

Addressing the Demand Side of Trafficking

By Phil Marshall

This paper briefly raises some issues around the demand side of trafficking, initially focusing on demand relating to exploitative labour practices and then discussing issues around demand contributing to exploitation for sexual purposes. It is very much an opinion piece, intended to promote discussion.

The demand side of trafficking has started to attract more attention in recent times, perhaps due to the lack of evidence for success of prevention programmes that focus on what is often called the supply-side – reducing the number of people that are vulnerable to being trafficked. This lack of progress on the supply side is hardly surprising given the size of the potential supply pool, that is the number of potential migrants who, in the absence of effective protection, are vulnerable to being exploited.¹

At the same time, we are able to point to some success in preventing trafficking, or at least exploitative labour practices – on the demand side. Most famously, the Atlantic slave trade was ended in the early 19th Century, not by awareness raising posters in villages in Africa, but by going after the demand for slaves. More recently, progress has been made against exploitative child labour in various industries, including textiles and chocolate, through encouraging consumer demand toward non child-made products.

This progress is not linear and far from absolute. However, it does raise the question as to why we continue to focus most of our prevention programs on the supply side despite, I would argue, almost nothing tangible to show for years and hundreds of millions of dollars of effort.

Demand side approaches seem to make sense because, ultimately, the exploitative and abusive practices that distinguish trafficking from the simple movement of people (legal or illegal) are caused not by the victims but by the perpetrators. In most cases, the main driving force behind this action is that the rewards, primarily economic, outweigh the risks of being caught.

Committing this action also requires that the value system of the exploiter does not prevent him/her from involvement in exploitative practices. So it seems clear that if we are able to limit the rewards, while also working to address the values (e.g. indifference to suffering of people seen as different on the basis of race, sex, age or social status) that provide an enabling environment for exploitation and the forced labor and services of trafficking, we are going to have an impact on the problem.

¹ For more discussion of this point see, for example, Jacqueline Berman and Phil Marshall, Evaluation of the International Organization for Migration and its Efforts to Combat Human Trafficking, Norwegian Agency for Development Cooperation, Oslo 2011, accessed from: <http://www.norad.no/en/tools-and-publications/publications/evaluations/publication?key=259795>, 3 January 2012.

Different people have different ideas about what tackling the demand side involves. However, we can say this essentially takes two forms: (i) tackling the traffickers (particularly the end exploiters) whose greed motivates the victimization of vulnerable individuals; and (ii) tackling the consumers whose demand determines profitability. These consumers may include both end consumers of goods and services and companies that consume/buy products from those further down the supply chain. Ultimately, these are the groups that benefit – knowingly or unknowingly – from the exploitation of labor and resulting cheap labor.

These forms of demand are linked in the sense that a change in the demand patterns of consumers will impact on the profits. This change in demand patterns in turn impacts on the behavior of exploiters, as in the child labour examples above, where buyers no longer just demanded certain products but they demanded that they be child labor free. In some cases, the end consumer comes into direct contact with the trafficking victim. This includes victims of trafficking for prostitution and victims of trafficking for domestic servitude.

Looking first at what is commonly called labor exploitation (that is, exploitation linked to the production of goods and services), there are a number of different ways to address demand. These include: improving labour standards; targeting exploitative supply chains through consumer action; strengthening law enforcement against exploiters; and criminalizing the buying of goods and services produced by trafficked persons.

Improving labor standards

Research by Anderson and O’Connell-Davidson pointed out that demand for the labour or services of trafficked persons is absent or markedly lower where workers are organized and where labour standards for wages, working hours and conditions, and health and safety, are monitored and enforced.² This suggests that strong labour laws and improved implementation would have a direct impact on trafficking for forced and exploitative labour, provided they could be extended to cover all workers, including migrant workers who are currently undocumented. (There are a number of ways this could be done including increasing legal migration channels to reduce the number of undocumented workers and recognizing the rights of undocumented workers).

Anderson and O’Connell-Davidson’s analysis is supported by the fact that two common end points for trafficking – the sex trade (see next section) and domestic work – are sectors with little or no labor protection and are in fact rarely covered by labor laws. While the controversy around sex work means that a labor standards approach is unlikely to be even considered in many countries, there does appear to be some scope for wider introduction of labor laws to cover domestic work. In this light, it is worth noting the recent adoption of new, and long overdue, ILO Convention *Decent Work For Domestic Workers* in June 2011. The Convention sets some minimum standards and,

² Bridget Anderson and Julia O’Connell-Davidson, *Trafficking: A Demand-led Problem? A Multi-country Pilot Study* (Save the Children, 2002), p. 54, <http://www.unodc.org/pdf/brazil/trafficking-a%20demand%20led%20problem.pdf>.

perhaps more importantly, facilitates the recognition that domestic work is indeed work. This appears highly significant. While domestic labor laws might not always be easy to enforce, measures to identify domestic work as work have a potentially important normative role in encouraging people to think about domestic work as a job, with accompanying entitlements to appropriate working hours, leave and benefits.

Notwithstanding the above exceptions, many sectors into which people are trafficked are already covered by labor laws and standards. However, these are not routinely enforced. Countering exploitative practices/trafficking and forced labor in these sectors would require not just stronger action against employers found to be in breach of these laws and standards but also measures to ensure that migrant workers have access to remedies for exploitation and abuse, regardless of their legal status.

Irregular migrants make particularly easy targets for exploitation as any complaint is likely to be met with deportation - in some cases resulting from direct collaboration between exploiters and law enforcement. One landmark decision on this point comes from Greece where, in 2007, the Greek Supreme Court extended workers rights to undocumented workers. This decision means that undocumented migrant workers can collect unpaid wages from employers, which are assessed on the basis of industry standard for documented workers.

Supply chain analysis

Another entry point to addressing the demand side of trafficking is through end consumers. Consumer-led campaigns have proven successful in changing producer behavior in products ranging from carpets to clothes to cocoa to tuna. Research in Europe has highlighted that at least 20% of consumers would pay considerably more for products to reflect their ethical values in their purchase.

To be effective, and allow consumers to put pressure on businesses, raising the consciousness of consumers on exploitative practices must be accompanied by an understanding of supply chains. Many businesses source their end products from multiple suppliers and may not themselves know exactly where all their products come from. In the past, some companies have used this to distance themselves from reports of exploitation and abuse. It is easy for large corporations to say they do not engage with exploitative companies because, in a direct sense, they usually do not.

However, experience shows that supply chain analysis can be done. Methodologies to conduct supply chain analysis are already available and there are companies (e.g. Verité) that specialize in doing this on a confidential basis. The issue is therefore fundamentally about priorities. It follows that if the responsibility of a company to ensure their supply chains are 'clean' can be linked to profitability and company image, supply chain management will have higher priority.

A notable recent development in this regard is the Californian Transparency in Supply Chains Act, which came into force on 1 January, 2012. This requires large companies doing business in the state to post on their website the extent to which they: verify trafficking and addresses risk, conduct audit of suppliers; require direct suppliers to certify materials; maintain internal accountability; and provide training to employees

and managers on these issues. While not requiring any specific action, it creates a potential pressure point in terms of exploitative supply chains.

Improved Law Enforcement

Improved and better targeted law enforcement against exploitative practices would by definition reduce demand for trafficked labor. This is, however, complicated by a number of factors, notably corruption. There are also well documented and justifiable objections to existing law enforcement approaches in terms of its negative impacts on both victims and non-victims. Like other aspects of the trafficking response, law enforcement further takes place in many countries against a background of societal indifference to the suffering of people seen as 'other' (migrants, women, children, ethnic minorities, those in the sex trade), resulting in systematic action against trafficking networks being seen as low priority.

Law enforcement is however, also complicated by the way the anti-TIP sector approaches its work. I find it extraordinary that the number of successful prosecutions on trafficking remains the flagship indicator for the law enforcement, and possibly even the whole trafficking, response. Notwithstanding the extremely low number of convictions compared to identified victims, a focus on prosecution numbers often rewards lack of due judicial processes and encourages a focus on minor players – effectively saying that the jailing of two rickshaw wallahs is twice as valuable as the successful prosecution of Al Capone.

It further reflects negatively on those who respond to trafficking using the range of other existing and often much more enforceable laws on, for example, violence and deprivation of liberty, and does nothing to promote the unraveling of trafficking networks. On this note, I once witnessed training materials by a well-known international organization asserting that 'if we break one link in the trafficking chain, we break the chain.' This is not true of course – trafficking networks do not function as a unique chain for a start and the smaller players, recruiters and transporters are often as dispensable as the victims.

So, while addressing some of the issues that affect law enforcement is extremely difficult, I suggest we could improve our approach in a number of ways. As a starting point, I would like to suggest more clarity with regard to the objectives of criminal justice responses. While I concur with the commonly stated objectives of securing justice for victims and ending impunity for perpetrators, an equally important objective is surely to make trafficking an uneconomic criminal business. This involves action not just against the smaller players but against entire networks, in particular the targeting of economic assets.

Criminalizing Demand for Sex Work

There have been three great social experiments in the twentieth century and they have all been failures. Most of us are clear about fascism and communism. It's about time we got clear on prohibition (Australian High Court Justice Michael Kirby).³

I was one of those on the 2002 panel to finalise the UN Principles and Guidelines on Human Rights and Human Trafficking⁴ and was one of those most keen to have demand included as one of the root causes of trafficking (I now think trafficking has only one root cause – greed). In my naivety, I did not foresee this being implied to mean demand for paid sex in general. I am thankful to Anne Gallagher's recent Commentary for clarifying this point.⁵

In the intervening period, Sweden has not only criminalized buyers of sex, but congratulated themselves on the results and is now seemingly trying to export it. Again, I am no expert on this but I understand that the women involved in Sweden do not feel the same way as the government about the results, as it has caused them to lose most of their preferred clients and results in more risky transactions. This is something that would apparently matter a lot more if the women were not sex workers. At the end of the day, Sweden is pursuing a policy around sex work that is not supported by those most affected, and often has direct and indirect negative consequences on them.

Further, as Justice Kirby highlights, there is a historic failure of prohibition-based approaches in areas of sufficient demand and supply to actual prohibit anything – alcohol, illicit drugs, cross-border migration and prostitution as examples. Rather, the major success such policies have had has been to promote organized crime. Prohibitive approaches to the sex trade simply provide a business incentive to traffickers and exploiters, already acting outside the law, to increase revenues through the use of children who attract a premium, and to lower costs, through use of trafficking victims.

I wasn't intending to say much more on this particular part of the topic than that. But since I started this article, I have come across a paper funded by USAID entitled '[Tackling the Demand that Fosters Human Trafficking](#).' I am rather disturbed by what seems to be a combination of heroic conceptual leaps and significant omissions.

The paper notes that the vast majority of buyers of sex do not specifically demand trafficking victims. In other words, the problem is not actually the demand itself. It is how that demand is being met. It would seem a reasonable conclusion that we need to

³ This is a quote from a speech to an HIV/AIDS Conference I attended more than a decade ago. I am confident of the meaning but have been unable to find a copy of the speech so I apologise to Justice Kirby if the exact wording is incorrect.

⁴ OCHCR, 2002. Recommended Principles on Human Rights and Human Trafficking, Office of the United Nations High Commissioner for Human Rights, Geneva. Available at http://www.ungift.org/knowledgehub/publications.html?vf=/doc/knowledgehub/resource-centre/OHCHR_Guidelines_and_Principles_2002.pdf.

⁵ Gallagher, A., 2010. "Commentary to the Recommended Principles and Guidelines on Human Rights and Human Trafficking" Available at: http://works.bepress.com/anne_gallagher/15.

therefore focus our efforts on how sexual services are made available and how exploitation can be reduced. Strangely, or perhaps not, this is essentially what is being advocated above with regards to demand for workers to exploit in the production of goods or non-sexual services.

Using established behavioural theory, the appropriate approach would perhaps include segmenting the clients into those who are potentially allies and would report cases of forced/child prostitution, those who are ambivalent and could be scared off by the prospect of being charged with knowingly buying sex from a trafficked person, however remote, and those who actively seek trafficking victims, who need to have it chopped off.

Instead, suspending both historical evidence and behavioural theory, the paper somehow jumps from the idea that the vast majority of men are not seeking sex from trafficked victims to the idea that criminalising the buying of sex is a key strategy for reducing exploitation. So, let's take a look at what the thoughts, assumptions and omissions that underlie this.

It is true that if there was no demand for prostitution, there would be no prostitution and therefore no trafficking for prostitution. It is also true that, as pointed out in the [letter](#) elsewhere on this site to U.S. Trafficking in Persons' Ambassador CdeBaca on this same subject, there would be no trafficking into domestic servitude if there was no demand for domestic workers, no trafficking into fisheries if there was no demand for fish, etc. And of course we can extend that to plantations, adoption, organs, and of course marriage, etc. So if we all grow our own food, let people who need new organs die, leave children in orphanages and don't get married, we can stop trafficking dead in its tracks.

Short of that, let's look at the underlying idea that reducing demand for paid sex will reduce trafficking into prostitution. First, it assumes that the level of *highly exploitative* prostitution will fall proportionally with the level of all prostitution. In other words, that clients deterred from buying sex would be equally distributed along what we might call the exploitative continuum. This is an assumption which I understand is not backed up by experience in Sweden, where the women report loss of their more valued and trusted clients. This is understandable since men who were totally indifferent to the plight of trafficked women would seem generally less likely to be deterred by the remote possibility of criminal action than those seen by the women as trusted clients.

Second, it assumes that demand reduction measures will not have any impact on the way that prostitution is carried out, or specifically, that it will not increase the risks for the women involved. This assumption is not only unproven but difficult to sustain, as easily shown by considering the difference in risks faced by street walkers sizing up clients over a reasonable period of time in a well-lit area, to those involved in getting into a car immediately in a dark alley. It also goes against the lessons relating to demand in other sectors, such as those wanting to take drugs such as opium or ecstasy, or to crossing borders. The markets may be smaller where this demand is cracked down on but there is certainly evidence to suggest the overall harm is no less.

Further, the women in prostitution who are not trafficked/forced are by definition choosing this from a limited range of options. By attempting to take away their

customers, we are effectively forcing them to undertake alternative activities that they themselves regard as being worse than the *unspeakable horror* of paid sex. So, we are either being imperialistic (telling people they don't know what is best for themselves) or wilfully choosing to make life worse for those we claim to be helping. I can't think of an alternative to those two choices.

Even if we were, as a leap of faith, to accept that reduced demand for prostitution would reduce demand for trafficking, criminalising this demand is not the only available avenue. As with most markets, demand would fall with a rise in price. This could be done by improving conditions in the trade. Or reducing the number of those involved by working with sex workers to devise realistic programs that would allow them to exit voluntarily and find other work. Yet nowhere in the USAID paper are these issues discussed. While it is known that women often resort to prostitution to support their children, for example, there is no reference in the paper to lack of enforcement of child support laws, or lack of access to affordable credit, or agricultural subsidies in the rich countries that help keep women poor (see [Neil Howard's excellent article](#) on cotton subsidies on this site)⁶, or to lack of protection for children who suffer from abuse and run away from home where they are vulnerable to much more abuse, but from strangers.

So, in summary, the argument for criminalising demand for paid sex is based on a highly questionable assumption that reducing demand for prostitution in general will reduce demand for exploitative prostitution, which in turn will reduce trafficking into the trade. The proposed measures to do so are simplistic and ignore anything related to empowering those concerned. Empowerment measures are opposed by, among others, the so-called Christian Right, which objects to anything that can be construed as saying it is okay to sell sex. As the son of a clergyman, I tend to believe that Jesus would be more inclined to approaches grounded in compassion, empathy, and nonjudgmental support.

Conclusion

Ultimately, like all forms of organized crime, trafficking is a business. Basic economics dictates that increasing the costs of doing business and reducing the rewards will lead to a reduction in the size of this business. While most efforts to date have focused on supply-side factors, in an attempt to reduce the number of people vulnerable to exploitation, the sheer size of the potential supply pool calls into question the efficiency of this approach. And this has been borne out by experience to date.

I am yet to see evidence that supply-side prevention interventions such as poverty alleviation, micro-credit, education, most of which have been going on for several decades under other names, have or can have any real impact on trafficking in overall

⁶ There is also a broader issue about sex as an economic commodity in contexts other than prostitution which is too big for this paper, but if you look at a picture of, say, top golfers and their wives you will probably get the gist of it.

terms. Further, I am yet to see a theory of change which suggests how this even might work.

On the other hand, there have been examples of success in addressing trafficking through the demand side. As noted above, demand for the labour or services of trafficked persons is absent or markedly lower where workers are organized and where labour standards for wages, working hours and conditions, and health and safety, are monitored and enforced. Increased direct action by authorities to improve and enforce labor standards would thus have a major impact on trafficking and this is one strategy that should be pursued more actively.

At the same time, governments are often reluctant to address these issues for fear of alienating private sector interests. Alternative impetus for improved labor conditions may be obtained by harnessing the power of consumers and a distaste for products and services produced by unfree labor. This requires a combination of raising consumer consciousness and motivation and a focus on supply-chains to link exploitative practices with end products. Links can be made with labour rights groups, many of whom address these issues outside the label of trafficking.

While some companies claim supply-chain analysis is too complex, there is plenty of evidence that it can be done with the right incentives. Indeed, an attraction of the supply-chain approach is that it potentially aligns profitability with action against, rather than toleration of, exploitative practices. While lax law enforcement, government indifference and corruption can undermine attempts to clean up exploitative practices, consumers simply cannot be forced to buy products they perceive as being tainted with slave-like practices.

As for demand for the sex trade, there appears little empirical basis for equating a fall in demand for paid sex in general, with a fall in demand for trafficked persons. Without such a linkage, the rationale for criminalizing demand as an anti-trafficking strategy disappears. Further, by pushing the sex trade further underground, such action potentially exposes those selling sex into situations of greater risk and vulnerability, surely the exact opposite of what is required.

Phil Marshall is the Director of Research Communications Group (www.rcgglobal.net). You can contact him at pmarshall@rcgglobal.net