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# Assumptions and Reality:

The securitisation of human trafficking in southern Africa

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I hereby declare that I have read and understood the regulations governing the submission of Masters in Criminal Justice dissertations, including those relating to length and plagiarism, as contained in the rules of this University, and that this dissertation conforms to those regulations.

Signed by candidate

15 February 2010

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## Chapter 1: Introduction

Our understanding of the concept of security has changed since the end of the Cold War. A cursive look at our daily news headlines confirms that a plethora of phenomena are phrased in security terms. The 'drug on wars' and the 'global war on terrorism' are the most obvious examples. Trafficking in persons has also been elevated to a security issue. The trend of 'securitising' non-traditional security threats has not stirred much controversy as yet. This dissertation will question why and how the issue of human trafficking has been securitised. In using the Copenhagen School's securitisation theory as an analytical framework, the dissertation will examine the international and regional (southern Africa) dimensions of the securitisation of human trafficking. The emergence of human trafficking as a social problem in public discourse will be discussed. Of principal concern are the underlying interests that propel the moral panic. Another chapter will look at global strategies aimed at combating and preventing trafficking. Before exploring the parallels between the 'Global War on Terrorism' and the dominant anti-trafficking paradigm, existing research evidence on the prevalence, scale and size of human trafficking will be scrutinised.

Described by some as a modern form of slavery, human trafficking has captured the attention of many special interest groups, policy makers, non-governmental organisations and government agencies. With its connections to sexual labour and other forms of exploitation, human trafficking has evoked divergent views on how best to address it. The 'official' definition of trafficking in persons as contained in the *United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* shall be employed for the purposes of this dissertation:

"Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of 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.’<sup>1</sup>

The United States and other countries in the global north have prioritised the campaign against human trafficking and are increasingly applying pressure for countries in southern Africa to do the same. South Africa is in the process of finalising a law against trafficking in persons, while Zambia, Mauritius and Mozambique have adopted relatively comprehensive laws. This dissertation will show that in several southern African countries, the disbursement of development aid has been linked to the adoption and implementation of anti-human trafficking measures. The lack of empirical evidence on levels of trafficking in persons, and on the nature of its impact continues to feed the apprehension of many decision-makers to expend resources on combating human trafficking.

A principal objective of this dissertation is to demonstrate the congruence of anti-terrorism and anti-trafficking agendas. It will be argued that anti-terrorism lobbyists are borrowing from the much more humane and palatable anti-trafficking discourse to push through rather draconian anti-terrorism measures and policies. The anti-trafficking lobby, in turn, has gained from this alliance as a great deal of monies and resources have been availed to fight ‘human trafficking’.

### **A note on research methods**

This dissertation is largely based on a literature review of international debates and research on human trafficking. The student in her professional capacity as a researcher attached to an applied policy research institute had actual field exposure to organised crime and human trafficking issues. She

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<sup>1</sup> United Nations *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organised Crime* (2000).

pursued interviews with senior government and law enforcement officials and members of civil society from southern Africa for the purposes of a research project on human trafficking trends during 2007 and 2008, and a 3-year research project on organised crime trends in southern Africa.<sup>2</sup> During fieldwork for the human trafficking project, the student became aware that the anti-trafficking lobby was deeply divided on a great number of issues. Politicians and relevant law enforcement officials from several countries expressed their doubt about the suggested high incidence of human trafficking in southern Africa. They argued to the contrary, and it was suggested that intergovernmental organisations and Western countries had ulterior motives in pursuing the anti-trafficking agenda.

Ultimately, the research study failed to reveal high incidence of human trafficking in the region. Upon submission of the final research report to the donor and project partner and its subsequent dismissal as 'not suitable for publication', it became apparent that the motives behind commissioning the research were not rooted in altruism or scientific curiosity. This led the student to interrogate the workings and motives of the anti-trafficking industry. Where appropriate in this dissertation, the student has inserted information obtained during fieldwork and interviews with relevant stakeholders from the region.

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<sup>2</sup> The 3-year research project on organised crime trends in southern Africa commenced in 2008. It involves a great deal of fieldwork as very little empirical research has been undertaken on the subject matter.

## Chapter 2: Securitisation theory as an analytical framework

This dissertation relies on the Copenhagen School's securitisation theory. This school of thought provides an analytical framework, which defines security while also determining how specific matters become securitised or desecuritised.<sup>3</sup> The main theorists in this tradition are Barry Buzan, Ole Wæver and Jaap de Wilde who inspired provocative theoretical debates in the post-Cold War international system. The original motive of their book *Security: A new framework for Analysis* was to give weight to theorists that had questioned the primacy of the military element and the state in the conceptualisation of security. In the post-Cold War era, a discernible theoretical trend emerged which aimed at widening the security agenda by asserting security status for issues and referent objects in the economic, environmental and societal sectors, in addition to the military-political ones that define traditional security studies.<sup>4</sup>

This debate of 'wide' versus 'narrow' security gained impetus in the post-Cold War environment when the earlier narrowing of the field of security studies to only include military and nuclear dimensions, no longer sufficed. This was further exacerbated during the 1970s and the 1980s by the rise of economic and environmental agendas in international relations and the growing concern with transnational organised crime and identity issues in the 1990s.<sup>5</sup> Not everyone was happy about the proposed widening of the concept of security. Traditionalists for example, argued that the progressive widening endangered the intellectual coherence of security, which should be confined to issues centred on the threat or use of force. Buzan, Wæver and de Wilde describe the emergence of the contested debate as follows:

“The defence of the traditionalist position got underway as the Cold War unravelled. Until rather late one could still find arguments for restricting the field to “anything that concerns the prevention of superpower nuclear war” ... But as the main task of the strategic

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<sup>3</sup> Ralf Emmers *Non-traditional security in the Asia-Pacific: The dynamics of securitisation* (2004) 3.

<sup>4</sup> Barry Buzan, Ole Wæver and Jaap de Wilde *Security: A new framework for analysis* (1998) 1.

<sup>5</sup> Buzan et al, op cit, 2.

community- analysis of East-West military confrontation- evaporated, a period of disorientation occurred. The function, and therefore the status and funding, of the entire edifice of strategic studies built up during the Cold War seemed to be at risk; consequently, the military focus of strategic studies was extremely vulnerable to pressure from wideners.’<sup>6</sup>

The Copenhagen School recognised the traditionalists’ criticism of risking intellectual coherence. They further acknowledged an insidious danger of a wider security agenda leading to calls for state mobilisation on a broad range of issues. This may be undesirable and even counterproductive in the environmental and economic sectors. Buzan et al suggest that the securitisation theory provides a framework based on the wider security agenda while incorporating aspects of the traditionalist position.<sup>7</sup>

The basic question in this analytical framework relates to what renders something a security issue in international relations. The qualification of ‘in international relations’ is important in that this context is different from everyday security. Buzan and his colleagues go back to the traditional military-political understanding of security to find the answer. Thus, security is connected to survival, and:

‘It is when an issue is presented as posing an existential threat to a designated referent object (traditionally, but not necessarily, the state, incorporating government, territory, and society). The special nature of security threats justifies the use of extraordinary measures to handle them. The invocation of security has been the key to legitimising the use of force, but more generally it has opened the way for the state to mobilize, or to take special powers, to handle existential threats. Traditionally, by saying “security”, a state representative declares an emergency condition, thus claiming the right to use whatever means are necessary to block a threatening development.’<sup>8</sup>

The Copenhagen School widens the concept of ‘security’ in international relations to include beyond military security, also environmental, economic,

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<sup>6</sup> Buzan et al, op cit, 2-3.

<sup>7</sup> Buzan et al, op cit, 4.

<sup>8</sup> Buzan et al, op cit, 21.



societal and political security. The units of this type of security analysis are securitising actors and referent objects. Securitising actors are 'actors who securitise issues by declaring something – a referent object - existentially threatened'.<sup>9</sup> Political leaders, bureaucracies, governments, lobbyists and pressure groups usually fulfil the role of such actors.<sup>10</sup>

Referent objects are 'things that are seen to be existentially threatened and that have a legitimate claim to survival'.<sup>11</sup> Traditionally, the state and the nation were the referent objects for security. In the former instance, survival relates to threats to the state's sovereignty, while survival of a nation is linked to its identity. The proposed securitisation approach allows securitising actors to construct a wide variety of issues as referent objects. On a practical level, 'the constraints of facilitating conditions mean actors are much more likely to be successful with some types of referent objects than with others'.<sup>12</sup>

What then constitutes a successful referent object of security? Size and scale appear to be crucial variables. Small interest groups or individuals may not carry enough weight and credibility to propel a security issue. Buzan et al argue that 'the middle scale of limited collectivities has proved the most amenable to securitisation as durable referent objects'.<sup>13</sup> This success is linked to self-enforcing rivalries between different sets of limited collectivities (primarily states, nations and civilisations), 'and such interaction strengthens their "we" feeling'.<sup>14</sup> Referent objects can be the military security of the state; political security to defend national sovereignty or an ideology; economic security to protect national economies, societal security to guard collective identities and environmental security, which ensures survival of species or habitats.<sup>15</sup>

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<sup>9</sup> Buzan et al, op cit, 36.

<sup>10</sup> Buzan et al, op cit, 40.

<sup>11</sup> Buzan et al, op cit, 36.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Buzan et al, op cit, 36-37.

<sup>15</sup> Emmers, op cit, 4.

Four of these five referent objects account for non-military threats to security, which moves the Copenhagen School away from the traditional realm of security studies and international relations. Security is interpreted as a socially constructed concept.<sup>16</sup> Buzan and his colleagues describe 'security' as follows:

"Security" is the move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics. Securitisation can thus be seen as a more extreme version of politicisation. In theory, any public issue can be located on the spectrum ranging from non-politicised (meaning the state does not deal with it and it is not in any other way made an issue of public debate and decision) through politicized (meaning the issue is part of public policy, requiring government decision and resource allocations or, more rarely, some other form of communal governance) to securitised (meaning the issue is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure).<sup>17</sup>

Thus, a wide range of political concerns can be securitised through acts of securitisation. The speech act as Buzan et al refer to it is very important in the process of securitisation. Securitising actors use rhetoric and semiotic structure to convince an audience of the imminent and existential threat of a security situation. The relevant audience may consist of politicians, military officials, public opinion and/or other elites. The presentation of an issue or situation as an existential threat only succeeds in becoming securitised, if the audience accepts it as such. Securitisation per se cannot be imposed. The securitising agents have to make a case so that the existential threat gains just enough resonance for a platform 'to legitimise emergency measures or other steps that would not have been possible had the discourse not taken the form of existential threats, point of no return, and necessity.'<sup>18</sup> Standard political procedures are no longer deemed adequate and extraordinary measures may be imposed to defy this threat. Due to the urgency of the matter, the audience will tolerate measures or actions that fall outside standard procedures or rules of engagement. A successful act of securitisation, however, is not dependent on the use of

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<sup>16</sup> Emmers, op cit, 4.

<sup>17</sup> Buzan et al, op cit, 23-24.

<sup>18</sup> Buzan et al, op cit, 24-25.

exceptional measures. But it provides securitising actors with the license to adopt such measures.<sup>19</sup> In other words, phenomena like organised crime, terrorism or human trafficking are presented in such terms as to suggest that they threaten the survival of entities or persons.

The passing of the Patriot Act in the United States was a reaction to the terrorist attacks on the World Trade Centre and the Pentagon on 11 September 2001. This law provided US law enforcement agencies with greater powers and authority at the expense of civil liberties of American citizens. They in turn accepted the curtailing of some of their civil liberties because the greater good, the safety and survival of the American people and their territory were at stake.<sup>20</sup> Prior to 9/11, the American public would not have accepted President George W Bush's articulation of the 'War on Terrorism'. The days and weeks following the terrorist attacks saw a gradual shift when Bush articulated the existence of an existential threat, which necessitated a change of the rules. Against the background of 9/11, Bush was afforded the legitimacy and authority to push the Patriot Act through Congress and to mount the invasion of Afghanistan with little opposition or public protest. However, a divided American society and the world questioned subsequent moves such as the occupation of Iraq.<sup>21</sup>

Buzan and his colleagues make a clear distinction between securitisation and politicisation. Securitisation may be an intensification of politicisation of an issue. But on another level it may be opposed to politicisation. The latter process relates to an issue which entails a matter of choice, while securitisation on both the domestic and international level means 'to present an issue as urgent and existential, as so important that it should not be exposed to the normal haggling of politics but should be dealt with decisively by top leaders prior to other issues.'<sup>22</sup>

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<sup>19</sup> Emmers, op cit, 5.

<sup>20</sup> Helena Carrapiço 'Chasing mirages? Reflections on concepts of security through the study of securitisation of organised crime' (2008) 22.

<sup>21</sup> K M Fierke 'Security clusters: Beyond referent objects and objective threats' (2007) 13-14.

<sup>22</sup> Buzan et al, op cit, 29.

A criticism raised against the Copenhagen School is the proposition that the securitisation move is seen as a consequence of the actors' decision. It fails to recognise that decisions of political actors cannot be analysed independently from their surrounding environment. Carrapiço argues that actors are constantly influenced by other agents and what they consider a serious threat is the result of a dialogue. Buzan and his colleagues fail to uncover the complexity of the process, which leads to the securitisation of specific issues.<sup>23</sup>

A further criticism levelled against *Security: A new framework for analysis* is the theorists' failure to fully explore who can be a securitising actor and what renders them sufficiently legitimate to produce a successful speech act. The theory seems to suggest that only persons with political clout are capacitated to pursue securitisation moves. Other actors are afforded a role in the securitisation process by influencing policy makers. Should the latter fail to perform the securitisation move, then securitisation would not occur. Carrapiço suggests that limiting the securitising capabilities to a small sector of society 'underestimates the influence of other actors, such as academics, analysts, non-governmental organisations, opinion makers and the public in general'.<sup>24</sup> In taking up Carrapico's challenge this dissertation considers the role of other actors in securitising human trafficking in southern Africa. As will be shown later, a complex interplay of actors has led to the prioritisation of this issue.

### **Existing studies on the securitisation of undocumented migration and human trafficking**

The Copenhagen School undertook a study on migration flows in Europe, which explored the potential of undocumented and irregular migration threatening the security of societies via identity politics. The securitisation framework was used to assess and explain how and why governments and bureaucracies made undocumented human flows a security issue. The

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<sup>23</sup> Carrapiço, op cit, 28.

<sup>24</sup> Carrapiço, op cit, 27.

underlying question was whether this was done to uphold sovereignty and linked notions of territoriality or via discourses of identity and exclusion.<sup>25</sup>

Stephen Castles asserts when the securitisation of migration issues emerged in the early 1990s, Western states began to cooperate to control migration and asylum seeking, largely triggered by increases in both forced and economic migration to western countries following the end of the Cold War.<sup>26</sup> There was a growing perception that irregular and undocumented migration would impact on 'societal security'. The Copenhagen School's definition of societal security is highly contested, and refers to it as 'the level of collective identities and action taken to defend such "we" identities.'<sup>27</sup> Its interpretation was that irregular migration had the potential to become a threat to the dominant identity of European societies.

Nicole Jackson's analysis of the issue of human trafficking in contemporary Central Asia looks at the motivations of states and international organisations to securitise the issue and why.<sup>28</sup> She uses the securitisation framework to analyse regional and international efforts to fight human trafficking by recognising competing and contradictory levels of interest in the issues. These relate to state capacity, political will, norms and belief systems and concern over interference in states' internal affairs. Jackson argues that Central Asian states and societies and migrants themselves hold very contradictory views on the existence and prevalence of human trafficking in Central Asia. She highlights divergent motivations of states and international organisations in the region to prioritise, politicise and securitise human trafficking. According to her, international organisations such the Organisation for Security and Cooperation in Europe (OSCE), the International Organisation for Migration (IOM), various UN agencies and the European Union (EU) view human trafficking as a threat to

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<sup>25</sup> M Curley 'Applying securitisation theory to human flows in Asia: Empirical challenges from regional diversity' (2004) 7.

<sup>26</sup> S Castles 'The new global politics and the emerging forced migration regime' (2002).

<sup>27</sup> Buzan et al, op cit, 120.

<sup>28</sup> N Jackson 'Human trafficking in post-Soviet Central Asia: A critique of the securitisation framework' (2008).

human security and a violation of basic human rights.<sup>29</sup> Nicole Jackson highlights a security dichotomy for central Asian states: the trend of citizens travelling to work abroad and remit money back home to poor families, is seen in a positive light. Yet, it is acknowledged that transnational and domestic organised crime may be involved, which is ultimately seen to undermine state power and sources of revenue. Despite these differing threat perceptions, changing geo-politics (such as the break up of the Soviet Union and the resulting porous borders), globalisation and the emergence of new security threats such as human trafficking have led to the securitisation of human trafficking by both International Organisations and central Asian states.<sup>30</sup>

The current study will look at the discursive dimensions of securitisation of human trafficking in southern Africa, while non-discursive dimensions (policy implementation and other action) will also be scrutinised.

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<sup>29</sup> M Curley, op cit, 21.

<sup>30</sup> N Jackson, op cit.

## Chapter 3: The emergence of human trafficking as a security issue

Human trafficking emerged as a major issue of public concern at the turn of the 21<sup>st</sup> century, yet it has been on the global agenda since the mid-nineteenth century. Political leaders have cast human trafficking alongside terrorism and drug trafficking as one of the three ‘evils’ that affect modern day living. It has become the subject of academic debate, policy research and action and advocacy in a wide variety of disciplines. Law enforcement circles have taken issue with trafficking in persons in an effort to control immigration and transnational organised crime, regulate the sex trade by way of state policies and interventions and in research and social work among undocumented and bonded labourers.<sup>31</sup>

The diversity of interests propelling the *moral panic*<sup>32</sup> and much of what is pursued in the name of a war on human trafficking has disturbing consequences for poor people around the world. There are competing definitions of trafficking, little consensus or agreement among researchers, policy makers and activists about the scope of the problem and scant evidence or substantiation of actual trends and patterns of human trafficking.<sup>33</sup>

### The conflation of the discourses on prostitution and sex trafficking

One of the major factors propelling the moral panic on human trafficking is its link to prostitution and by extension, violence against women. Judy Hemming argues<sup>34</sup> that the United States faith-based community (consisting of the Christian Right and neoconservatives) and a feminist coalition have conflated the discourse on prostitution and sex trafficking and successfully lobbied for the

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<sup>31</sup> K Kempadoo ‘From moral panic to global justice: Changing perspectives on Trafficking’ (2005) vii.

<sup>32</sup> Critics of the dominant anti-trafficking paradigm use the terminology of ‘moral panic’ to refer to the conflation of human trafficking with prostitution. The proposed remedy to dealing with human trafficking is the abolition of prostitution.

<sup>33</sup> K Kempadoo, *op cit*, vii

<sup>34</sup> J Hemming ‘Trafficking for sex/trafficking in discourse: The bridging possibility of the Copenhagen School’ (2008) 2.

US Trafficking Victim Protection Act (TVPA) and other legislation including legislative changes to the USAID foreign policy. Their success is linked to the choice of words such as the juxtaposition of sex trafficking with slavery, i.e. 'modern day slavery'. Under the TVPA, prostitution and sex trafficking become synonymous terms.<sup>35</sup> Janice Raymond, a researcher and activist in the Coalition Against Trafficking in Women asserts that sex trafficking and prostitution are both harmful to women and violate their human rights. For Raymond, any distinction between voluntary and involuntary traffic is an artificial one.<sup>36</sup> She and other proponents of this lobby group proceed on the assumption that it is impossible to sell sexual services without losing one's personal dignity. Thus, there is 'no social legitimacy in prostitution because it is a form of oppression historically induced by the uneven power relations between men and women'.<sup>37</sup> Women have no free choice in choosing to sell sexual services. Therefore any distinction between voluntary or forced prostitution is unacceptable. She argues that:

'None of the existing forms of prostitution can help to promote the rights or the status of women, and the grave psychological consequences and physical harm that it causes make it incompatible with human dignity. Female prostitution creates an underclass of women, mostly from backgrounds of family abuse, poor education and low economic opportunity, whose role is to serve the sexual needs of men.'<sup>38</sup>

This 'modern day slavery' lobby holds clients of commercial sex workers individually responsible on the premises that their demand for commercial sexual services fuels the sex industry and therefore the exploitation, abuse and trafficking of women and children.<sup>39</sup> The lobby has managed to resurrect the myth from the original 'white slavery' debate of the late 19<sup>th</sup> and 20<sup>th</sup> centuries.<sup>40</sup> The 'white slave trade' refers to the movement of young women to work in far-flung brothels of the Western colonies and great cities of the age. Their work

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<sup>35</sup> Ibid.

<sup>36</sup> J Raymond 'Prostitution as violence against women: NGO stonewalling in Beijing and elsewhere' (1998) 1.

<sup>37</sup> Ibid.

<sup>38</sup> P Monzini *Sex traffic: Prostitution, crime and exploitation* (2005) 52-53.

<sup>39</sup> P Monzini, *op cit*, 53.

<sup>40</sup> J Hemming, *op cit*, 15.



conditions were likened conditions of semi-slavery. The trade developed at a time when generations of men and women experienced with severity the effects of rapid socio-economic change. The Second Industrial Revolution led to the migration of thousands of people to overseas colonies or to bigger cities.<sup>41</sup> Nineteenth century narratives portray women as being ‘coerced, deceived, lured, trapped, kidnapped, and forced into prostitution’ which was explained by ‘the “natural” (Kempadoo’s quotation marks) sexual depravity and uncivilized character of migrant communities.’<sup>42</sup> The migratory trends of young women leaving for greener pastures caused great anxiety and suspicion among middle-classes and elites reinforcing ideologies of entrapment and enslavement of particularly white European and North American women in prostitution.

A certain school of thought suggests that in South America and Southeast Asia, the large influx of Europeans ‘was giving rise to huge concentrations of men with ‘urgent’ sexual needs, and hence to a growing demand for prostitution.’<sup>43</sup> ‘Traffickers’ correlated the labour supply of migrant women (who usually fended for themselves without any male protection) with the demand for paid sex. Transport was organised to brothels in Saigon, Buenos Aires, Calcutta or Alexandria.<sup>44</sup>

‘Slavery’ in this instance represents the reinforcement of power, racism and stereotypical images of the ‘virgin’ young white women. It promotes static identities of the young and poor who would be safer at home than venturing forth to foreign unknown places.<sup>45</sup> Without male protection, the poor helpless being is bound to wound up in the international sex trade. Nineteenth century discourses on gendered international migration patterns fed into a racist social panic about the ‘White slave trade’. Furthermore, the dominant anti-trafficking paradigm tends to equate trafficking with migration and offers rather simplistic and unrealistic solutions that draw on notions of the helplessness of victims.

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<sup>41</sup> P Monzini, op cit, 3.

<sup>42</sup> K Kempadoo, op cit, X.

<sup>43</sup> Ibid.

<sup>44</sup> P Monzini, op cit, 4.

<sup>45</sup> J Hemming, op cit, 15.

Consequently a preventative measure of trafficking is to bring to a halt the migration of those who are considered vulnerable to trafficking. Even when limiting migratory movements is not a programmatic focus, efforts are made to dissuade women and girls from moving in order to protect them from any potential harm. Conflating trafficking with migration invokes the old gender bias that women and girls need constant male or state protection and therefore should not be allowed to practise their right to movement.<sup>46</sup>

The moral panic over 'white slavery' and trafficking subsided between the two World Wars in the twentieth century. Interest in the subject was reignited in the aftermath of the Vietnam War in the Southeast Asian region. While US military troops were still stationed in the region during the 1970s, feminist groups started campaigning against sex tourism, mail-order bride arrangements, militarised prostitution and coercions and violence in the movement and employment of women from poorer to more affluent areas at home and abroad. Radical feminists regarded 'sexual slavery' as the worst form of patriarchal oppression and the greatest injury to women. Not surprisingly, prostitution is regarded as inherently violent and abusive for women, and those choosing to participate in such institutions were seen as victims who had been deceived by male power and privilege. By 1985, the issue of trafficking had become integral part of the women's movement.<sup>47</sup>

According to Hemming<sup>48</sup>, every woman travelling for labour purposes, and especially those of Russian, Thai or East European origin, satisfy the stereotypical notion of being forced into sexual exploitation and servitude. Monzini claims that the sex trade has ballooned and increased its turnover in the last ten years. Citing the example of Europe, she notes a distinct increase in the number of women, men, young people and transsexuals prostituting themselves, with the majority being women and children. She estimates a global turnover of \$5000 to \$7000 billion of the commercial sex industry, which is greater than the

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<sup>46</sup> J Sanghera 'Unpacking the trafficking discourse' (2005) 10-11.

<sup>47</sup> K Kempadoo, *op cit*, XI.

<sup>48</sup> *Ibid.*

combined global military budget.<sup>49</sup> Furthermore, the expansion of sex markets had led to the development of low-price sectors en masse and an accentuation of their transnational character. This is explained by juxtaposing sex work with other economic activity where immigrants have to work longer hours for less pay and with less attention to their own safety.<sup>50</sup>

One of the key aspects emphasised by the 'modern day slavery' lobby is the element of deception. It is argued that most victims are not aware of the exact nature or conditions of their work. The trajectory of this argument is based on the assumption that transnational organised criminal organisations are involved in the transnational trade in human beings. These organisations make use of a variety of mechanisms to transport their human cargo across international borders. This may involve legitimate channels such as student, tourist or temporary work visas. Some countries even avail visas to women to work as exotic dancers or artists, while others enter as 'mail order brides'. Once the victims of trafficking have entered the country, they disappear into the twilight zone of the underworld. Organised criminal organisations are said to have established a wide and intricate network of trafficking routes through which they move victims of trafficking to countries of destination by land, air and/or water.<sup>51</sup> The issue of agency of victims of trafficking will be addressed later in this section. For the purposes of this argument, it is important to note that victims of trafficking are only granted agency during the recruitment process. Thereafter, they are regarded as helpless victims with nowhere to escape.

Kevin Bales' appraised book *Disposable people: New slavery in the global economy* blames government corruption, exponential population growth and impoverishment for the new 'global slave trade'. He argues that 'for the first time in human history there is an absolute glut of potential slaves'.<sup>52</sup> In line with the laws of supply and demand, he infers that due to the availability of large number

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<sup>49</sup> P Monzini, op cit, 24.

<sup>50</sup> P Monzini, op cit, 34.

<sup>51</sup> V Malarek *The Natashas: Inside the new global sex trade* (2004) 19-20.

<sup>52</sup> K Bales *Disposable people: New slavery in the global economy* (2004) 14.

of 'slaves', their value has plummeted drastically. Due to their 'cheapness' or low price, they have become a cost effective investment for all types of work.<sup>53</sup> Bales' suggestion of the commodification of people draws a response of shock and horror by his audience. He continues with a rather interesting juxtaposition of the key differences between the 'old' and 'new slavery'.<sup>54</sup>

**Table 1: Differences between 'old' and 'new slavery'**

<b>'Old slavery'</b>	<b>'New slavery'</b>
Legal ownership asserted	Legal ownership avoided
High purchase cost	Very low purchase cost
Low profits	Very high profits
Shortage of potential slaves	Glut of potential slaves
Long-term relationship	Short-term relationship
Slaves maintained	Slaves disposable
Ethnic differences important	Ethnic differences not important

Source: Kevin Bales *Disposable people: New slavery in the global economy*<sup>55</sup>

Bales' book represents a watershed in the literature on human trafficking. He positions victims of trafficking on the level of slaves and thus deprives them of any form of agency. What is interesting about his analysis is the clear ideological departure from the Christian right/ neoconservative and the feminist lobby, which has united on the contentious issue of the abolition of prostitution. In his structural analysis, he compares 'new slavery' with the current world economy, which according to him, is no longer concerned with ownership and fixed asset management but with the control and use of resources and processes. He contrasts this 'shift from the "ownership" of colonies in the last century to the economic exploitation of those same countries today without the cost and trouble of maintaining colonies.'<sup>56</sup> Without needing to take over a country or

<sup>53</sup> Ibid.

<sup>54</sup> Student's own quotation marks

<sup>55</sup> K Bales, op cit, 15.

<sup>56</sup> K Bales, op cit, 25.

govern it, multinational cooperations play the role of the former colonisers by exploiting natural resources and taking advantage of low cost labour. In the 'new slavery', the slave is a consumable item or a commodity, which is added to the production process when needed but no longer carrying a high capital cost.<sup>57</sup> Bales highlights poignant issues such as extreme forms of exploitation in his book. However, his juxtaposition of human trafficking with slavery presents a tall order. The danger of invoking this analogy lies in the opportunity it may present to politicians and military strategists to 'abuse' it for their own gain. Far from being interested in the human rights of victims of trafficking (or 'slaves' in Bales' words), securitising agents may use the language of 'new slavery' to ascertain public support for securitising human trafficking, people smuggling or irregular/undocumented migration. Bales' account of the daily lives of victims of trafficking is not for the faint hearted. An example is the case study of the 15-year old Siri, who was sold by her parents at the age of 14 to work in brothel in a Thai metropolis far away from her rural beginnings. A high wall and iron gates incarcerate Siri and her twenty-four colleagues in the brothel. Bales sketches a very sad life story:

'Though she is only fifteen Siri is now resigned to being a prostitute. After she was sold and taken to the brothel, she discovered that the work was not what she thought it would be. Like many rural Thais, Siri had a sheltered childhood and she was ignorant of what it meant to work in a brothel. Her first client hurt her and at first opportunity she ran away. On the street with no money she was quickly caught, dragged back, beaten and raped. That night she was forced to take on a chain of clients until the early morning. The beatings and the work continued night after night until her will was broken.'<sup>58</sup>

A plethora of books, movies and newspaper articles containing life stories similar to that of Siri, are being disseminated around the world. The potential danger of young girls getting lured into trafficking operations is shown on television and movie circuits on a daily basis. The IOM is sponsoring anti-trafficking clips as part of their public awareness campaign on Music TV (MTV), a

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<sup>57</sup> Ibid.

<sup>58</sup> K Bales, op cit, 36.

very popular television channel for young people, and on national television channels and radio shows including the national broadcasters of several southern African countries. Upon arrival at several international airports in southern Africa, IOM posters displaying helpless victims of trafficking greet visitors. The campaign is starting to show results, as the general public is increasingly made aware of the 'dangers' linked to human trafficking.

### The intersection with organised crime

Nicole Jackson's analysis of the securitisation of human trafficking in contemporary Asia highlights another principal securitising factor: Human trafficking is viewed as a threat to global security because of its connections to transnational organised crime. Next to terrorism, transnational organised crime groups have been elevated to a serious global security concern, believed to threaten global governance and the sovereignty of states around the world. Criminal organisations involved in human trafficking are seen as a threat to individual and global security 'because of its propensity to be linked to other illicit activities such as money laundering, illegal gambling and forced prostitution'.<sup>59</sup>

It is commonly believed that organised criminal networks dominate human trafficking networks. Later chapters will question this assumption. However, for the purposes of this section it should be noted that human trafficking has also been securitised because of its supposed linkages to transnational organised crime. Kathryn Farr in her analysis of the global sex trade does not mince her words in suggesting that the international sex trade is run by a wide variety of organised human trafficking networks that differ in size and complexity. She suggests that the sex industry is simultaneously collaborative and fragmented.<sup>60</sup> Its networks extend to every region and virtually every country in the world.<sup>61</sup>

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<sup>59</sup> N Jackson, *op cit*, 3.

<sup>60</sup> It should be noted that Farr hails from the feminist tradition, which has entered a rather curious alliance with the Christian Right lobby, or what is elsewhere in this dissertation referred

Transnational crime expert Phil Williams rejects the traditional outlook on the nature of transnational organised crime groups as centralised hierarchies or disorganised networks. He warns that organised crime networks display a highly sophisticated organisational form. He explains:

‘A network can be understood as a series of connected nodes. The nodes can be individuals, organisations, firms, or even computers, but the critical element is that there is significant linkage among them. Network can vary in size, shape, membership, cohesion, and purpose. They can be large or small, local or global, cohesive or diffuse...Networks are at once pervasive and intangible, everywhere and nowhere. [Moreover, the] pattern of authority and direction in these networks is not always evident, the balance between competing and cooperating networks is not readily discernible, and the nature of information flows through them is often elusive. [And] networks display a remarkable capacity to flow around physical barriers and across legal or geographical boundaries. They in effect transcend borders, and are the perfect means of conducting business in a globalising world.’<sup>62</sup>

Williams’ description relates to the structure and workings of transnational drug trafficking networks. The dominant anti-trafficking paradigm has adopted this description as a truthful reflection of how organised crime networks including human traffickers function. Trafficking operations may differ in size, level of professionalism and criminal status but its networked quality contributes to its stability. Due to the inherent flexibility of networks, there is a lesser risk of detection. Activities are compartmentalised, knowledge and information is disseminated on a ‘need to know’ basis and roles and functions are separated.<sup>63</sup>

It is a commonly believed that organised crime networks became increasingly involved in sex trafficking since the end of the Cold War. The break

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to as the ‘new slavery’ lobby, in fighting ‘human trafficking’. The concepts of ‘sex trade’, ‘prostitution’ and ‘human trafficking’ are used interchangeably and signify the same meaning.

<sup>61</sup> K Farr *Sex trafficking: The global market in women and children* (2005) 56.

<sup>62</sup> P Williams ‘The nature of drug trafficking networks’ (1998) 155 as quoted by K Farr, op cit.

<sup>63</sup> K Farr, op cit, 60.

up of the former Soviet Union and growing globalisation coincided with the expansion into human trafficking operations by existing organised crime networks. Newer groups have emerged and expanded based on the strength and profit attached to human trafficking.<sup>64</sup> The Russian mafia, organised groups from the Newly Independent States (NIS), Japanese Yakuza, Chinese Triads, other East Asian and East European organised criminal groupings are said to be dominating the human trafficking criminal market.<sup>65</sup>

Media and research reports on human trafficking often reproduce the alleged linkages of human trafficking with major organised crime networks. Thus, traffickers are usually portrayed as networks of foreign men, and trafficked persons are captured as poor black or coloured women and children from Africa, Asia and Latin America or young women from Eastern Europe and Russia. While reflecting a rather xenophobic racist agenda, the dominant anti-trafficking paradigm also ignores the involvement of legal sectors in organised crime activities. A principal attribute of organised crime groups and networks is that they operate on a reciprocal and interdependent basis with the formal or legal sector. Organised crime would fail dismally without the collusion and corruption of 'legitimate' business entrepreneurs, lawyers, police and other law enforcement officials, politically exposed persons, CEOs of large cooperations.<sup>66</sup>

The denial of the existence of this unsavoury relationship between criminal and upstanding sectors of society may be linked to a particular influence of the US on UN and other international definitions of crime, informed by a specific history. In the early part of the twentieth century organised crime signified to the US government white collar and corporate activities, local and political corruption and anti-prohibition measures. All of these crime activities were typified as 'indigenous' to the US political and economic system. By the 1950s this state of affairs changed and what has been coined the 'alien conspiracy theory' was introduced.<sup>67</sup> Organised crime became overnight

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<sup>64</sup> K Farr, *op cit*, 96.

<sup>65</sup> K Farr, *op cit*, 99-109.

<sup>66</sup> K Kempadoo, *op cit*, XVII-XVIII.

<sup>67</sup> K Kempadoo, *op cit*, XVIII.



synonymous with gang-related activities in general or the Mafia, the Yakuza or Triads in particular.

The identification of organized crime with the 'Mafia' or mafia-like organizations can be traced back to the US Senate Special Committee to Investigate Crime in Interstate Commerce headed by Estes Kefauver. The Kefauver Committee consisted of senators tasked to scrutinise organised crime in the US and how best to fight it. It became notorious for its rather biased findings and recommendations. The *Third Interim Report* of the committee made the following assertions with far reaching consequences:

‘There is a nationwide crime syndicate known as the Mafia, whose tentacles are found in many large cities. It has international ramifications, which appear most clearly in connection with the narcotics traffic. Its leaders are usually found in control of the most lucrative rackets of their cities. There are indications of a centralized direction and control of these rackets, but leadership appears to be in a group rather than in a single individual... The domination of the Mafia is based fundamentally on ‘muscle’ and ‘murder’. The Mafia is a secret conspiracy against law and order, which will ruthlessly eliminate anyone who betrays its secrets. It will use any means available – political influence, bribery, intimidation, etc- to defeat any attempts on the part of law enforcement to touch its top figures or to interfere with its operations.’<sup>68</sup>

The hearings failed to provide evidence to support the view that a centralized Sicilian or Italian organization was dominating organized crime in the United States. In fact, the committee found that men of different ethnic origins were heading criminal syndicates and these syndicates were in frequent contact and cooperated with each other. The networks of illegal activities cut across ethnic designations and their activities were enabled by the tacit collusion and compliance of local officials.<sup>69</sup> The Kefauver report did not rely on evidence-based findings and analysis. However, once the report was issued, it became a significant historical source and added to the notion of organized crime as an

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<sup>68</sup> US Congress *Senate Special Committee to Investigate Crime in Interstate Commerce* (1951) 147-150.

<sup>69</sup> Michael Woodiwiss ‘Transnational organised crime: The strange career of an American concept’ (2003) 19.

alien implant. The lack of evidence for the alien conspiracy theory did not matter, as it was a foregone conclusion ahead of the hearings. In essence, the committee had reduced the complexities of organized crime to a 'good-versus-evil' equation. Organized crime came to signify a hierarchically organized criminal conspiracy, which threatened the integrity of local government, infiltrated legitimate business and subverted the integrity of a free society.<sup>70</sup>

The American construction of organized crime as an alien conspiracy was exported to elsewhere in the world, leading to an international prohibition-based drug control regime as reflected in the various UN conventions relating to narcotics and drug trafficking. Organised crime expert Michael Woodiwiss argues that the Palermo Convention is a fruit of US efforts to bring in line the global organized crime control with the alien conspiracy theory. This 'new' global pluralist theory of organized crime relies on key tenets of the alien conspiracy theory by highlighting ethnicity, hierarchical organization, centralized control and expansionist tendencies as key characteristics of criminal organizations. As is the case in the alien conspiracy theory, semantics camouflage the involvement in organized crime of perceived respectable entities such as big business and politically exposed persons.<sup>71</sup>

Margaret Beare argues that the new international conceptualisation of organised crime produces a global hegemonic rhetoric and a hive of activities 'that depend on the public's perception of a growing threat of transnational crime that originates from countries foreign to the 'developed' metropolis, led by organised 'mafia'-like networks and gangsters who are seen to threaten the peace and security of the core capitalist nations, and requiring a state response of strict border immigration and controls.'<sup>72</sup> An offence on the trafficking in persons through increased policing and immigration policies is but one of the available responses to the international community. And as will be shown in the final chapter, it has been closely linked to the US-led war on terrorism since 11

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<sup>70</sup> Michael Woodiwiss, op cit, 20-21.

<sup>71</sup> Michael Woodiwiss, op cit, 29-30.

<sup>72</sup> M Beare 'Introduction' in *Critical reflections on transnational organised crime, money laundering, and corruption* (2003) XVIII.

September 2001.

### Critical voices, dissenting views

At the opposite end of the ideological spectrum of the dominant anti-trafficking discourse, spearheaded by theorists such as Jo Doezema and Kamala Kempadoo, a convincing argument is made that the resuscitation of the 'white slavery' myth does nothing to combat trafficking. In fact, this discourse is said to negate women's lived experiences. Women are deprived of agency in making life choices. Doezema cites examples of women choosing to migrate for sex work because this may expand their lifestyle and livelihood options.<sup>73</sup> Pivotal to the dominant trafficking discourse is the notion that those who have been subjected to violence and slavery like conditions are 'victims'. This designation links to issues of women rights and freedoms. Kamala Kempadoo believes that 'the notion of victim immediately captures the principle that women's subjugation and oppression is not their own making, but rather a consequence of masculine power and male dominance.'<sup>74</sup>

The gendered distinction between, on the one hand, women as victims, and on the other, men as actors and offenders, is also visible in the UN Protocols on trafficking and smuggling. The former deals with women and children, the latter refers mostly to men. Thus, women and children by definition are trafficked: 'kidnapped, transported against their will over borders, and held in slavery-like conditions-due to their presumed innocence, purity and inability to take action on their own behalf, while it is men who are thought to actively seek to be smuggled, and hence are viewed as implicated subjects.'<sup>75</sup>

Another critical perspective on the interest in human trafficking of major global actors examines the motives of these actors. Human rights and social justice activists have voiced their concern that the new international legal and

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<sup>73</sup> J Doezema 'Loose women or lost women? The re-emergence of the myth of 'White Slavery' in contemporary discourse of 'trafficking in women' (2000) 38 at 47.

<sup>74</sup> K Kempadoo, *op cit*, XXII-XXIII.

<sup>75</sup> K Kempadoo, *op cit*, XXIII.

policy framework<sup>76</sup> adopted by United Nations member states supports the neoliberal interests of corporations, multilateral agencies, policy experts and national governments instead of looking after the interests of the world's working and poor people. The current global economic milieu promotes free trade and unqualified access by huge multinational corporations to an unlimited supply of natural resources and raw materials. This guarantees and protects the rights of socially powerful elites including the propertied, managerial, cosmopolitan and professional classes. Meanwhile the access, movement and rights of the dispossessed and the economically weak and powerless are limited.<sup>77</sup>

Tied to this unequal dispensation is a continual regulation of the supply of cheap, flexible wage labour, which is controlled by way of immigration laws and policies. And despite the Palermo Protocol's requirement for states that have ratified the Protocol to take steps to protect and assist trafficked persons with full respect for their human rights, practitioners working with migrants lament that human rights violations have not abated under the new arsenal of anti-trafficking policies and legislation. An interesting observation is that while trafficked persons or migrants are designated 'victims' in terms of the various policies and laws, they are only afforded this status if they become informants to law enforcement agencies otherwise they are treated like illegal immigrants or criminals and hence, threats to national security. Access to documented status and residency in destination countries is usually easily accessible to highly skilled workers, technocrats, business elites and those with enough financial means. The same privilege is not extended to growing number of immigrants from developing countries.<sup>78</sup>

Jyoti Sanghera, advisor on trafficking at the office of the High Commissioner for Human Rights in Geneva, argues that the dominant discourse

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<sup>76</sup> This specifically refers to the United Nations International Convention on Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Chapter 4 will deal with the contents and objectives of these instruments in more detail.

<sup>77</sup> K Kempadoo, *op cit*, XIV.

<sup>78</sup> K Kempadoo, *op cit*, XV.

of human trafficking is based on a set of highly questionable assumptions. They flow from unexamined hypotheses, shoddy research, anecdotal information or strong moralistic positions. She argues that the issue is not whether the assumptions are true or false 'but simply one of pushing conclusions that are not supported by rigorous empirical research and sound evidence base.'<sup>79</sup> The dissemination of this tainted data and information contributes to the construction of both the dominant paradigm and anti-trafficking discourse, as well as the mythologies of trafficking. Sanghera lists some of the assumptions that inform the mainstream discourse as follows:

1. 'Trafficking of children and women is an ever-growing phenomenon;
2. Increasing numbers of victims of trafficking are younger girls;
3. Most trafficking happens for the purpose of prostitution;
4. Poverty is the sole or principal cause of trafficking;
5. Trafficking within the Asian subcontinent and the region is controlled and perpetrated by organised crime gangs;
6. All entry of women into the sex industry is forced and the notion of 'consent' in prostitution is based upon false consciousness or falsehood;
7. Based on the assumption that most women in prostitution are coerced and trafficked, it is then assumed that they would be only too happy to be rescued and reintegrated with their families, or rehabilitated;
8. Rehabilitation into families and communities is viewed as an unproblematic strategy for it is assumed to provide adequate protection and safety to the victims of trafficking;
9. Brothel-based prostitution is the sole or major form through which sex trade in the region is conducted;
10. Police- facilitated raids and rescue operations in brothels will reduce the number of victims of trafficking in the prostitution industry;
11. Absence of stringent border surveillance and border control is the principal reason for facilitation of transborder trafficking;

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<sup>79</sup> J Sanghera, op cit, 5.

12. Anti-immigration strategies based upon awareness-raising campaigns alert communities to the dangers of trafficking by instilling fear of strangers, and fear of big metropolises and cities, will curb migration and hence trafficking;
13. Strategies which club women and children together will be equally beneficial to both in extending protection against trafficking and redress after being trafficked;
14. All persons under 18 years of age constitute a homogenous category – children, devoid equally of sexual identity and sexual activity, bereft equally of the ability to exercise agency, and hence in need of identical protective measures;
15. Law enforcement is a neutral and unproblematic category and all it needs is sensitisation and training on issues of trafficking in order to intervene effectively to curb the problem of trafficking.’<sup>80</sup>

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<sup>80</sup> J Sanghera, op cit, 5-6.

## Chapter 4: Global strategies aimed at combating human trafficking

This chapter will analyse indicators of securitisation. It will look at what resources have been allocated, international, regional and national initiatives to combat human trafficking and NGO and IGO activities and their role in the securitisation process.

### UN initiatives

As demonstrated in the previous chapter, there is a tendency to focus primarily on the trafficking of women for purposes of sexual exploitation and ignore or negate the existence of other forms of trafficking, such as trafficking for the purposes of labour exploitation. In some cases (such as the US), sex trafficking is equated with prostitution. It is perhaps not surprising that the first international instrument on the prevention of trafficking in persons, was entitled the *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*. Passed by the United Nations General Assembly in 1949, this convention calls for governments to eradicate prostitution, and to prosecute those involved, regardless of whether they undertake the work voluntarily or not.<sup>81</sup> Governments were tasked to develop campaigns aimed at prevention of prostitution and to offer assistance for women intending to give up prostitution and to enact domestic legislation to suppress all forms of exploitation.<sup>82</sup>

The Convention had little success in achieving its intended objectives. By the end of the last century, only 72 of the then 185 member states of the United Nations had ratified it. Its implementation had not been subject of any monitoring or verification processes. It is beyond the bounds of this dissertation to analyse national laws on the abolition, prohibition or regulation of the sex

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<sup>81</sup> S Skrobanek, N Boonpakdi and C Jantakeero *The traffic in women: Human realities of the international sex trade* (1997) 27.

<sup>82</sup> P Monzini, op cit, 137-138.

industry. Suffice to say that with the turn of the century, the old convention was laid aside and the fight against human trafficking received some new life force.<sup>83</sup>

The process started in the 1990s when human trafficking, particularly of women and children reappeared on the agenda of UN General Assembly and the Commission for Human Rights. It was also a topic of discussion at the 1993 World Conference on Human Rights and at the World Conference on Women held in Beijing in 1995. Based on a recommendation of the UN Commission on Crime Prevention and Criminal Justice and the UN Economic and Social Council, the General Assembly included the development of the Palermo Protocol in the mandate of the intergovernmental ad hoc committee tasked with drafting the United Nations International Convention against Transnational Organised Crime.<sup>84</sup>

The United Nations International Convention against Transnational Organised Crime was agreed upon in Palermo, Italy in November 2000. It has been signed by 147 states and came into effect on 29 September 2003. Also known as the Palermo Convention, it is supplemented by three Optional Protocols – one on the smuggling of migrants, the second aims to ‘Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children’ (which contains the chosen definition of human trafficking for the purposes of this dissertation and hereafter referred to as the Palermo Protocol) and a third that combats illicit manufacturing of, and trafficking in, firearms. The Palermo Protocol came into force on 25 December 2003.<sup>85</sup> It binds the currently 120 signatories to criminalise trafficking in persons, to develop legislation to combat it and to develop a framework for victim protection services.<sup>86</sup>

It is noteworthy that the protocol explicitly links trafficking to state efforts to tackle all types of organised crime activities that transcend or cross national borders. Most importantly it is directly linked to the umbrella ‘catch all’

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<sup>83</sup> P Monzini, *op cit*, 138-142.

<sup>84</sup> R Pharoh ‘Coming to grips with trafficking’ (2006) 5.

<sup>85</sup> K Kempadoo, *op cit*, XII.

<sup>86</sup> P Monzini, *op cit*, 144.



Palermo Convention. Trafficking in persons is situated within the Palermo Convention under the heading of 'international criminal activity'. It is located akin to the trafficking of drugs and weapons and defined as being almost equal in magnitude. The fight against human trafficking within the international legal framework is tantamount with a war on international crime and signifies a distinct attack on the illicit and cross border movement of people, weapons or drugs. With the arrival of the Palermo Convention and Protocol, the link between policies to curb trafficking and those for immigration control is more explicit. Governments in the global North have increasingly raised alarm about the activities of traffickers and migrant smugglers interfering with orderly migration control.<sup>87</sup> The United Nations is now pushing for proposed common policies and laws for countries of origin, transit and destination.

The assumptions, directives and policies contained within the Palermo Convention and Protocol are echoed in an assortment of national and regional policies, laws and initiatives that have been adopted by regional bodies and governments. They all tie into the broader policy framework provided by the Palermo Convention. Kamala Kempadoo suggests that the renewed interest in curbing trafficking in persons 'signal(s) a growing panic at the turn of the century by the international political community and national governments about unregulated migration flows and profitable, cross-border activities that lie outside of state control.'<sup>88</sup>

Other significant and influential international instruments include the International Labour Organisation's (ILO) Convention on the Worst Forms of Child Labour (Convention 182) and the supplementary protocol to the Convention on the Rights of the Child concerning child selling, child prostitution and pornography. A variety of international agencies and NGOs including the International Organisation for Migration (IOM), the International Labour Organisation (ILO), the United Nations Children's Fund (UNICEF) and Anti-Slavery International (ASI) have produced documents, guidelines and policies

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<sup>87</sup> K Kempadoo, *op cit*, XIII.

<sup>88</sup> K Kempadoo, *op cit*, XIV.

with a principal focus on the management of 'irregular' international migration flows.<sup>89</sup>

### US and other Western initiatives

The trafficking in women had never been studied systematically in the United States until the late 1990s. A Memorandum on Steps to Combat Violence Against Women and the Trafficking of Women and Girls was issued, which directed the Secretary of State, the Attorney General and the President's Interagency Council on Women to include the trafficking of women in their work on the violence of women. The strategy underpinning US efforts to combat trafficking in persons is known as the three P's: Prevention of trafficking, Protection and Assistance for Victims and Prosecution and enforcement against traffickers.<sup>90</sup> In the previous chapter, the United States Trafficking Victims Protection Act of 2000 was mentioned. The US Congress passed an amended Trafficking Victims Protection Reauthorisation Act in 2003, which affords victims of trafficking various types of services and assistance. The US government also launched close monitoring operations around the globe, which result in an annual report listing the activity of each country in fighting human trafficking. The so-called Trafficking in Persons (TIP) Report has been published on an annual basis since 2001. Aid sanctions or a curtailing of development funds is then imposed on those countries that show very little interest and progress in combating the phenomenon.<sup>91</sup>

Member countries of the European Union (EU) have been pushing for domestic legislation that will commit governments to victim protection. Adopted by the Council of Ministers in March 2003, the application of the Brussels Declaration is currently being monitored by an ad hoc group of experts. A number of working groups and platforms have been introduced around the world, in which governments, international organisations and Non-

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<sup>89</sup> K Kempadoo, *op cit*, XIV.

<sup>90</sup> DM Hughes 'The "Natasha" trade: Transnational sex trafficking' (2001), 2.

<sup>91</sup> P Monzini, *op cit*, 142.

Governmental Organisations (NGOs) are coordinating prevention and suppression policies and aiming for closer intergovernmental cooperation. International organisations have been asking destination countries (most of which have substantial resources at their disposal) to lead in the global fight against this form of exploitation and to cooperate with the countries of origin and transit to strengthen protective systems, assistance and joint work with local institutions and NGOs.<sup>92</sup>

### 'African' initiatives

Myriad of anti-trafficking initiatives have been developed on the African continent. The African Union developed a draft plan of action on human trafficking with a focus on women and children in 2002. It lacks a clear plan of implementation. Neither SADC nor the New Partnership for Africa's Development (NEPAD) have any involvement in the prevention or countering of human trafficking. International donor funds, notably from EU member states and the US, have been availed to combat trafficking. As mentioned in earlier chapters USAID funding is nowadays tied to a positive tier placement in the annual TIP reports.

When Namibia lodged its application for donor funding to realise its Millennium Development Goals, it was forced to include the fight against human trafficking as one of its strategic priorities. In response the Namibian Ministry of Gender Equality and Child Welfare (MGECW) commissioned a USAID funded baseline study on human trafficking in Namibia to demonstrate the government's awareness of the problem and the willingness to fight it.<sup>93</sup> It was stated in the baseline study that 'a small number of cases were identified, though a larger number of suspected or possible cases existed'. The authors of the study related the difficulties in ascertaining exact standing of possible cases due to the

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<sup>92</sup> P Monzini, op cit, 142-143.

<sup>93</sup> This information derives from a conversation in April 2009, when the student met with two of the authors of the baseline study on human trafficking in Namibia. The MGECW had commissioned the study at very short notice as foreign donors were threatening a moratorium on funding.

limited time available for follow up investigations where the available facts were inadequate and the conflation of terminology and understanding of trafficking, smuggling and illegal migration.<sup>94</sup>

In follow up conversations with senior police officials of the Namibian Police (NAMPOL) doubt was expressed about the prevalence of human trafficking in the country. However due to outside pressure, notably from the US embassy in Windhoek, a specialised desk officer on human trafficking had been appointed within the Criminal Investigations Department (CDI). The IOM also had provided several training courses on human trafficking.<sup>95</sup>

Police representatives from the SADC region expressed similar sentiments on the incongruence of anti-trafficking measures and the reality of human trafficking on the ground. Little or no human trafficking has been found in the region, while outside pressure is mounting to implement expensive and comprehensive anti-trafficking measures. The Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) has added human trafficking to its set of priority crimes in southern Africa and has created a special desk on human trafficking at its Sub-regional Bureau (SRB). Senior police officials say that national and regional policing agendas are increasingly dictated from outside.<sup>96</sup> SARPCCO is closely linked with the international policing agency Interpol, which also regards human trafficking as a major policing priority.

The International Organisation for Migration (IOM) and the United Nations Office on Drugs and Crime (UNODC) have been involved in raising awareness on human trafficking in southern Africa. Training and awareness raising workshops aimed at relevant government and law enforcement officials are held on a regular basis.

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<sup>94</sup> Republic of Namibia, Ministry of Gender Equality and Child Welfare in collaboration with the Ministry of Agriculture, Water and Forestry *A baseline assessment of human trafficking in Namibia: "A nationally representative qualitative assessment"* (May 2009) 3-4.

<sup>95</sup> The student was supplied with this information during interviews with members of the CDI and the newly created Organised Crime Unit of NAMPOL in April 2009.

<sup>96</sup> Assertions based on a debate at an ISS/SARPCCO dissemination workshop with members of the Permanent Coordinating Committee (PCC) of SARPCCO in January 2010.

Most of the countries in southern Africa have signed or ratified the Palermo Protocol, which ultimately requires the development of domestic legislation that criminalises trafficking in persons.

**Table 2: Status of SADC countries in relation to the Palermo Protocol**

Country	Signature	Ratification	Accession
Angola	-	-	-
Botswana	10 April 2002	29 August 2002	
DRC			28 October 2005
Lesotho	14 December 2000	24 September 2003	
Madagascar	14 December 2000	15 September 2005	
Malawi			17 March 2005
Mauritius			24 September 2003
Mozambique	15 December 2000	20 September 2006	
Namibia	13 December 2000	16 August 2002	
South Africa	14 December 2000	20 February 2004	
Swaziland	08 January 2001		
Tanzania	13 December 2000	24 May 2006	
Zambia			24 April 2005
Zimbabwe	-	-	-

Source: UNODC<sup>97</sup>

Thus, Botswana, Lesotho, Madagascar, Mozambique, Namibia, South Africa and Tanzania have ratified the Palermo Protocol. By ratifying the Protocol, these countries have signified their willingness to fulfil its own national legislative requirements. The Democratic Republic of Congo (DRC), Malawi, Mauritius and Zambia have acceded to the Protocol, which has the same implications as ratification apart from accession not being preceded by an act of signature. Angola, Swaziland and Zimbabwe have neither acceded to, nor ratified the Protocol. Swaziland did sign the Protocol in 2001 but no further steps have been taken to fulfil the legal requirements of the Protocol.<sup>98</sup>

<sup>97</sup> UNODC 'Status of ratification' of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime

<sup>98</sup> Ibid.

Within the southern African region, Zambia, Mauritius and Mozambique have developed comprehensive domestic anti-trafficking legislation. South Africa has established specific offences to criminalise trafficking for sexual exploitation and child trafficking, which are captured in the Sexual Offences and Related Matters Amendment Act 2007 (Act 32 of 2007) and the Children's Act 2005 (Act No. 38 of 2007). The South African Law Reform Commission (SALRC) released a first draft of comprehensive anti-trafficking legislation in mid-2008 for consultations. By November 2008, SALRC submitted a report on the bill and a second draft to the Minister of Justice and the parliamentary committee. The bill was published for public commentary in May 2009 and closed on June 15, 2009. In the meantime, a variety of other criminal statutes were used to prosecute trafficking crimes, including the Prevention of Organised Crime Act (POCA) and the abovementioned Sexual Offences Act (SOA). In addition, a trafficking desk was established within the Organised Crime Unit of the South African Police Services. State authorities provide legal protection, temporary visas, medical and psychosocial support, housing and shelter for victims of trafficking. NGOs and international organizations provide a plethora of similar services, while the International Organisation for Migration (IOM) provides victim repatriation and reintegration services.<sup>99</sup>

The securitisation of human trafficking is increasingly evident in southern Africa with strident steps taken to criminalise human trafficking, prosecute the culprits and the provision of victim assistance services. Government and law enforcement officials are not convinced that the size of the problem requires the resources expended on it thus far.

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<sup>99</sup> UNODC *Global Report on Trafficking in Persons* (2009) 127.

## Chapter 5: The elusiveness of ‘research evidence’

The incidence of human trafficking per se is a contested topic. One of the key problems is that many people struggle to distinguish between human trafficking, people smuggling, prostitution and extreme forms of exploitation.<sup>100</sup> These phenomena tend to be bundled together under the umbrella term of ‘human trafficking’. The operational definition of this dissertation, contained in the *Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, only considers transnational or cross border forms of human trafficking. Many of the estimates of the incidence of human trafficking include guesstimates of domestic or internal trafficking in persons.

Another valid concern relates to cultural relativist arguments, which hold that outsiders construct traditional cultural practices and norms of some countries as acts of violence against women and children or violations of their human rights. Powerful affluent Western powers or Western-dominated international organisations often dominate declarations of human rights. The ethnocentrism of these entities has been exposed ‘in their failure to understand the varying needs of women in different cultures and with different social statuses’.<sup>101</sup> Different cultural practices and traditions are easily dismissed. Farr agrees with the complaint that ‘international conferences on women ‘tend to globalise’ (Farr’s quotation marks) the trafficking issue and thus fail to recognise the diversity of women’s situations in relation to the trafficking phenomenon [...]’.<sup>102</sup> In other words, certain bona fide, harmless cultural practices and traditions are classified as human trafficking. The tradition of sending African children to more affluent relatives in different towns or countries is often regarded as child trafficking. These children may be expected to help on the

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<sup>100</sup> Extreme forms of exploitation in this instance are exploitative labour conditions, which cannot be classified as human trafficking because not all elements of the Palermo Protocol definition have been met. For example, a local person who is working in a sweatshop under extreme duress is not considered trafficked as she/he has not traversed a national border.

<sup>101</sup> K Farr, op cit, 221-222.

<sup>102</sup> K Farr, op cit, 222.

fields or herd cattle but at same time they may get an education, shelter and food, which may not always be the case at home.<sup>103</sup>

### Differentiating between people smuggling and human trafficking

Despite its wide acceptance, the interpretation and policy operation of the UN definition of trafficking in persons (the operational definition of this dissertation) remains muddled, and the concept continues to be used to describe various groups of people. Organised forms of transport of people across borders involve both willing and unwilling participants. It is thus essential to distinguish between 'human smuggling' and 'human trafficking. The willing participants pay for the transfer to countries that appear to offer better economic opportunities. The fundamental issue in human smuggling lies in the voluntary relationship between the smugglers and the smuggled. According to the *United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air*, the smuggling of people is defined as 'the procurement, in order to obtain, directly or indirectly a financial or other material benefit, of the illegal entry of a person into a state Party of which the person is not a national or a permanent resident.'<sup>104</sup>

In addition, a disputed number of people are trafficked for the purposes of sexual exploitation, forced labour or the removal of body organs. In spite of the overt differences, in practice it is often difficult to tell where smuggling ends and trafficking begins as not many victims are abducted outright by force from their homes.<sup>105</sup> It is also noteworthy that the current UN definition of human trafficking has evolved over a long period of time and with much debate. In order to get governments to acknowledge and counter the growing global sex and pornography industry, advocacy groups have pushed the United Nations and many Western governments to recognise human trafficking as a human rights issue. Due to that recognition, UN member states cannot shed their obligation

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<sup>103</sup> Based on research findings undertaken for an ISS study on human trafficking trends in southern Africa during 2007.

<sup>104</sup> United Nations *Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organised Crime* (2000).

<sup>105</sup> S X Zhang *Smuggling and trafficking in human beings: All roads lead to America* (2007) 107-108.



and responsibility of combating transnational human trafficking activities. In essence, this has catapulted the fight against human trafficking to the top of the international moral and political agendas. UN member countries are required to afford measures against human trafficked the required urgency, which should usurp measures against regular street crimes.<sup>106</sup>

### The 'new slavery lobby'

There are two schools of thought on the magnitude of the phenomenon. Followers of the dominant anti-trafficking discourse believe that human trafficking poses a security threat of enormous proportions. As will be shown later in this chapter, in these circles the incidence of human trafficking is calculated in rather questionable ways. This school of thought does however submit that it is difficult to know how many people have been trafficked. This is attributed to the trade being secretive, the victims are silenced, the traffickers regarded dangerous and few agencies are counting.

The common wisdom of the dominant paradigm is that one of the great obstacles to researching the incidence of human trafficking is linked to the covert nature of the crime, which makes it difficult to gain access to offenders and victims as sources of information. Naturally, offenders avoid sharing information about their crime with law enforcement officials. Victims of human trafficking may also be reluctant to share information with researchers. In serious cases of trafficking and exploitation, traffickers may try to convince victims that they face a more serious threat from police and other law enforcement officials. The stigma of sexual exploitation or enslavement may also add to the reluctance of victims of trafficking to relate their experiences. Intimidation of victims or witnesses is a well-documented feature of human trafficking. It is not uncommon that victims of trafficking are threatened with harm to their family members in their country of origin. These and other obstacles are cited as possible elements affecting the underreporting and the sampling of cases of human trafficking.<sup>107</sup>

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<sup>106</sup> S X Zhang, *op cit*, 107.

<sup>107</sup> K Bales *Understanding global slavery* (2005) 137-138.

Kathryn Farr a well-known US criminologist claims that of the approximately 4 million people who are trafficked around the world each year, an estimated 1 million women and girls are trafficked into the sex industry. The volume is said to be increasing.<sup>108</sup> Her estimation is based on guesstimates supplied by the International Organisation for Migration (IOM), the United Nations Office on Drugs and Crime (UNODC) and the US Department of Homeland Security.

David Batstone arrives at a similar set of dramatic figures in his book *Not for Sale*. He suggests that human trafficking generates \$31 billion annually and enslaves 27 million people around the globe, half of them children under the age of 18.<sup>109</sup> Without divulging how he arrived at this assertion, Batstone claims that the trade in human beings today competes with drug trafficking and the illegal arms trade for the top organised criminal market on the planet. Trafficking in persons sits at number three on the list but is said to be closing the gap.<sup>110</sup>

Kevin Bales' highly praised exposé *Disposable people: New slavery in the global economy* describes specific instances of 'modern day slavery'. According to his own account, he collected over several years 'every scrap of information (he) could find about modern slavery'.<sup>111</sup> Relying on information from the United Nations, the International Labour Office, the British Library, human rights organisations and one – on – one interviews with anthropologists and economists, he attempted to gauge the incidence of trafficking. He arrived at an estimate of 27 million slaves in the world today-the same number that Batstone suggested. The greater part of the 27 million slaves constitutes bonded labour in India, Pakistan, Bangladesh and Nepal. This type of slavery refers to an act of submission 'into slavery as security against a loan or when they inherit a debt from a relative'.<sup>112</sup> Moreover, Bales puts forth:

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<sup>108</sup> K Farr *Sex trafficking: The global market in women and children* (2005) 3.

<sup>109</sup> D Batstone *Not for sale: The return of the global slave trade- and how we can fight it* (2007) 1.

<sup>110</sup> D Batstone, op cit, 3.

<sup>111</sup> K Bales *Disposable people: New slavery in the global economy* (2004) 8.

<sup>112</sup> K Bales, op cit, 9.

“There are more slaves alive today than all the people stolen from Africa in the time of the transatlantic slave trade. Put another way, today’s slave population is greater than the population of Canada, and six times greater than the population of Israel.’<sup>113</sup>

As will be shown in subsequent sections of this chapter, it is difficult to measure the size of the problem without getting bandied into one of the discourses on trafficking. The alarmist agenda of the dominant anti-trafficking lobby is likely to present inflated figures, while critical voices dispute the suggested high incidence of trafficking in persons.

### **Conflation of human trafficking with prostitution and migration**

As mentioned earlier, the mainstream anti-trafficking lobby tends to conflate trafficking with prostitution. Problematic is that trafficking for other purposes is largely ignored and targeting trafficking for sexual exploitation becomes the principal agenda of anti-trafficking interventions, policies and laws. The conflation of the two concepts with migration thrown into the mix has a major bearing on the projected incidence of trafficking in persons.

Figures on the scale of trafficking are often derived from small-scale surveys based upon faulty and biased methodologies, or sources such as police records, local information or media reports. These sources of information lack statistical representivity and empirical soundness, while most data on the number of trafficked persons are based on speculation and projection. Moreover, calculations are based on many untested assumptions. Jyoti Sanghera argues that there still is no sound methodology to calculate the numbers of those that have been trafficked.<sup>114</sup>

When trafficking is conflated with prostitution on the one hand and migration on the other, then the logical conclusion is that the number of victims

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<sup>113</sup> Ibid.

<sup>114</sup> J Sanghera, op cit, 11-12.

of trafficking equals the number of those who have migrated or those who sell their bodies. This logic operates particularly in estimations of the number of adolescent girls and women migrants but not in the case of men. Sanghera explains that this practice has resulted in 'an extremely flawed methodology for conducting baseline surveys on trafficking in 'risk prone' and 'affected districts'.<sup>115</sup> Community-based organisations (CBOs) have conducted household surveys on the number of women and girls who are absent from their villages in South Asia. This methodology does not allow for variables to gauge whether these persons have migrated voluntarily or under deception. Absence of women and girls is 'routinely considered tantamount to 'missing persons' and therefore, trafficked.'<sup>116</sup> This begs the question why 'missing' women and girls are considered trafficked, while men and boys are simply considered male migrants.

### The US Trafficking in Persons (TIP) reports

Noteworthy is that the US government has produced various estimates of the global extent of human trafficking in its annual *Trafficking in Persons Report* (or the TIP report). In 1998, the US government estimated that 700,000 people were trafficked annually around the world for the purposes of sexual exploitation and forced labour, of these 45,000 to 50,000 people were trafficked into the United States. The numbers were revised in 2003 TIP report, which estimated that 18,000 to 20,000 people were trafficked annually to the United States, while the worldwide number had augmented to 800,000 to 900,000. In 2004, the number of trafficking victims was estimated at 17,500 to 18,500. By 2005, the estimated number of trafficking cases in the US dropped to between 14,500 to 17,500 cases whereas the global figure remained the same. Interestingly, the 2005 TIP report recorded that US government agencies found only 611 actual victims of trafficking between 2002 and 2005 nationwide. Obviously this reflects a considerable discrepancy between the observed and estimated numbers of victims of trafficking.<sup>117</sup>

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<sup>115</sup> J Sanghera, op cit, 12.

<sup>116</sup> J Sanghera, op cit, 13.

<sup>117</sup> Data selected and presented by S X Zhang, op cit, 109.

The Department of Homeland Security, the US government agency responsible for the collection of the research data and collation of the annual report, discloses little information as to the methodological procedures for arriving at these estimates.<sup>118</sup> Another controversial aspect of the TIP report is the categorisation of countries into one of three tiers. Placement into a tier is largely based on the extent of government action to combat trafficking in persons. The department evaluates whether countries comply with the minimum standards for the elimination of trafficking. Governments that comply fully are placed in Tier 1, while others are assessed on the degree of compliance. According to the latest TIP Report for 2009, Mauritius is the only country in southern Africa that received a Tier 1 rating. Most southern African countries including South Africa, Mozambique, Zambia, Malawi, Tanzania, Namibia and Botswana were placed in Tier 2, suggesting that they are making an effort to achieve compliance. Lesotho and Angola were on the Tier 2 Watch list due to showing little efforts to address trafficking on a year on year basis, while the total number of victims of trafficking appears to be significant or increasing. Swaziland and Zimbabwe are Tier 3 countries due to a perceived lack of effort to combat trafficking.<sup>119</sup>

The TIP tier system has been widely criticised because politicians in the US use it as a part of a carrot and stick strategy whereby foreign aid and development funding are tied to countries' efforts to combat human trafficking. The placement of some countries in the tier system is also perplexing. Countries such as Greece and Turkey, both US allies and NATO members have failed to get better than a Tier 2 rating over the past seven years. Until 2007, Russia and Pakistan received higher ratings, probably for political reasons. It is curious that the United States does not subject itself to this rating system.<sup>120</sup> Moreover, the US Government Accountability Office (GAO) raised questions about the accuracy and methodology of the estimates contained in the TIP report.

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<sup>118</sup> S X Zhang, op cit, 109.

<sup>119</sup> US Department of Homeland Security *The 2009 Trafficking in Persons (TIP) Report* (2009).

<sup>120</sup> S X Zhang, op cit, 110.

**Map 1: TIP tier placement of Africa**<sup>121</sup>

YEAR	PROSECUTIONS	CONVICTIONS	NEW OR AMENDED LEGISLATION
2003	50	10	3
2004	134	29	7
2005	194	58	12
2006	170	51	3
2007	123 (28)	63 (26)	5
2008	109 (18)	90 (20)	10

**Tier Placements**

■ Tier 1  
 ■ Tier 2  
 ■ Tier 2 Watch List  
 ■ Tier 3  
 ■ Special Cases

*The numbers in parentheses are those of labor trafficking prosecutions and convictions.*

<sup>121</sup> The TIP report includes countries in North Africa including Egypt, Algeria, Tunisia etc in its section on the 'Near East'. With the exception of Morocco, Jordan and Oman (who receive a Tier 2 placement), all the other countries are placed on Tier 2 Watchlist (including Egypt, Algeria, Libya and Tunisia) or Tier 3.

Source: US Department of Homeland Security *The 2009 Trafficking in Persons (TIP) Report* <sup>122</sup>

The GAO report interrogates the number of persons being trafficked across international borders annually:

‘The US government’s estimate was developed by one person who did not document all his work, so the estimate may not be replicable, casting doubts on its reliability. Moreover, country data are not available, reliable or comparable...The US government has not yet established an effective mechanism for estimating the number of victims or for conducting ongoing analysis of trafficking-related data that resides within government entities.’<sup>123</sup>

The TIP report suggests that South Africa is a source, transit and destination country for trafficked men, women, and children. Children are believed to be trafficked from poor rural areas to the large urban centres of South Africa. While girls are trafficked for the purposes of commercial sexual exploitation and domestic servitude, boys are trafficked for forced street vending, food service, begging, crime and agriculture. TIP also suggests that boys and girls are trafficked for ‘muti’ – the removal of organs and body limbs for traditional medicine. Forced marriages of girls as young as 12 to adult men, known as ‘ukuthewala’, allegedly is practiced in remote villages in the Eastern Cape. South African women are trafficked to Europe and the Middle East for purposes of exploitation and domestic servitude. Meanwhile, women and girls from Thailand, the Democratic Republic of Congo, India, China, Taiwan, Russia, Ukraine, Mozambique and Zimbabwe are trafficked to South Africa for the same purpose. Thai women are believed to be working in illegal brothels, while East European organized crime syndicates coerce Russian and Ukrainian women into debt-bonded prostitution in exclusive private men’s clubs. Chinese trafficking syndicates also transport nationals from Lesotho, Mozambique and Swaziland to Johannesburg for exploitative labour, or to send them to other metropolitan centres. Chinese and Taiwanese nationals are forced into conditions of exploitative labour in mobile sweatshops and factories in Chinese urban enclaves

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<sup>122</sup> Map is on Page 51.

<sup>123</sup> US Government Accountability Office *Human Trafficking: Better data, Strategy and Reporting needed to enhance US anti-trafficking efforts abroad* (2006) 2.

in South Africa, which evade labour inspectors by moving in and out of neighbouring Swaziland and Lesotho.<sup>124</sup>

According to the TIP report, South Africa and other SADC neighbours rated as 'tier 2 countries' fail to fully comply with the US minimum standards for the elimination of trafficking but they are seen to be making significant efforts to achieve compliance. These minimum standards consist of a comprehensive list of legislative and institutional measures to curb the phenomenon.<sup>125</sup> Law enforcement officials from the region<sup>126</sup> criticize elements of the TIP reports and associated ratings because they appear to rely on anecdotal accounts and tainted data. It is rather curious that the drafters of the 2008 TIP report spent only two weeks in the field in South Africa before arriving at what they termed 'an authoritative reflection of trafficking trends in South Africa.'<sup>127</sup> Regardless of the veracity of the reports, the provision of training to judges, prosecutors and government officials actually changes a country's rating in the TIP report. This raises questions whether the objective of the TIP report is to combat human trafficking or provide income to a whole set of international consultants and international organisations who no doubt will run the training of these local law enforcement and judicial officers.

### The UNODC's Global Report on Trafficking in Persons

The UNODC first attempted to identify human trafficking patterns in April 2006 in its *Global Report on Trafficking in Persons*, which mirrored many of the estimated numbers contained in the various TIP reports. Published in February 2009, the second instalment concedes that unlike drug information, which is organised in multidimensional databases, the same is not possible in the domain of human trafficking. The researchers suggest that any report on human trafficking should be able to segment today's human trafficking markets into

<sup>124</sup> US Department of Homeland Security, op cit, 260.

<sup>125</sup> US Department of Homeland Security, op cit, 314.

<sup>126</sup> Conversation with senior police officials at a Crime Intelligence Officers' Workshop in Harare, Zimbabwe, September 2009.

<sup>127</sup> Remarks of a senior official from the Department of Homeland Security at a training workshop on legislating against human trafficking, Saartjie Baartman Centre, August 2008.



their components such as demand, supply, trafficking and related prices. However, due to lack of data no one has been able to catalogue the different types of human trafficking. Antonio Maria Costa, the executive director of UNODC, pleads with academics and practitioners to assist them in generating logical categories and the statistical information needed 'for evidence-based, anti-slavery policy'.<sup>128</sup> Based on data provided by the IOM's Southern African Counter Trafficking Assistance Programme (SACTAP) and regional police agencies, UNODC provides a rather meagre incidence of actual human trafficking in southern Africa.

**Table 3: The actual number of trafficking victims captured by SACTAP and regional police agencies (2004-2007)**<sup>129</sup>

	2004	2005	2006	2007
<i>Angola</i>	0	0	0	0
<i>Botswana</i>	0	0	0	0
<i>Lesotho</i>	0	0	0	0
<i>Malawi</i>	0	0	2	0
<i>Mauritius</i>	*	*	*	*
<i>Mozambique</i>	0	4	2	1
<i>Namibia</i>	0	0	0	0
<i>South Africa</i>	22	32	61	*
<i>Swaziland</i>	0	0	0	0
<i>Tanzania</i>	*	*	*	*
<i>Zambia</i>	2	27	8	*
<i>Zimbabwe</i>	*	*	*	*

\*No exact numbers supplied. By the end of 2006 approximately 450 persons were sheltered in Mauritius for several reasons, including trafficking, but the exact number of trafficking victims is unknown. About 250 persons were sheltered in Tanzania for several reasons including trafficking by the end of 2007. The exact number of trafficking victims is not known.

<sup>128</sup> United Nations Office on Drugs and Crime *Global report on trafficking in persons* (February 2009) 6-7.

<sup>129</sup> Based on statistics provided in the UNODC's *Global report on trafficking in persons*, op cit.

Interestingly proponents of the dominant anti-trafficking discourse argue that the small number of actual cases represents the tip of the iceberg. They claim that due to the inherent secrecy around human trafficking, the bulk of actual cases remain undetected.<sup>130</sup> In light of the actual numbers of victims of trafficking reflected in the table, it is not surprising that regional police agencies and government department struggle to muster the political will to fight human trafficking.

### Studies by Molo Songololo (South Africa) and the IOM

Three studies on the incidence of human trafficking undertaken by the IOM and Molo Songololo have been the subject of much debate. Molo Songololo published two studies in 2000, one on the trafficking of women in South Africa and the other on the trafficking of children under the age of 18 in South Africa. The IOM's *Seduction, sale and slavery: Trafficking in women and children for sexual exploitation in southern Africa*, explores, as the title indicates, the trafficking of women and children in southern Africa. The studies failed to provide an evidence-based understanding of the nature and scale of the problem. Trafficking is described as a significant problem in South Africa and the government is called upon to take decisive action. The IOM study attempts an estimation of the size of the problem. Based on numbers provided by informants in the sex industry and migration figures provided by Statistics South Africa, the authors calculate that 850 to 1100 women and children are trafficked to South Africa for the purposes of sexual exploitation annually.<sup>131</sup> They further estimate that at least 1100 Mozambican women are trafficked into some kind of sexual exploitation in South Africa each year, earning trafficking syndicates approximately R1 million annually.<sup>132</sup> As is the case with most studies on the incidence and numbers involved in human trafficking, the IOM does not divulge

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<sup>130</sup> Ibid.

<sup>131</sup> J Martens et al *Seduction, Sale and Slavery: Trafficking in Women and Children for Sexual Exploitation in Southern Africa* (2003) 68.

<sup>132</sup> J Martens et al, op cit, 48.

how these figures were arrived at or the assumptions involved, rendering it a difficult endeavour to determine their reliability.<sup>133</sup>

The IOM study analysed information from 232 interviews, of which 25 were victims of trafficking, and the rest officials and service providers. The analysis led to South Africa being identified as a source, transit and destination country for the trafficking of persons. The study was conducted over a six-month period. The IOM researchers claimed to have found evidence of Basotho children being abducted by Afrikaans speaking men for the purposes of sexual abuse at farms in the eastern Free State. The South African Police Service, the Lesotho Mounted Police Force and the Interpol office in the Basotho capital of Maseru rebutted these allegations. A statement issued by these law enforcement agencies declared that the police were never informed of such incidents and that no evidence has been found to support these accusations.<sup>134</sup>

The Molo Songololo reports trace the trafficking into South Africa of individuals from all over Africa, as well as several countries in Europe and Southeast Asia. The children's study<sup>135</sup> records cases of children as young as seven being trafficked into South Africa from countries such as Senegal, Kenya, Ethiopia and Uganda, while the report on trafficking in women<sup>136</sup> lists Sudan, Nigeria and Cameroon as additional source countries. Moreover, the reports explore the prevalence of domestic trafficking of women and children into the commercial sex industry. While the report on children alludes to localized trafficking patterns, the report on trafficking of women also documents the inter-provincial movement of women from rural areas to major metropolitan hubs in South Africa. Robyn Pharaoh urges caution of these findings as the Palermo definition of human trafficking only includes cross border trafficking in its understanding of the phenomenon. She also suggests that careful thought needs

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<sup>133</sup> R Pharaoh 'Getting to Grips with Trafficking: Reflections on Human Trafficking Research in South Africa' (2006) 24.

<sup>134</sup> South African Police Service *Media statement* issued on 27 March 2003.

<sup>135</sup> Molo Songololo, *Trafficking of Children for the Purposes of Sexual Exploitation* (2000) 43.

<sup>136</sup> Molo Songololo, *The Trafficking of Women into the South African Sex Industry* (2000) 19.

to be given to how domestic trafficking is distinguished from exploitative labour conditions.<sup>137</sup>

### The IOM helpline

The IOM set up a helpline on human trafficking in South Africa during 2008. For the purposes of this dissertation, an analysis of the phone calls may provide yet another glimpse of myth versus reality.

35 so-called 'SOS' calls or calls relating to human trafficking were received from around the country between March and July 2008. This presented only 6% of the total number of calls received. Statistical data derived from the helpline does not distinguish between domestic and transnational human trafficking. It is thus inconclusive whether the reported cases, firstly, represented actual cases of human trafficking and, secondly, whether they satisfied the Palermo Convention definition of being transnational in nature. 305 calls or 56% of the calls were hoax calls, while 56 callers (10%) requested information on human trafficking. Amongst the 152 'cooperation' calls (28%) received, callers wanted to report cases of bad truck driving, child abuse, domestic violence, theft or substance abuse. Others wanted to retrieve stolen identity documents, sought legal assistance or crisis counselling.<sup>138</sup>

Since its inception, IOM representatives were apprehensive about disclosing the number of bona fide phone calls received on the helpline.<sup>139</sup> The statistics made available from a third party indicate that very few bona fide calls were received. This type of data conflicts with the IOM's insistence that South Africa is a primary nodal point for human trafficking from, through and to the region and beyond.

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<sup>137</sup> R Pharoh, op cit, 26.

<sup>138</sup> Data received from Activists Networking against the Exploitation of Child Domestic Workers (Anex CDW), a Western Cape NGO focusing on child domestic workers in South Africa. Anex CDW assisted the IOM in operating the phone line. The data was shared with the student during a meeting of the Western Cape Counter Trafficking Coalition meeting during September 2009.

<sup>139</sup> The student and a colleague made several formal requests for data on the helpline to the IOM, which were acknowledged but not honoured.

**Table 4: Number and types of calls received on the IOM helpline on human trafficking in South Africa (March –July 2008)**

<i>Call classification</i>	<i>Preventative</i>	<i>Cooperation</i>	<i>SOS</i>	<i>Hoax</i>	<i>Total calls</i>
<i>Number of calls</i>	56	152	32	305	545
<i>% of total calls</i>	10 %	28%	6%	56%	100%

Source: Anex CDW

### **The SWEAT and ISS study on the sex industry in Cape Town and other 'deviant' studies**

A two-year study by the Sex Worker Education and Advocacy Task Force (SWEAT) and the Institute for Security Studies (ISS) on the sex industry in Cape Town failed to uncover a single reliable case of human trafficking. The research was undertaken in view of the enormous concern among NGOs, Inter-governmental organisations (IGOs) and government officials that South Africa appeared to have become both a source and destination for victims of trafficking. In the absence of any quantitative data on trafficking and objective assessment of the scale and extent of the problem was not possible. The ISS and SWEAT research team developed rigorous methods of collecting data. Since all previous research had been qualitative, the study attempted to find a way to objectively assess how many women (and children) were trafficked for sexual exploitation. The City of Cape Town was chosen as the location for the research. The point of departure for this choice was that by limiting the geographical scope of the study, it would be easier to collect the required data. Based in Cape Town, SWEAT would facilitate access to street-based sex workers and brothels. Moreover, the aforementioned reports by the IOM and Molo Songololo had pointed to Cape Town being at the epicentre for trafficked victims from refugee-producing countries.<sup>140</sup>

<sup>140</sup> C Gould with Nicolé Fick *Selling Sex in Cape Town* (2008) 1-3.

Interviews, questionnaires and focus groups were conducted with brothel owners, pimps and sex workers. The study sought to identify victims of trafficking that met the three elements of force, deception or inducement at the point of recruitment, relocation and exploitation contained within the definition of trafficking in the Palermo Protocol. Eight possible cases of trafficking were identified, namely of two Chinese women, four Eastern European women, a South African woman in Parow, and one in Witbank. However, several cases of exploitation and abuse were found. The clandestine and underground nature of the sex work industry (because of laws against prostitution) enables employers to engage in unfair and unacceptable labour practices.

The primary recommendation of the research study was a call for the decriminalization and regulation of the sex industry. Gould and Fick also argued that for the purposes of intervention within the sex industry, trafficking should be conceptualized as an extreme form of labour exploitation.<sup>141</sup>

In 2003, the Community Agency for Social Enquiry (CASE) prepared situation analyses of the Western Cape, KwaZulu-Natal, Mpumalanga and Limpopo of the extent of child trafficking and the commercial sexual exploitation of children and the extent of social services available to victims. CASE found that while many organizations and government departments were concerned about child trafficking and prostitution, few had encountered cases of this form of abuse. A report issued by the Consortium for Refugees and Migrants in South Africa (CoRMSA) argued as follows:

‘It seems apparent from these assessments that child trafficking and even child prostitution are not commonly encountered by organizations or government departments in these areas in South Africa, despite there being a high level of concern about child trafficking and prostitution. The contradiction between the claims by Molo Songololo and IOM reports that the trafficking of women and children is a serious and growing problem in South Africa and the absence of large numbers of cases clearly suggests that the problem may not be as severe as self-interested parties have claimed it to be. Indeed, despite the IOM’s multi-million dollar

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<sup>141</sup> C Gould, op cit, 153-158.

financial investment in efforts to identify people in need of assistance, between January 2004 and May 2007, the organization had assisted just 194 victims of trafficking. All the victims were women and none children.’<sup>142</sup>

Another research study undertaken by the Institute for Security Studies (ISS) sought to establish whether human trafficking was occurring to, through and from Angola, Botswana, the DRC, Namibia, South Africa, Zambia and Zimbabwe.<sup>143</sup> The objectives were to establish whether trafficking existed in these countries, and if so, who were the offenders and who were the victims. If it were to be found that organized crime syndicates were involved, the study would expose the nature of the syndicates, strategies used, and the kinds of exploitative practices to which victims were subjected. It would also consider the factors that impact on the demand for trafficked persons, and worsen their vulnerability.<sup>144</sup>

The project sought to document the phenomenon from primary sources. From the outset it was accepted that information relating to human trafficking in the selected countries was poorly documented. The research was premised on the definition of ‘human trafficking’ in the Palermo Protocol. The research team noted that, at the time of the study, none of the countries had criminalised human trafficking as envisaged by the Protocol. This report showed that the movement of people around the region and beyond is a common phenomenon deeply rooted in ancestral and cultural traditions of African peoples. Increasingly socio-economic factors have led mostly younger people from poorer countries in Africa to seek ‘greener pastures’ in the economic powerhouse of South Africa. The research showed that the few cases of trafficking uncovered during two years of fieldwork were not perpetrated by organized crime syndicates but by family members of the victim(s). Furthermore, the majority of cases were linked to trafficking for purposes of labour exploitation, and not sexual exploitation as suggested by the IOM and Molo Songololo.

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<sup>142</sup> CoRMSA *Protecting Refugees, Asylum Seekers and Immigrants in South Africa* (2009) 76.

<sup>143</sup> The primary focus of the study was directed at Angola, Botswana, Namibia, Zambia and Zimbabwe. However, fieldwork was also undertaken in the DRC and South Africa to follow up on potential cases where both countries were cited as countries of origin, transit or destination.

<sup>144</sup> A Hübschle and C Goredema *Five Country Study on Human Trafficking* (2008).

Various stakeholders including police officers, immigration and other representatives from relevant government departments used the concepts of 'human trafficking' and 'people smuggling' interchangeably. The research has shown that the conflation of the two concepts tends to distort the way the threat of human trafficking in the region is presented.

Most people encountered during the course of the ISS research could not distinguish between the two crimes. When asked about the prevalence of human trafficking in the region, the initial reaction of many was to allude to very high volumes of human trafficking. As the difference between human trafficking and people smuggling was explained, however, it became clear that human trafficking occurred on a rather limited level.

The research evidence could not support assertions that human trafficking was spiralling out of control in the region and was in urgent need of redress.<sup>145</sup> It was concluded that not human trafficking but people smuggling should be the key concern of policy makers, relevant stakeholders and research bodies in the countries considered in the study. According to the research findings, hundreds of people were smuggled across borders in southern Africa. Most of these people make a conscious decision to leave their home countries in search of greater opportunities. In the absence of any clearly discernible trends of human trafficking, it was suggested to concentrate on irregular migration rather than human trafficking.<sup>146</sup> It was noted that, with the exception of terrorism, no other type of criminality received as much international interest and promises of development aid as the fight against human trafficking. The trafficking of drugs which poses the single largest organized crime threat to the region, attracted rather less resources.<sup>147</sup>

The ISS had been commissioned by an intergovernmental agency to undertake this research project. Both organisations had signed a memorandum

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<sup>145</sup> A Hübschle and C Goredema, *op cit*.

<sup>146</sup> *Ibid*.

<sup>147</sup> A Hübschle 'Trafficking in Persons: Assumptions and Reality' (2009)



of agreement from the onset of the research, which stipulated that both parties would have to agree to the publication of the research findings. The intergovernmental organisation vetoed the publication of the final report. It is a matter of conjecture what the reasons were for the withdrawal of the permission to publish. The study most certainly did not reflect a growing and alarming trend of human trafficking in the region. One of the key functions of that same organisation is the provision of training on human trafficking to law enforcement and judicial officials and repatriation assistance to victims of trafficking.<sup>148</sup>

Statistical data is highly questionable and contestable and presents the weakest link as far as the issue of trafficking in persons is concerned. Despite this, statistics of trafficked women and children constitutes one of the pillars of the dominant anti-trafficking paradigm. Victims of trafficking are presented as one of the fastest growing populations of vulnerable people around the globe.<sup>149</sup> The huge discrepancies in estimates in the incidence of human trafficking may result from the mixed interpretations of the definition of human trafficking applied by researchers at governmental agencies and non-governmental organisations during data gathering. Definitions vary from sexual exploitation, prostitution, forms of payment for a collateral debt to nonsexual coerced labour. The estimates may also vary because of the political persuasion of the organisation compiling the data. Certain NGOs and international organisations inflate numbers in an attempt to force governments to take action. According to Zhang, 'outlandish claims intended to incense the audience are therefore passed on as if they were based on solid empirical data.'<sup>150</sup>

These 'outlandish' claims have led to further calls by NGOs and IGOs to urgently address the scourge of human trafficking. The Molo Songololo and IOM report are used as proof of the existing threat of human trafficking to society. Meanwhile, Chandre Gould's book has been dismissed as propaganda by naysayers.

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<sup>148</sup> The student was the research coordinator of the study.

<sup>149</sup> J Sanghera, *op cit*, 12-13.

<sup>150</sup> S X Zhang, *op cit*, 108-109.

## Chapter 6: Parallels between the ‘Global War on Terror’ and the war on human trafficking

The terror attacks of 9/11 and the US led ‘Global War on Terrorism’ (GWOT) had important and wide-ranging policy implications for both irregular migration (human trafficking) and terrorism –the two new security threats of the 21<sup>st</sup> century. The threat of terrorism and its relationship to processes of irregular and undocumented migration, has added a new dimension to the securitisation of irregular migration and by extension, human trafficking. Irregular migration intersects with neo-conservative concerns of sovereignty and territoriality. A state’s immigration laws are used as a tool to control by means of laws and regulations, the state’s right to restrict the flow of people into its territory. Curley argues that ‘the physical act of crossing borders illegally poses a challenge to the state’s ability to control its borders and the occupation of its internal spaces.’<sup>151</sup> The unregulated movement of people is viewed as a threat to the maintenance and control of state sovereignty.<sup>152</sup>

Xenophobia as experienced in South Africa over the past decade is an expression of South Africans feeling threatened, amongst others, by irregular immigrants taking away their jobs. The causal variables of irregular migration are complex and interconnected. Curley lists as ‘push factors’ of this type of migration: war, famine, ethnic violence, poverty, fear of persecution and environmental degradation. While ‘hope of a better life elsewhere, with better economic opportunities, in peaceful and stable environments are powerful ‘pull factors’.<sup>153</sup> This chapter will explore how human trafficking became connected to the ‘Global War against Terrorism.’

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<sup>151</sup> M Curley, op cit, 8.

<sup>152</sup> Ibid.

<sup>153</sup> M Curley, op cit, 9.

## The terrorism-organised crime nexus

As mentioned in the chapter on the securitisation framework, international relations specialists have moved away from contentions that inter-state warfare poses the greatest threat to the sovereignty of states. Globalisation, porosity of borders and the explosion of the information technology are said to be contributing factors to the growing threat posed from sub-state actors. Some theorists refer to organised crime and terrorism 'as the darker side of globalisation' or the 'new evil empire'.<sup>154</sup> It is claimed that both terrorists and organised criminals used globalisation as a springboard to expand their operations from a domestic to a global level.

In the aftermath of the Cold War, many countries proclaimed terrorism and organised crime as the newest and most poignant threats to their national security and sovereignty. In many instances, this led to a new set of laws and regulations, the establishment of specialised law enforcement agencies and a wide range of academic and research interest in the two phenomena.<sup>155</sup> 9/11 catapulted terrorism to the top of most national security agendas. Politicians, practitioners and academics started exploring possible linkages between organised crime networks and terrorist organisations.

Zhang argues that a terrorist organisation must fulfil two basic functions to remain viable. The first function relates to financial capacity: a system of funding must be established and maintained to raise money for terrorist operations and organisational needs. Distribution capacity constitutes the second function, whereby leaders and foot soldiers of an organisation, as well as equipment and materials (such explosives and weapons) are moved by ways of an intricate transport system from one location to another without attracting attention from the authorities. A number of states overtly or secretly supported terrorist causes in the early part of the 20<sup>th</sup> century; however, state sponsored terrorist organisations are becoming less. Without the financial and material

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<sup>154</sup> F Halliday 'Terrorism in historical perspective' (2004)

<sup>155</sup> A Standing 'Rival views of organised crime' (2003) 37.

backing of states, terrorist groups may increasingly become dependent on goods and services provided by illicit enterprises. Some terrorist organisations obtain legitimate funding through donations and charities. Nonetheless, since 9/11 any transactions through legitimate channels are closely monitored by newly created financial intelligence agencies and international financial regulations. Illegal criminal markets and enterprises thus offer terrorists an ideal marketplace where terrorists can raise and transfer money, make contact with one another, carry out organisational functions from the purchase of terrorist equipment and materials to moving operatives to their strategic locations across international borders.<sup>156</sup>

Many law enforcement officials believe that the convergence of organised crime and terrorist groupings has already taken place. They argue that both organised criminals and terrorists rely on an underground economy to raise and move money and this ultimately would lead to their activities and interests getting intertwined in the illicit underworld.<sup>157</sup> The United Nations Security Council has also expressed its concern about linkages between terrorism and organised crime. On 28 September 2001, the UN Security Council adopted Resolution 1373 in terms of Chapter VII of the UN Charter.<sup>158</sup> All states, including those who are not UN members, were compelled to implement the Resolution's operative provisions. This includes the criminalisation of the financing and other acts of support for terrorism, the freezing of bank accounts, the introduction of effective border controls and other measures to speed up the exchange of operational information. In addition to the operative provisions, the Resolution acknowledges the close connection between international terrorism, transnational organised crime and other forms of crime:

‘The Security Council...notes with concern the close connection between international terrorism and transnational organised crime, illicit drugs, money laundering, illegal arms trafficking, and illegal movement of nuclear, chemical, biological and other

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<sup>156</sup> S X Zhang, *op cit*, 126.

<sup>157</sup> *Ibid.*

<sup>158</sup> A Hübschle ‘Unholy Alliance? Assessing the links between organised criminals and terrorists in southern Africa’ (2004) 4.

potentially deadly materials, and in this regard emphasises the need to enhance coordination of efforts on national, sub-regional, regional and international levels in order to strengthen a global response to this serious challenge and threat to international security.’<sup>159</sup>

But is this ‘unholy alliance’ of terrorists and organised criminals viable in the long run? The motive of organised criminals is usually one of financial or material gain. A successful organised crime network evades law enforcement agencies at all times and generally aims to attract as little government attention to their activities as possible. Conversely, terrorist organisations thrive on media attention and publicity. Acts of political violence are aimed at garnering maximum attention from the public and the authorities to highlight the group’s plight or, the political or ideological agenda.<sup>160</sup> Francesco Marelli argues that ‘terrorists are generally perceived as a grave threat to national security, whereas organised crime, although seen as problematic, enjoys tacit tolerance due to corruption or short-term pragmatism.’<sup>161</sup> Renowned political scientist Alex Schmid differentiates between terrorist and organised crime groups as follows: While terrorist groups are usually ideologically or politically motivated, organised criminals seek to maximise their profit. A few terrorist groupings attempt to compete with governments for legitimacy, which would not necessarily feature on the agenda of organised crime syndicates.<sup>162</sup> Media attention is of importance to terrorists but insignificant to organised criminal groupings. Terrorist victimisation is usually less discriminate than the violence used by organised criminals.<sup>163</sup>

Many theorists and politicians continue to advance the close linkage theory despite of the above-mentioned differences. Zhang argues that money launderers move and hide proceeds for drug traffickers. In turn, drug networks sell weapons

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<sup>159</sup> UN Security Council *Security Council Resolution 1373* (2001).

<sup>160</sup> A Hübschle, *op cit*, 5.

<sup>161</sup> F Marelli ‘Organised crime and terrorism: Dancing together’ (2003).

<sup>162</sup> Reference to illicit, criminal or underworld governance has been made in recent literature on organised crime, e.g. Moisés Naím *Illicit: How smugglers, traffickers, and copycats are hijacking the global economy* (2005) Doubleday, New York.

<sup>163</sup> A Schmid ‘The links between transnational organised crime and terrorist crimes’ (1996) 40-82.

to terrorists, who engage in cigarette and jewellery smuggling or credit card fraud to raise money for their operations.<sup>164</sup> This simplification invites a lot of criticism on account of lack of evidence-based research backing. However, others have made more convincing arguments for the strong linkage of the criminal phenomena. Marelli believes that the distinctions between criminals and terrorists are becoming increasingly blurred. Well-established terrorist groups have advanced economic machines that support their operations. Citing the now largely historical example of the Irish Republican Army (IRA), he contends that the majority of IRA members were actively involved in racketeering, drug trafficking and dealing, whereas only a small core carried out acts of terrorism. Terrorists and criminals may collaborate on the exchange of expertise or the purchase of materials needed in execution of their operations. Columbia's Fuerzas Armadas Revolucionarias de Colombia (FARC), the Shining Path in Peru, the Taliban and others control drug-producing territories and supply major drug cartels. The reciprocal arrangement between the Shining Path and FARC with local drug lords is well documented. For example, the Colombian cocaine cartels in Medellin and Cali regularly hire FARC and M19 guerrillas to provide security at cocaine plantations. The terrorists regularly receive payment for their services, which is used for future operations, while the cartels have found an efficient way to secure their plantations.<sup>165</sup>

The illegal market in arms and munitions services criminals, rebel movements, terrorist groupings and pariah states. Terror groups are also suspected of making increasing use of money laundering systems and illegal markets created by organised criminal groups to generate and disguise revenue used for terrorist activities. Gold and gemstones, identity papers, passports and stolen telecommunication devices such as mobile and satellite phones are readily available on the illicit market. The laws of demand and supply apply in this instance.<sup>166</sup> Recent research has shown that many organised crime groupings display a political and social nature rather than chasing after profit alone. These groupings tend to form a kind of underground government to adjudicate and

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<sup>164</sup> S X Zhang, *op cit*, 126-127.

<sup>165</sup> Marelli, *op cit*.

<sup>166</sup> A Hübschle, *op cit*, 6.

allocate territorial and property rights in their areas of control. Once the ground rules have been set, each individual member operates alone or in partnership with others who may or not be members of the group. Certain terrorist networks, notably al-Qaeda, show similar traits. Thus, terror cells may act independently of the core, only occasionally falling back on its logistical, financial or religious/spiritual support.<sup>167</sup>

An argument has been made that traditional criminal justice systems of the Cold War era are ill equipped to deal with the new challenges posed by organised crime and terrorism. There have been widespread calls for dramatic new investigatory and prosecutorial powers, including an increased scope for police to use means on the legal periphery in conducting undercover operations, measures to trace and seize the proceeds of criminal activities or terrorist financing and laws to make membership of a criminal or terrorist organisations a crime.<sup>168</sup> It may be a worthwhile exercise to pose basic questions as to who the sponsors of these measures are, who stands to gain from them and what are the motives for implementing the new policies and security measures. Moreover, can we really draw a clear line between profit-driven crime and normal economic activity? And when does political violence as sanctioned by the state and its law enforcement agencies become a form of terrorism?<sup>169</sup>

It is beyond the focus of this paper to discuss the contested nature of the concepts of terrorism and organised crime. Suffice to say that the contested nature of both concepts renders it a difficult endeavour to arrive at policies and analyses that are not biased. It is also noteworthy that research undertaken over the past seven years in southern Africa has failed to reveal links of anything more than a tenuous nature between organised criminals and terrorists. Organised criminals and terrorists may have interacted with each other in straightforward business deals on an ad hoc basis. The US embassy bombings in East Africa and the Mombassa attacks showed that al-Qaeda procured weapons,

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<sup>167</sup> R T Taylor 'Predators, parasites, or free market pioneers: Reflections on the nature and analysis of profit-driven crime' (2003) 35.

<sup>168</sup> Ibid.

<sup>169</sup> R T Taylor, op cit, 41.

ammunition and explosives from illicit arm dealers. The research concluded that in light of the organisational profile of terrorists and organised criminals, it was highly unlikely that this 'unholy alliance' would cooperate on an ongoing basis. Both fear detection and collaboration may heighten the risk of detection. Organised criminals in southern Africa work in loose shifting networks and alliances, with different networks fighting for their place under the sun where the mantra of 'survival of the fittest' applies. Entering into close relationships with terrorists does not feature on their agendas unless there is an immediate massive financial gain. While criminal elements collaborated with freedom fighters<sup>170</sup> during Africa's 'winds of change' period, organised crime groups tend to be apolitical in post-colonial societies. Support for terrorist entities would not derive from similar thinking or from fighting for a similar cause.<sup>171</sup>

### The terrorism and human trafficking connection

Moving on from the alleged linkage between terrorism and organised crime, this section will examine the alleged link between terrorists and human traffickers. Although the US uses humanitarian rhetoric in its discussions of human trafficking, it appears to be more concerned about the linkage of human trafficking with transnational organised crime. Hemming suggests that the perceived threat is connected to the belief that monies collected through trafficking are funnelled into terrorist activities. The 'first pillar' of US President George W Bush's National Security Strategy (NSS) of 2006 outlines the Bush administration's bid to enhance American interests, global security, expand global liberty and prosperity which is dependent on building human dignity, effective democracies and wise development policies. Interestingly, the 'second pillar' looks at combating terrorism and human trafficking. Both phenomena are seen through the same lens: They exploit individuals, instil harm and grief and both of them are transnational organisation. Terrorists, however, require funds to finance their activities. In reality, rarely do terrorist and organised criminal

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<sup>170</sup> The student acknowledges the contested nature of the concept of 'terrorism' especially in the African context where the adage of 'one person's terrorist is another's freedom fighter' holds truth.

<sup>171</sup> It is however noteworthy that some former liberation fighters have found a new home in organised crime syndicates in southern Africa.



organisations join forces. While terrorist harbour political, religious or ideological motivations for their deeds, transnational organisations are usually profit driven.<sup>172</sup>

Who are the human traffickers? Several sections of this dissertation have queried the assumption that organised crime networks are running human trafficking operations. Of course, the most obvious linkage of human trafficking with organised crime is proposed by the Palermo Protocol, which is directly linked to the UN International Convention against Transnational Organised Crime. Encoded within the title of the protocol is an understanding that members of organised crime groups perpetrate the trafficking of women and children and that it constitutes a transnational crime. Evidence has been provided to show that organised crime is involved in trafficking in at least some parts of the world. However, in light of the paucity of evidence on the issue of trafficking globally, it is presumptuous to assume that trafficking is entirely or even largely an organised crime issue. There is simply not enough evidence or data to establish the extent and nature of involvement of members of organised crime networks across the globe.<sup>173</sup>

Another method to assess whether the linkage between 'human trafficking' and 'terrorism' exists is an analysis of the type of offences involved in the process of trafficking in persons. It was mentioned earlier that the borders between smuggling and trafficking are somewhat blurred. Both smuggled and trafficked individuals may leave their countries of origin willingly but probably under a different set of pretences. They may experience similar cases of danger and discomfort during their journeys. But upon arriving in their countries of destination, smuggled individuals are usually free to apply for asylum or refugee status or look for work in the informal sectors. On the other hand, trafficked persons are put in debt bondage or forced into exploitative sex work or forced labour. These exploitative practices usually continue over extended periods of time, during which interdependency may develop between trafficked persons

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<sup>172</sup> J Hemming, *op cit*, 3-4.

<sup>173</sup> J Sanghera, *op cit*, 15-16.

and the organised crime groups that traffic them.<sup>174</sup> This interdependency may lead to further networking, extended exploitation and recruitment for criminal purposes. Kevin Bales suggests that trafficking in persons should be viewed as a process rather than a single offence.<sup>175</sup>

Thus the process of the crime of human trafficking would commence with the abduction or recruitment of a person and continues with the transportation and entry of the individual into another country. During the exploitation phase, the victim is forced into sexual or labour servitude. Violence and other forms of coercion may be applied to maintain control over the victims. A further phase may occur which does not involve the victim but rather the offender(s). Depending on the size and sophistication of the trafficking operation, the offending party may find it necessary to launder proceeds of crime. However, the crimes of money laundering and tax evasion are secondary and occur as a result of trafficking activity. Bales suggests that human traffickers may commit an array of other offences, such as the smuggling of weapons and/or drugs.<sup>176</sup>

The number and types of offences are contingent on the level of sophistication and the size of the trafficking operation. A simple operation involves 'the smuggling and subsequent trafficking of an individual by another individual over a border without proper documentation'.<sup>177</sup> Sophisticated operations may involve large numbers of persons being moved across borders with forged documentation. Such operations may generate huge profits that ought to be laundered. Trafficking does not only involve offences against the individual (in this case the victim of trafficking) but also against the state. Abuse of immigration laws, document forgery, corruption of government officials, money laundering and tax evasion constitute some of the offences perpetrated

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<sup>174</sup> This argument rests on the assumption that indeed organised crime groups were involved in the trafficking process. This is not always the case as some people are trafficked or sold by individuals including family members.

<sup>175</sup> K Bales *Understanding global slavery* (2005) 133.

<sup>176</sup> Ibid.

<sup>177</sup> Ibid.

against the state.<sup>178</sup> The table below lists the types of crime that may be committed during a human trafficking operation:

**Table 5: Types of crime perpetrated during a human trafficking operation<sup>179</sup>**

<b>Recruitment of victim</b>	<b>Transportation of, or entry with, victim</b>	<b>Exploitation</b>	<b>Disposition of Criminal Proceeds</b>
Document forgery	Document forgery	<i>Unlawful coercion</i>	Money laundering
<i>Fraudulent promises</i>	Immigration law abuse	<i>Threat</i>	Tax evasion
<i>Kidnapping</i>	Corruption of officials	<i>Extortion</i>	Corruption of officials
	Damage to property	<i>False imprisonment</i>	
	<i>Withholding of documents</i>	<i>Kidnapping</i>	
		<i>Procurement</i>	
		<i>Theft of documents</i>	
		<i>Sexual assault</i>	
		<i>Aggravated assault</i>	
		<i>Rape</i>	
		<i>Murder</i>	
		<i>Forced abortion</i>	
		<i>Torture</i>	

Source: Kevin Bales *Understanding global slavery* (2005)

*Italics* indicate that the offences are perpetrated against the individual victim.

<sup>178</sup> K Bales, op cit, 133-134.

<sup>179</sup> K Bales, op cit, 134

As has been shown in the analysis above, the linkage between organised crime and terrorism is little more than tenuous. The linkage of terrorism with human trafficking is even less likely, certainly no evidence based research findings could be found. However, there is a clear connection on a different level: The 'Global War on Terrorism' has aggravated the situation of those who cross borders. Trafficking and migration are now approached within the overarching concern with national security and international terrorism. The War on Terror has acquired 'a supernatural existence outside of the international legal order while simultaneously being pursued in and through the processes and institutions of the international regime.'<sup>180</sup> The UN endorsed mechanisms to combat terrorism have further restricted cross-border movement. Numerous countries have passed draconian anti-terrorism laws and security mechanisms that increase governmental powers of detention and surveillance, which impinge on most basic rights and civil liberties. Almost every foreigner (except citizens from a handful of Western nations, including EU member states, Canada, Australia and others qualifying for a visa waiver) is treated like potential terrorist or criminal by being profiled, interrogated, photographed and fingerprinted at ports of entry into the United States. The same applies in many European Union countries, where new laws and policies undermine fundamental human rights protections such as the right to seek asylum and prohibitions against arbitrary detention and torture.<sup>181</sup>

It is worrisome that the War on Terror has drawn clear lines between 'friend' and 'enemy'. The infamous verbatim of former US president George W Bush of 'you are either with us or against us' has not only 'othered' terrorists but potentially anyone seeking to enter the US or other Western countries. It is perhaps just as well that terrorism has not been defined as a transnational crime within the realm of the Palermo Convention as else illegal movement or entry may be defined terrorist.

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<sup>180</sup> R Kapur 'Cross-border movements and the law' (2005) 33.

<sup>181</sup> R Kapur, op cit, 33-34.

The breadth and scope of this 'War on Terrorism' remains undefined but many of its controversial measures have been exported and even forced upon countries of the global south. Prior to connecting foreign aid and development funds to the passing of anti-trafficking laws and measures, they were tied to the implementation of anti-terrorism measures. However, this cloak and dagger approach was not always blessed with the anticipated success. Governments consisting of members of former liberation movements in the global south were apprehensive to buy into draconian anti-terrorism measures dictated by the US-led 'coalition of the willing'. In essence, many of these governments were once identified as terrorist organisations.<sup>182</sup> Perhaps it is exactly because of this uncomfortable association or designation that the US and the global north are using the security threat of human trafficking to countries of the global south as a guise to push for the same anti-terrorism measures: only this time, it ostensibly constitutes a bid to fight human trafficking.

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<sup>182</sup> Up until very recently, Nelson Mandela was still listed a terrorist on the US global database on terrorism.

## Chapter 7: Conclusion

Much of the current discourse on trafficking in persons has not been guided or backed up by empirical research or evidence-based research findings. The increased urgency in US government policy and funding priority to combat the criminal phenomenon has been influenced more by a moral panic that continues to gain momentum rather than by a solid and systematic assessment of the problem. Research on the subject matter remains challenging due to human trafficking being shrouded in secrecy and political sensitivity. The existing body of literature is plagued with methodological and analytical flaws and outright bias towards either one school of thought. Researchers tend to draw conclusions or generalised findings based on biased samples, interviews in shelters or jails, and anecdotal stories.<sup>183</sup> Self-interested intergovernmental agencies and NGOs who rely on donor funding, propel the moral panic by painting a bleak picture of the state of affairs regarding global and regional trafficking trends. A whole plethora of organisations and 'experts' depend on the viability of the anti-trafficking industry. Sceptics pinpoint that ulterior motives other than human rights and social concerns drive these organisations to lambast the lack of action by countries in the global south.

The Copenhagen framework provided a helpful framework for analysis of securitising behaviour and securitisation of human trafficking in southern Africa. It is often difficult to untangle 'real' versus 'perceived' threats. Different threat perceptions, and clashing motivations and norms and beliefs of appropriate roles and actions for states and International Organisations (IO) seem to partially explain the policy challenges facing regional cooperation and state-IO cooperation on the issue.

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<sup>183</sup> S X Zhang, *op cit*, 122.

Is human trafficking a real security concern in southern Africa? The answer is clearly 'no'. The elusiveness of research evidence leaves regional politicians, law enforcement agents and other important players sceptic. Yet, international donors and others are forcing the issue. And this in the real sense of the word: development funds are being tied to the implementation of anti-trafficking measures. While the regional governments and organisations had no prerogative to securitise human trafficking, they have been forced to prioritise the issue by virtue of semi-dependence on donor funding. Securitisation of trafficking is becoming more evident: several countries have developed dedicated anti-trafficking legislation, specialised police units and other agencies have been set up or are in the process of being set up and action plans and strategies to fight the phenomenon are conceived on national, regional and continental levels.

Actual cases of human trafficking are few. Regional police chiefs are far more concerned about the high incidence of violent crime, drug trafficking, smuggling of commodities and financial crime in the region. This begs the question of why human trafficking is pushed to the top of regional security agendas. The last chapter of this dissertation explored the linkages between the War on Terror and the 'War on Organised Crime'. It is the firm belief of this student that the primary motive behind the securitising moves of human trafficking is an attempt to get southern African governments to implement draconian anti-terrorism measures. Interestingly, the measures to fight terrorism and human trafficking are very similar. They both involve control over the movement of people and tougher immigration procedures. It would appear that both the anti-trafficking and anti-terrorism lobby stand to gain from this 'marriage of convenience'.

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