, at child labour. Child labour is defined through a number of international instruments but essentially it is also all about people making a profit by exploiting the work of children.

Links between trafficking and child labour

The UN Convention on the Rights of the Child (1989) stipulates that children have "the right to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development" (Article 32).

However, two international labour conventions give us the most detailed understanding of what constitutes child labour: *The Minimum Age Convention, 1973 (No.138)* sets down the minimum legal age at which children can enter work, and calls on ratifying states to ensure that this is enshrined in national law. The age is set at 15 years, or 14 if a country's economic status requires this and then only until such time as this can be raised to 15. The convention also says that for the two years before they reach the minimum working age, children may perform 'light work' as long as this is for a limited number of hours per week (notionally 14 hours or two hours a day) and that it does not interfere in any way with their schooling. Additionally, no child under the age of 18 may at any time be engaged in work that is considered to be a 'worst form of child labour'.

These are clearly defined in *ILO Worst Forms of Child Labour Convention, 1999 (No.182)*. This says that the worst forms of child labour are:

“(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; and

(d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.”

The first three categories are considered to be ‘unconditional’, that is they cannot be negotiated. The fourth category, in paragraph (d), represents ‘conditional’ forms that are specified by each nation following tripartite negotiations. Some countries compile what is called a ‘hazards’ list of either tasks or occupations that fall into category (d), for example lifting heavy loads above a certain weight, or working with specified toxic substances; or occupations such as textile dyeing or mining.

Note that category (a) includes the trafficking of children as a worst form of child labour. This means that, in addition to labour laws and dedicated trafficking laws that can be used against traffickers, authorities may have at their disposal laws against the worst forms of child labour that can be used when the trafficking victims are under the age of 18. National Plans of Action to eliminate the worst forms of child labour will also include actions to address child trafficking in many cases.

Mobilizing the world of work

The fact that trafficking is a complex problem that can be approached from several different angles means that the responses to it must be similarly multi-faceted and undertaken by a wide range of different anti-trafficking actors. Governments, law enforcement authorities (not only police but migration officers and labour inspectors), non-governmental organizations (NGOs), researchers and academics – all have a role to play.

When considering trafficking in the context of the world of work, it is also important to look at how labour actors -- workers’ and employers’ associations especially – can also be active. They are, after all, ideally placed to know what is happening in labour markets generally and particular sectors specifically. The case study given above of the agriculture gangmasters, for example, first came to light when a UK trade union began to investigate complaints from employment agencies about the under-cutting of rates of pay.

Actions to combat trafficking are frequently categorized into ‘prevention, protection and prosecution’ actions (there is also a specialized category related to victim support), and labour actors can and do contribute to all of these.

Employers and employers’ associations, for example, are well placed to understand labour market dynamics and to know where there may be ‘grey market’ operations and unscrupulous employers operating clandestine workplaces or employing trafficked labour. Employers’ associations are also the primary body for policing and enforcing codes of conduct and labour agreements related to recruitment and employment.

Workers’ organizations (trade unions) have a good idea of what is happening ‘on the ground’. They closely monitor the conditions under which workers are employed and frequently learn of situations in which workers are being denied their rights. They are then able to investigate these reports with a view to uncovering breaches of contract or irregular situations.

Both workers' and employer's associations are engaged in education and awareness raising among their constituencies. Increasing understanding of what trafficking is and how it works means that more workers and employers are likely to identify trafficking in their midst. Putting in place reporting mechanisms is also something that employers and workers' organizations regularly do.

Finally, workers' and employers' associations are able to provide short- and longer-term support to trafficking victims when they are identified. Employers may be able to guarantee regular employment if the victim wishes it, or short-term employment while a victim is waiting to go home. Workers' groups may provide counselling or support, accommodation or financial help.

In relation to child trafficking, employers' cooperation is crucial in ensuring that the whole supply chain is free of child labour (and potential trafficking linked to it). Employers are also, of course, vital to efforts to develop labour markets by providing investment and creating jobs. Skills training, apprenticeships and on-the-job training will ensure that people who may otherwise be unemployed and so vulnerable to the tempting offers made by traffickers, find decent work.¹⁸

Mobilizing workers and employers to contribute to anti-trafficking efforts underlines the fact that trafficking is a labour issue. At its beginning is the desire to move to find decent work; at its end is exploitation in work that is often said to be akin to modern slavery.

¹⁸ For an overview of good practices involving employers' organizations, see: *Human trafficking and business: Good practices to prevent and combat human trafficking*, UN.GIFT, Vienna 2010.

Discussion questions:

1. Consider the different approaches to human trafficking and (i) how they complement each other and (ii) how they may hinder each other. Consider the roles and responsibilities of the different actors involved and how resources may be allocated among them to achieve the best possible outcomes.
2. Discuss the differences between human trafficking, legal and illegal migration, and people smuggling. Do you think that the general public can differentiate among them? Do you think they need to? Consider from the point of view of the legislator, relevant authorities and the victims of human trafficking.
3. Think about the influence of the consumer who demands ever-lower prices and how this pressure is transmitted through the supply chain. Do you think that consumers would be willing to pay higher prices if they thought it would help close down the human trafficking business? Consider an example of a consumer good that you frequently use and map out the supply chain involved. Think carefully – a simple jacket, for example, can involve dozens of different suppliers (fabric, thread, buttons, zipper, dye, packaging etc).
4. Discuss media reports you may have seen about human trafficking. How many of these related to trafficking into sexual exploitation and how many into other forms of exploitation? Which sectors were mentioned in the reports? Were the trafficking events domestic or cross-border? Do you think that media reporting of human trafficking is well informed and balanced?
5. Look at the *Recommended Principles and Guidelines* developed by the Office of the UN High Commissioner for Human Rights and discuss them. To what extent do you believe these rights-based principles are embodied in national laws? If they are not, why is this?
6. Discuss what you know about child labour, including the worst forms. For background, you may wish to look at the section of the

ILO website devoted to the International Programme on the Elimination of Child Labour (IPEC), where you will find general descriptions as well as sectoral and country publications and fact sheets.

7. Search the websites of companies and workers' organizations in your state and find out whether they are involved in combating human trafficking. Do they have corporate social responsibility policies? If yes, do these include the need to avoid child labour and the employment of trafficked people?

Short-answer questions

1. Name the three essential elements of human trafficking.
2. Give three reasons why people may seek to migrate for work.
3. What do we call trafficking that does not involve movement outside a country's border?
4. And what do we call trafficking that does involve the victim being moved to another country?
5. How does the US national definition of human trafficking differ from the definition given in the Palermo Protocol?
6. List two essential differences between labour migration and human trafficking.
7. For human trafficking to occur, there must have been "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". What is the exception to this rule?
8. What is the main difference between human trafficking and forced labour?
9. Name three sectors into which people are trafficked.

10. What is the minimum legal age for work set down in the *Minimum Age Convention, 1973 (138)*?

Multiple-choice questions

1. Human trafficking is:
 - a. A criminal problem
 - b. A human rights violation
 - c. A threat to national security
 - d. A labour issue
 - e. All of the above
2. The United Nations body that deals with matters relating to work is:
 - a. The World Bank
 - b. The United Nations Children's Fund (UNICEF)
 - c. The UN Development Programme (UNDP)
 - d. The International Labour Organization (ILO)
 - e. The Office of the High Commissioner for Human Rights (OHCHR)
3. The eight fundamental labour conventions cover:
 - a. Freedom of association and the right to collective bargaining
 - b. The elimination of forced and compulsory labour
 - c. The abolition of child labour
 - d. The elimination of discrimination in employment and occupation
 - e. All of the above
4. When a country does not have a specific law against trafficking, the following laws might be used instead to prosecute traffickers:
 - a. Laws against forgery, fraud and money-laundering
 - b. Laws against prostitution
 - c. Laws against violence and assault

- d. Laws against kidnapping and abduction
 - e. Any or all of the above
5. Regulating migration is an essential responsibility of governments because:
- a. It is vital to limit the number of people arriving in a country to live or work
 - b. It is important to make sure that people who want to migrate can do so safely and legally
 - c. It is important to ensure that women do not migrate without their husbands or fathers
 - d. It is necessary to exclude people who are not appropriately qualified for the domestic labour market
 - e. All of the above
6. According to the Palermo Protocol, the trafficking of adults must involve:
- a. Threats or use of force
 - b. Abduction or kidnapping
 - c. Deception and trickery
 - d. The abuse of power
 - e. Any of the above
 - f. All of the above
7. If a woman has been earning money by working in prostitution and is then offered a job overseas in a restaurant but finds that she is forced to provide sexual services to customers:
- a. She has been trafficked and is a trafficking victim in law
 - b. She has migrated willingly and so has no legal recourse
 - c. She has been trafficked but is not a victim because she already works in prostitution
 - d. She is breaking labour laws because she is doing work that is not included in her job description
 - e. She is not a victim of sexual exploitation because she has already worked as a prostitute

8. ILO Convention No.182 considers the following to be “worst forms of child labour”:
- a. Working for more than eight hours a day
 - b. Being paid less than the adult wage for the same work
 - c. Working during school hours
 - d. Working in the family business
 - e. Working in a job that is hazardous to health, safety or morals
 - f. All of the above

True/false questions

Say whether the following statements are true or false. If you believe they are false, suggest what a more appropriate statement might be:

1. Organized criminal groups are most often responsible for the trafficking of human beings.
2. Women who are trafficked always end up in the commercial sex sector.
3. If people migrate legally for work and cannot find decent work when they arrive, then they have been trafficked.
4. Governments are responsible for ending human trafficking because it is a matter of national security; others should not get involved.
5. People have a right to seek work in other parts of their own country and in other countries.
6. Human trafficking is not a problem in the developed world.
7. Trafficking is a result of poverty and only poor people become victims.

Selected readings and references

ILO	<p><i>Trafficking in human beings: New approaches to combating the problem</i>, ILO Special Action Programme on Forced Labour (SAP-FL), Geneva 2003</p> <p>Combating forced labour: A handbook for employers and business, ILO SAP-FL, Geneva 2008</p>
Kane, J	<p><i>Unbearable to the human heart: Child trafficking and action to eliminate it</i>, ILO-IPEC, Geneva 2002</p> <p><i>Helping hands or shackled lives? Understanding child labour and responses to it</i>, ILO-IPEC, Geneva 2004</p> <p><i>People on the move: Human trafficking in Jordan, Lebanon and Syria</i>, Euro-Mediterranean Centre for Applied Research on International Migration and ITC-ILO, San Domenico di Fiesole 2011</p>
O'Connell Davidson, J	<p><i>Review of evidence and debates on the demand side of trafficking</i>, unpublished manuscript supplied to the author, London 2002</p>
OHCHR	<p><i>Recommended Principles and Guidelines for the treatment of victims of trafficking</i>, Office of the High Commissioner for Human Rights, Geneva 2000</p>
UN.GIFT	<p><i>Combating child trafficking: A resource kit for programmers and practitioners</i>, ILO-IPEC, Geneva 2009</p> <p><i>Human trafficking and business: Good practices to prevent and combat human trafficking</i>, Vienna 2010</p>

Useful web resources

ILO	<p>Publications and copies of international instruments can be downloaded from the ILO website: www.ilo.org</p>
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INTERPOL	<p>The International Criminal Police Organization, Interpol, has a standing working group on human trafficking. Find out more at: www.interpol.int</p>
KANE INTERNATIONAL	<p>Publications, blog and other resources can be found on the author's website: www.kaneinternational.com.au</p>
OHCHR	<p>The Principles and Guidelines, and reports of the UN Special Rapporteurs on Trafficking and on the Sale of Children, can be found at: www.ohchr.org</p>
UN.GIFT	<p>Publications and news from the United Nations Global Initiative to Fight Trafficking, an inter-agency initiative, can be found at: www.ungift.org</p>
UNICEF	<p>Information on child trafficking can be found on the website of the United Nations Children's Fund: www.unicef.org</p>
UNODC	<p>The United Nations Office on Drugs and Crime works in the area of law and law enforcement related to trafficking. Find out more at: www.unodc.org</p>
US Office to Monitor and Combat Trafficking in Persons	<p>For copies of the annual report on human trafficking from the US Government, see: www.state.gov/g/tip</p>