TRAFFICKING FOR LABOUR EXPLOITATION – GENDER



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INTRODUCTION

Labour mobility is a reality of the globalised economy. But with the increased opportunities mobility gives to workers also comes an increased risk of labour trafficking. Over the last twenty years a lot has been done to build legal and policy frameworks to address this issue. The resulting "anti-trafficking framework" has in many cases contributed to protecting the rights of trafficked persons. However, the framework has been designed predominantly to address the symptoms of trafficking rather than looking at its underlying causes, such as the social context – including the gender perspective. Consequently, isolated anti-trafficking initiatives that are not complemented by gender analysis might in fact harm the very people whose rights they claim to protect.

Human trafficking has a gender dimension. However, the anti-trafficking discourse seems to retain a narrow understanding of gender – as a notion synonymous with issues linked with the situation of women and girls in a society. Furthermore, anti-trafficking analyses focus mainly on gender-related vulnerabilities and proneness to victimhood. Much less attention is given to depicting persons exposed to trafficking as rights holders and agents of change.

This report explores labour trafficking from a gender perspective and discusses whether gender needs to be considered in developing responses and our understanding of human trafficking for forced labour outside of the sex industry. The report assumes that the reader will be familiar with the basic definitions of human trafficking.
The research for this exploratory report combined desk review with analysis of responses provided by project partners in the Czech Republic, Ireland, Austria, Finland and Spain.

METHODOLOGY

The report is structured in the following parts:

Section 1: Gender and Trafficking for Labour Exploitation
Section 2: What is Gender Perspective on Human Trafficking?
Section 3: Gender-sensitive Approach to Trafficking for Labour Exploitation
- Gender as a Form of Individual Vulnerability
- Gender: “Vulnerability” vs. Right to Non-Discrimination
Section 4: Conclusions and Recommendations

SECTION 1: GENDER AND TRAFFICKING FOR LABOUR EXPLOITATION

Trafficking in human beings is often described as a gendered crime. The most common understanding of a gendered perspective on human trafficking leads to a conclusion that women are more likely than men to become trafficked.

The data on trafficking presented in the EU seems to support this conclusion. Accordingly, EU data on registered or presumed victims of trafficking in human beings suggest that trafficking for sexual exploitation accounts for 69% of all trafficking cases. Registered victims of sexual exploitation are predominantly female (95%) whereas the majority of registered victims of labour exploitation are male (71%).[1]

However, there is an agreement that the available data is imperfect and gives us at best a snapshot of what the real picture is. EU member states grapple with victim identification and some have only recently begun to disaggregate data. At the same time, most countries still focus predominantly on trafficking for sexual exploitation, where admittedly most victims are women and girls. The question arises whether the same assumptions and conclusions would be made if all forms of trafficking were properly identified and recorded? In fact, in some EU countries, like in the UK, the numbers of identified cases of trafficking for labour exploitation have exceeded those of trafficking for sexual exploitation for several years in a row[2].

Over the past seven or so years, the human trafficking discourse in Europe has shifted from perception of trafficking as a phenomenon predominantly related to sexual exploitation, to understanding it broadly as labour exploitation in a variety of sectors of the economy. At the same time, the gender dimension debate seems to have stagnated and retained its narrow understanding of gender – as a notion synonymous with issues linked with the situation of women and girls in a society. Furthermore, such analyses focus mainly on gender-related vulnerabilities and proneness to victimhood. Much less attention is given to women or men as rights holders or agents of change.

The literature review for this paper found very little in terms of resources on human trafficking and gender that would not apply this narrow perception of gender.

It is important to highlight the impact of structural violence and discrimination against women and girls on their vulnerability to trafficking in human beings. Nevertheless, limiting the debate about gender and human trafficking to discussion only about women and girls who are trafficked for the purpose of sexual exploitation and domestic servitude is problematic, as it disregards the experiences of a significant population of other victims. The intersection of men's gendered experiences and trafficking as well as of women's experiences and trafficking for labour exploitation remain a gap in research, policy and action.

This short report seeks to explore the gender dimension of labour trafficking in a broader sense, incorporating the intersection of men's and women's gendered experiences and to raise some critical questions about a gender approach to human trafficking.

1 EUROSTAT (2015) Trafficking in human beings available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eurostat_report_on_trafficking_in_human_beings_-_2015_edition.pdf
2 http://www.nationalcrimeagency.gov.uk/publications/national-referral-mechanism-statistics

SECTION 2: WHAT IS GENDER PERSPECTIVE ON HUMAN TRAFFICKING?

Gender is generally understood as the social ideas about what it means to be a man or woman, while sex refers to a person's biology. Social perceptions about men and women penetrate our views on behaviours that are considered to be feminine or masculine or those that are acceptable for a man or a woman. At the same time, societal understanding of the roles of women and men also tend to define how we see their roles within the family (e.g., in many societies it is expected of the man to provide for his family) and community (e.g., men are seen as leaders whereas women are to follow instructions of male relatives). These perceptions also relate to the world of work. Some occupations are viewed as traditionally male, while others as typically female. Still today one gender tends to be more represented in certain industries than the other. For example, domestic work or cleaning is often perceived as a female domain, while construction is seen as a male domain.

Gender also sets expectations within a culture and deems certain activities as acceptable or unacceptable for a woman/man to engage in. It also defines attributes that are valued and the rights and powers one has in a family and community. Perceptions and expectations tend to vary from culture to culture, society to society. For instance, in some cultures, women tend to be seen as wives and mothers and their status is determined through their relationship to a male relative.[3] This can put women into a more disadvantaged position than men. At the same time, some societies see men as the chief breadwinners and expect them to be able to provide for their families. Equally, this can put men into a position where they are less likely to admit to having been exploited.

When it comes to migrants, societal views can be very different based on an individuals' gender. For example some societies may view women migrants as vulnerable, whereas men may be construed more as a social threat – cheap labour that drives wages of indigenous workers down.

Recognition of gender as an important factor in addressing trafficking has been reflected in European treaties adopted in the past decade. For example, the EU Trafficking Directive[4] (hereafter the Directive) recital reads:

"This Directive recognizes the gender-specific phenomenon of trafficking and that women and men are often trafficked for different purposes. For this reason, assistance and support measures should also be gender-specific where appropriate. The 'push' and 'pull' factors may be different depending on the sectors concerned, such as trafficking in human beings into the sex industry or for labour exploitation in, for example, construction work, the agricultural sector or domestic servitude."

Article 1 of the Directive reminds Member States about the need to apply a gender- sensitive approach. A gender-sensitive approach is also required by the Council of Europe Convention on Action against Trafficking in Human Beings, a treaty that has been ratified by most EU Member States. The significance of gender as a factor in human trafficking led to creating a legal requirement on States to apply a gender-sensitive approach. Yet none of the treaties offer further definition as to how gender should be understood for the purposes of compliance with or implementation of the respective treaty.

Consequently, the key questions to be asked by the States as well as civil society stakeholders are:

What constitutes a gender-sensitive perspective on human trafficking? Does it mean an approach that distinguishes between women and men because their experiences of exploitation are intrinsically different? Or is a gender-sensitive approach one that perceives all trafficked persons as individuals whose rights have been abused because of their – individual or collective – vulnerabilities, understanding that gender may have been one of the reasons why an individual or a group has been exploited?

This report suggests that the latter approach may be closer to what ought to be understood as a gender-sensitive approach.

3 Input from Migrant Rights Centre Ireland.

4 DIRECTIVE 2011/36/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

SECTION 3: GENDER-SENSITIVE APPROACH TO TRAFFICKING FOR LABOUR EXPLOITATION

Several FINE TUNE project partners suggested that a gender-sensitive approach to human trafficking is indivisible from the human rights approach. This corresponds to the requirements of the Council of Europe Trafficking Convention which provides for rights and entitlements for all victims of trafficking, regardless of their nationality, race, religion, gender, etc. Consequently, the obligations of States under international law are to protect the rights of all trafficked persons and any anti-trafficking strategies must be designed with this principle at the centre.

Applying this principle, anti-trafficking policies and programmes need to be developed recognising that trafficked women and men are likely to have different needs. At the same time, policies must also be cognisant of the fact that one trafficked person might have different needs from another trafficked person (whether it be a man or a woman). Differences are derived not just from varied experiences of exploitation, but crucially from the fact that each individual experiences an exploitative situation differently and hence the impact of abuse is likely to differ as well.

Thus, responses must also take into account both gender differences as well as the fact that each trafficked person is an individual and focus equally on the realisation of the rights of all trafficked persons.

Gender as a form of individual vulnerability

The trafficking definition contained in international and European law contains the "abuse of the position of vulnerability" among one of the means[5] utilised by traffickers to abuse their victims. Paragraph 12 of the EU Directive recital also states that: *"Other factors that could be taken into account when assessing the vulnerability of a victim include, for example,* ***gender****, pregnancy, state of health and disability."*

It has been established that gender can be a vulnerability factor. In 2013, the UN Office on Drugs and Crime (UNODC) published an issue paper that provides member states with further interpretation of the meaning of the "abuse of a position of vulnerability", examining the personal and situational vulnerability of a victim and expanding it by considering circumstantial vulnerability. The UNODC considers that: *"More specific factors that are commonly cited as relevant to individual vulnerability to trafficking (and occasionally extrapolated as potential indicators of trafficking), include* ***gender****…"*.[6] In this context, gender is a pre-existing vulnerability that is present before an individual is trafficked and may contribute to their susceptibility to trafficking (often compounded with other factors, such as class or membership of a particular social group).[7]

In order to understand how gender becomes a form of individual vulnerability in some trafficked persons, one needs to examine it on specific trafficking scenarios. Two examples below show how gender is a form of vulnerability abused in the context of trafficking:

5 The definition of trafficking in persons applicable to adults is understood to be comprised of three interdependent elements (acts, means, and purpose). Article 2 of the EU Directive 36/2011 defines trafficking as: "The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation".
6 Abuse of a position of vulnerability and other "means" within the definition of trafficking in persons, UNODC, Vienna, 2013. p.13
7 Ibid.

CASE STUDY 1: DOMESTIC SERVITUDE

R grew up in a poor background in a country in south Asia. Since her childhood, the family treated her and her sisters very differently to their brothers. It was made clear to her that as a girl she is a burden, she is of a lesser value than the boys in her family and that her role is to serve and to follow the orders of her parents/brothers. When she was about ten years old, she was sent to work as a domestic help to a wealthier family that provided her with room and board. She made small amounts of money that were sent to her parents and went to support one of her brothers' schooling. None of the sisters in the family were ever sent to school. When R reached the age of 17, her elder brother brought her back and told her that she was to travel to the Middle East with him where he found a job for her. Because their parents were old now, they needed medical care which was expensive, and R was to make money to contribute to the costs of hospital treatment. In the Middle East she was put to work in a house of a local business man. She suffered horribly in that household; she was subject to regular beatings and verbal abuse, slept on the floor and was given only leftovers to eat. She was also assaulted sexually. All the time she was there she believed that money was being sent back to her brother to support the treatment of the parents. She felt it was her duty to endure the situation to support her parents.

The family R was "working" for owned several properties in England. They travelled regularly to London to spend some time there, and R was required to travel with them and serve them. On one of the visits to London, she was beaten by her employer's wife so badly that she needed medical attention. A doctor in the hospital emergency department who treated R spoke her language and identified that she was a victim of trafficking for labour exploitation and referred her to assistance of a support organisation in London.

R never questioned the behaviour of her parents or her brother. As a girl, she was socialised to be submissive and to learn her place in the world. This learned role made her susceptible to exploitation and trafficking – and was abused by her brother to put her to work in the Middle East. Even once when R left the situation of exploitation and was staying in a safe house, she kept cleaning after everyone and tried to serve. It took a long time in counselling for her to understand where the line is between a job duty and exploitation and to learn to how to say no.

The case of R is illustrative of a situation where gender is a form of vulnerability. A man of the same background as R would have been socialised in a very different way and hence his gender would not have been a form of vulnerability in the same way as R's was.

Equally, the different role ascribed to men in a society/community can also make them vulnerable to exploitation. Case study no. 2 is an example where gender was exploited as a form of vulnerability in a man from Eastern Europe.

CASE STUDY 2: TRAFFICKING FOR LABOUR EXPLOITATION IN AGRICULTURE

P was a skilled engineer and worked in a factory producing machinery in a rural part of a country in Eastern Europe. He had a wife and two small children. He grew up in a community where the expectation on the man is to provide for his family and to be the backbone of the household. At some point, the factory where he worked was sold off to another company that decided to move the production outside of the EU to reduce the costs of labour and closed the premises down. P and many of his friends lost their jobs. He was no longer able to bring in the main income for his family, and his wife's part-time job was not sufficient to sustain all of them. A former workmate of his suggested that they go to work abroad and that he had a cousin in Germany who could get P work repairing tractors and other agricultural machinery. P was delighted about the offer, as has he was getting concerned about being seen as a failure, a "loser" by his friends and community, as someone who could not provide for his family. Unfortunately, things in Germany did not turn out the way that he was promised. When he arrived, he was told that his job was not going to be engineering, but he was to work in an asparagus field. He was supposed to work seven days a week and given a quota that he needed to meet every day. If he failed to meet his quota, he would be fined. He was also told by his former workmate that he had a debt to pay for arrangement of the job and cost of the travel and that this money will be offset against his pay for the first three months. If P were to refuse, his wife would be made to pay the debt.

P felt he had no option but to submit to what was being asked of him. He worked every day, no matter what the weather, to make sure he met his quota. He lived in tents with the other workers, with only one dry toilet for all 15 workers and one water tap for washing. Food was delivered to them three times a day and money for it deducted from their pay. The little money he had left he sent home to his family. When he spoke to his wife once a month, he mentioned nothing about the conditions he was enduring. He was too ashamed to admit that he was being exploited and that he worked as a worker in the field. All he wanted to do was to get through his day and send money back home. When the asparagus season in Germany finished, he was sent by his former workmate to England to work in a chicken factory.

There, the conditions were even worse, as the gangmaster in charge of them was violent and subjected him to verbal and physical abuse. It was then that P started to use alcohol as a means to survive. Because of his dependency on alcohol, he was dismissed and became homeless. He was later identified as a victim of trafficking by a homeless charity in London and referred to a specialised service. P was very difficult to deal with at the beginning; he was heavily alcohol dependent and suicidal.

Eventually, he was able to overcome his dependency and accept counselling to help him deal with the sense of shame and his perception that he was a failure. An NGO assisted him in getting work in decent conditions as an engineer, and he has been able to bring his family over to England to join him.

P was socialised into understanding his role as a man is to provide for his family. Showing weakness or being incapable of supporting of your family meant in his view failure to fulfil his role. It is also likely that if he were indeed unable to support his family, it would have led to him being ostracised by his community. P has taken very long to be able to admit to himself that it was not his fault that he was exploited and eventually decided to undergo counselling. Still, none of his family and friends back home know what happened to him. The way that P was socialised into his role as a man within his family and community was his gender vulnerability – vulnerability that was abused by his workmate who was from the same community and knew about this vulnerability.

Both the case of R and P are examples of gender as a form of vulnerability that make individuals susceptible to trafficking. At the same time, in both cases it is also important to note that it was their gender combined with further circumstances that gave rise to trafficking. In R's case it was poverty; in P's case it was loss of income. While gender on its own can be a form of vulnerability, we often see it being abused when particular circumstances arise. This is an area that would offer itself to further study, which is however outside of the scope of this paper.

Gender: "vulnerability" vs. right to non-discrimination

Root causes of trafficking often impact women and men in different ways. The labour-related causes of trafficking that affect them may be linked to different economic, social or political power men and women hold in a society/community – often as a result of a gender-based discrimination. In the case of women, this would be reflected in a number of ways, such as through barriers in access to education, gender pay gap, unequal access to decent work opportunities, gender-based violence, unemployment or under-employment, feminisation of poverty and migration, gender-insensitive development strategies, restrictive migration laws and policies, conflict (for example, the use of gender-based violence as a weapon of war).

Trade relations may also have an adverse effect on men and women and their family roles, in particular if they result in reduction of social services that are designed for family support (e.g., support or subsidies for childcare, healthcare and education). If people's economic opportunities are restricted, they have to seek opportunities elsewhere, including abroad. For instance, women workers already account for more than a half of the global number of victims of forced labour and labour trafficking,[8] while they also account for nearly half the entire migrant workers' population worldwide today.[9] In some parts of the world, women migrant workers have become a major source of income for their countries of origin. Labour mobility, however, comes with an increased risk of vulnerability to human trafficking.

In order to understand better the underlying causes of human trafficking, the impact of discrimination – including gender discrimination – needs to be examined as an important factor. A perspective that focuses solely on women's or men's vulnerability to trafficking can further fuel such vulnerability by assuming that women and men are unable to exercise agency. Anti-trafficking policy based simply on the notion that people in their gendered roles are vulnerable – i.e., **that vulnerability is something that is an inherent part of being a woman or a man rather than the result of structural discrimination** – results in overlooking people's rights, especially the right to non-discrimination, freedom of association and collective bargaining, the right to protection and the right to remedy and compensation in cases of trafficking and can also result in their being denied their ability to act on their own behalf and to take autonomous decisions.

Approaches **focusing on vulnerability rather than rights can lead to anti-trafficking measures that harm rather than help** and result in policy measures that restrict women's or men's mobility or access to work, instead of addressing human trafficking.

Unionisation has been identified as one of the methods to empower workers who may be at risk of trafficking and exploitation:

Example of unionisation of predominantly female sector – domestic workers in diplomatic households in Belgium

Domestic workers in diplomatic households are predominantly women. The fact that their employers are protected through diplomatic immunity makes it difficult to address the abuse of rights of these workers and ensure their access to justice.

To respond to the hundreds of cases of abuse, trade unions in Belgium have established the inter-trade union of diplomatic workers as a forum to defend the rights of these workers.

A Good Offices Committee (GOC) that was set up works to fulfill the following objectives:

- To attempt to resolve amicably disputes between embassy staff and employees before seeking recourse in a labour court. The inter-trade union will represent the workers during negotiations.
- To draw up a code of good practice for employers, particularly with regard to the regularisation of undeclared work and social security contributions.
- To create a tailor-made law for workers in this sector to guarantee their basic labour rights such as the minimum wage and indexing, holidays and the reimbursement of travel expenses.

The website of the inter-trade union of diplomatic workers is available here:
http://myembassy.be/intersyndicale-ambassades/qui-sommes-nous

In the next section we will examine how gender may impact on an individual's ability to access services for trafficked persons.

8 55% of victims of forced labour and trafficking are estimated to be women. See: ILO (2012) Forced Labour: global estimate.
9 47% of global number of migrant workers are women, a higher proportion in some regions – e.g. Europe, Americas, Oceania. See: ILO (2014)World of Work Report Developing with Jobs, International Labour Office, Geneva, 2014

Gender and access to services

Services for trafficked persons seem to be better accessible for women than for men. However, they also tend to be shaped by gendered ideas about women. There might be a presumption of women's lack of ability to make informed decisions that can result in actions aimed at controlling women's movements (by forcibly removing them from their workplaces – such as "raid and rescue" missions) or by locking women inside shelters during the day. Some services may prioritise women's particular roles when providing assistance, for example by choosing to assist women who are mothers because they are mothers rather than assisting women as autonomous individuals. Service centres for trafficked women usually focus on sexual exploitation. Therefore, they might lack labour-related assistance needed by victims of labour trafficking – such as advice on labour rights or contact channels with trade unions.

Another aspect of gender and access to services is the reach with assistance measures to male victims of trafficking. A unique study into human trafficking of men undertaken in Austria found that men tend to be disadvantaged in access to services in comparison with women because most services for trafficked persons have been designed with female victims of trafficking for sexual exploitation in mind.[10] The study also established that trafficked men were more prone to alcohol dependency or other psychological disorders and proved to be more defiant when it came to compliance with service provision rules. Furthermore, it showed that the experiences of men with exploitation tended to be trivialised by some authorities, as they were not seen as severe compared to those of women that suffered sexual exploitation. The study demonstrated significant gendered perceptions about exploitation and the severity and impact of abuse on the individual. It concluded that while, for example, trafficking in women for forced prostitution is seen as a crime, labour trafficking and exploitation of men is often perceived merely as illegal work and breach of employment regulations rather than a crime.

However, in the experience of service providers who work with men who were trafficked and subject to labour exploitation in the UK and Ireland, it is seen that men are often very traumatised by their experience of trafficking. At the same time, the way most men handle traumatic experiences tends to differ. The Austrian study found that many men were afraid of being perceived as emasculated if they were to admit that they were abused and tend to be reluctant to access counselling.

The legal definition of trafficking in the EU Directive and other international law makes no distinction between trafficking for the purposes of sexual exploitation and labour exploitation and qualifies both as serious crimes. Yet, experiences on the ground across Europe show that this is often not the case and that trafficking for labour exploitation is often considered a lesser crime than sexual exploitation.

In the UK, the common experience of men who come to complain to the police about abuse at the workplace (such as withholding of wages) is that they are turned away and sent to a citizen's advice centre. Rather than spotting a potential indicator of human trafficking, the police often fail to see a crime and perceive their complaints as a civil matter.

In instances like these one can argue that the perception of those dealing with cases of trafficking for labour exploitation may be a result of their gender bias – such as that trafficked men should be expected be able to put up with bad working conditions, because they are "tough guys". By the same token, it is not uncommon to encounter an attitude that women trafficked into domestic servitude should be content with their situation, as household duties are something that they should be used to performing, and that they should be grateful that someone is giving them a roof over their head.

A drop-in centre concept, run jointly by NGOs and trade unions, has been tested as a model of good practice in assisting exploited workers and identification of cases of trafficking. Below is an example from Austria:

Alionis D., Zingerle M,: Male victims of human trafficking in Austria. MEN Mannergesundheitszentrum, Vienna, 2014

Drop-in centre for undocumented workers in Austria: co-operation between trade unions and the feminist organisation of migrant women

The drop-in centre for trade-union support of undocumented workers (UNDOK) opened in 2014 as a project of the Austrian trade unions, the Vienna Labour Chamber, the Austrian Student Union, LEFÖ-IBF (feminist organization of migrant women), other migrant NGOs as well as anti-racist activists. It is facilitated by the Federal Ministry of Labour, Social Affairs and Consumer Protection (BMASK) and the Vienna Employment Promotion Fund and located in the building of the Austrian Federation of Trade Unions (ÖGB).

UNDOK combines the NGO expertise in migration law with trade union competence in labour and social rights. It offers multi-lingual individual counselling and support services for migrants to remedy both irregular residence as well as irregular employment status. Workers without or with a temporary residence permit or with limited access to the labour market are vulnerable to labour exploitation. Their precarious situation is often exploited by employers who impose excessive working hours, pay very low wages and abuse workers physically.

Exploitation and discrimination of undocumented workers leads to an undermining of labour and social standards in general. Hence, the centre plays an important role not only as a step towards better protection of rights of undocumented workers but also as a broader measure to protect rights of all workers.

The website of the centre can be accessed here: www.undok.at

Gender-sensitive support and gender-appropriate services need to take into account that men and women have been socialised into particular roles. And that their gender, i.e., expected role in a society, was abused as a form of vulnerability. In order to address the pre-existing gender-related vulnerability, those who provide assistance will need to understand how gender identity of the individual trafficked person has been construed and develop an individualised approach to minimise this vulnerability.

This is likely to be a long process and one which most systems of protection and assistance created by governments will not support. Yet addressing pre-existing vulnerabilities is key to minimising the risk of re-trafficking – which is an obligation of governments derived from European law.

RESOURCES:

Alionis, D, Zingerele M. Male victims of human trafficking in Austria. MEN Mannergesundheitszetnrum, Vienna 2014

GAATW: Beyond Borders: Exploring Links between Trafficking and Gender. Bangkok, 2010

GAATW Collateral Damage, 2007

ITUC: Living with Economic Insecurity: Women in Precarious Work, Report, available at: http://www.ituc-csi.org/IMG/pdf/Women_8_march_EN.pdf

UNDP: Trafficking in Persons – A Gender Rights Perspective. Undated

UNODC: Abuse of a position of vulnerability and other "means" within the definition of trafficking in persons. Issue Paper. Vienna, 2013

US Department of State: Gender Imbalance in Human Trafficking. Washington DC, June 2009