

Challenges Facing Law Enforcement Officers in Combating Sex Trafficking in Hungary:

How Laws, Structure and Culture Prevent Effective Intervention

**Conducted by the Hungary Trafficking Workshop Team of the Woodrow Wilson
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EXECUTIVE SUMMARY

A number of factors make trafficking in persons a particularly difficult issue to address. These include the illicit nature of the crime, the globalization of criminal networks, and various misconceptions about the definition and dynamics of trafficking.

The Trafficking in Persons (TIP) Office faces the difficult task of evaluating government efforts to combat this increasingly complex crime. We initially sought to assist the United States Embassy in Hungary by assessing the impact of one such effort: a training program conducted by the International Organization for Migration (IOM) to sensitize Hungarian police and border guards to the problem of human trafficking. Situated along a corridor between Eastern and Western Europe, Hungary has become a key transit country for a wide range of intra-regional transactions, including trafficking in persons.

Once on the ground, we realized that despite the merits of the training, a variety of structural issues – legal, administrative and cultural – made it difficult for officers to internalize and implement the lessons they had learned. This underscored the need to develop a guided approach to assessing anti-trafficking interventions, one that takes into account the broader context in which law enforcement officers operate. This report proposes an analytical framework to assist the TIP Office in assessing anti-trafficking efforts.

This framework consists of three main elements. The first is an assessment of a country's anti-trafficking efforts by understanding how key players conceptualize trafficking. In Hungary, we found that law enforcement officials held very different understandings of trafficking, many of which were inconsistent with Hungarian and international law.

Second is a mapping of a country's law enforcement structure as it pertains to trafficking in persons and related activities. No level of training can overcome a flawed structure that prevents local, regional and national forces from effectively taking on the issue of trafficking in persons. In Hungary, a lack of communication within and among agencies, the existence of institutional disincentives to 'investigate' suspicious people and activity, and the police bureaucracy's inability to transform itself to deal with increasingly globalized criminal networks have resulted in a less than optimal response to trafficking.

Third is description of the cultural, socioeconomic and political context in which trafficking in persons occurs in a particular country. In particular, flaws in the law enforcement structure may allow gender and ethnic biases to come to the forefront, undermining anti-trafficking efforts. For example, in Hungary, we found that police were largely unresponsive to the needs of women and Roma, even though those groups were disproportionately affected by trafficking.

This framework is intended to guide the TIP Office in understanding the context in which law enforcement officers experience and combat trafficking. The three issues outlined above can be reformulated as broad questions:

- 1) How does the country conceive of trafficking through legal regimes affecting traffickers and trafficked persons including its laws on trafficking, prostitution, and border control?
- 2) How are the country's law enforcement authorities structured to carry out counter-trafficking activities including prevention efforts, investigation, prosecution, and victim assistance?
- 3) How do social, cultural, economic, and political factors complicate the situation within the country?

More specifically, in assessing countries' anti-trafficking efforts, we recommend that the TIP Office:

- 1) Analyze how a country's legal definition of trafficking works with other domestic and international laws to frame who may be considered a perpetrator or victim of trafficking.
- 2) Determine how legal incentives push or restrain law enforcement officials from investigating and prosecuting traffickers, and finding and assisting trafficked persons.
- 3) Identify which government agencies come into contact with traffickers and trafficked persons and the type of authority, if any, these institutions exercise to combat the problem.
- 4) Highlight how structural incentives facilitate or backstop information sharing and cooperation on counter-trafficking efforts between institutions, paying attention to administrative, hierarchical and geographical divisions.
- 5) Understand how cultural norms shape and potentially limit the accessibility of law enforcement authorities to trafficked persons, especially within marginalized communities.

While this framework was developed based on our experiences in Hungary, it can be applied to other countries. We believe that greater attention to the underlying structural issues will enable the TIP Office to more accurately assess which anti-trafficking interventions are well designed, and which are unlikely to have a lasting or significant impact.

PART I: SETTING THE STAGE

I. Introduction

It is estimated that millions of people worldwide fall victim to sex, labor and other forms of trafficking each year. Trafficking in persons is defined as the recruitment, or transportation of a person for the purpose of exploitation of that person's labor or services. The illicit nature of trafficking renders accurate assessment of its magnitude and scope within many countries difficult.

The Trafficking in Persons (TIP) Office faces the difficult task of evaluating whether and how governments are undertaking concrete efforts to combat this increasingly complex problem. One approach countries have taken is to institute law enforcement training to improve awareness and understanding of trafficking among law enforcement officials. We initially sought to assist the United States Embassy in Hungary by assessing the impact of one such training: a program conducted by the International Organization for Migration (IOM) to sensitize Hungarian police and border guards to human trafficking.

We decided to focus on Hungary for a number of reasons. Situated along a corridor between Eastern and Western Europe, Hungary has become a key transit country for various intra-regional transactions, both legitimate and illicit. In particular, it has become a gateway to Western Europe for persons trafficked from Eurasia. With its accession to the European Union, Hungary now forms the eastern edge of the EU; its importance in this area will increase as it assumes responsibility for monitoring those who enter and exit the EU. In 2007, Hungary will officially become subject to the Schengen Agreement,¹ which applies to countries within the European Union and enables citizens of participating states to cross shared borders without checks. With fewer border checks between EU states, those along the perimeter will be tasked with controlling entry into the EU. Consequently, Hungary will serve as a first line of defense against trafficking for the EU.

Once our research team reached Hungary, we encountered a number of complicating conditions that prompted us to redefine our project. It was difficult to gain access to a significant number of IOM-trained officers. More importantly, our interviews revealed that regardless of whether or not individuals had received training, many were confused about the definition of trafficking, the respective roles of the various implementing agencies, and the appropriate response to the problem. It became apparent that despite the merits of the training, a variety of structural issues – legal, administrative and cultural – made it difficult for officers to internalize and implement the lessons they had learned. We realized that conducting an impact evaluation of the IOM training was not particularly helpful, unless we could understand the broader context in which law enforcement officials operate that creates legal, structural and cultural barriers to

¹ Breffni O'Rourke, "New EU states to join Schengen open-border agreement in 2007," http://www.eubusiness.com/topics/East_Europe/scheng. 2005-04-07

effectively addressing trafficking. As we continued with our research, we concluded that training in the current Hungarian legal, administrative and cultural context could only have limited effective impact on counter- trafficking efforts.

Instead, we concluded that before investments in training are made in any country, the TIP office and U.S. Embassy personnel should map a country's current legal, administrative and cultural context as it pertains to trafficking in persons. Such a mapping would help provide strategic guidance for resource and policy interventions. Our experience in Hungary underscored the need to develop a guided approach to evaluate a country's capacity and willingness to combat trafficking.

In our review of the State Department's TIP report and related literature, we found that such a strategic country-by-country evaluation of the legal, administrative and cultural context within which trafficking operates is a critical, informative baseline. Its absence limits any programmatic implementation and evaluation effort. Therefore, rather than evaluating IOM's training, this report proposes an analytical framework to assist the TIP Office in doing so. There are three main elements to this framework.

The first is an assessment of how the key players actually conceptualize trafficking according to the law. In Hungary, we found that law enforcement officials had very different understandings of trafficking, many of which were inconsistent with Hungarian and international law. For example, many of the officers with whom we spoke tended to conflate trafficking with smuggling, or treated trafficking and domestic prostitution as entirely distinct spheres of activity. These misunderstandings led officers to routinely discount a wide range of cases that could qualify as trafficking.

The second is a mapping of the country's law enforcement structure. No level of training can overcome a flawed structure that prevents local, regional and national forces from effectively taking on trafficking in persons. In Hungary, a lack of communication within and among agencies, the existence of institutional disincentives to 'investigate' suspicious people and activity, and the police bureaucracy's inability to transform itself to deal with increasingly globalized criminal networks have resulted in a less than optimal response to trafficking.

The third is an analysis of the cultural, socioeconomic and political context in which trafficking in persons occurs. This element is crucial as structural flaws may allow gender and ethnic biases to come to the forefront, undermining anti-trafficking efforts. For example, in Hungary, we found that police were largely unresponsive to the needs of women and Roma, even though those groups were disproportionately affected by trafficking. In the absence of institutionalized accountability to temper these prejudices, training is unlikely to have a major impact.

This three part framework is intended to provide a guide for the TIP Office as they develop information baselines about the broader context in which law enforcement officers experience and combat trafficking. Although the framework grew out of our experiences in Hungary, we believe that Hungary's different experiences as source,

transit, and destination country, render it applicable to a wide range of law enforcement structures and social, political and cultural conditions likely to be encountered in other settings.

This report begins in Chapter II with a brief overview of trafficking in Hungary – the scope of the problem, the broader context in which it occurs (e.g., its connection to other forms of illicit activity), and efforts to address trafficking through training. Chapter III explains our methodology for conducting an analysis of the legal, structural and cultural barriers that prevent effective anti-trafficking interventions.

In Part II, we provide a three-part framework for analyzing counter-trafficking efforts and apply this framework to Hungary. In Chapter IV, we discuss the legal environment in which trafficking occurs, noting that widespread confusion about Hungary’s trafficking and prostitution laws has led to a sub-optimal response on the part of police and border guards. Chapter V examines the flaws in the law enforcement structure, including poor communication among and within agencies, disincentives to investigate trafficking, and corruption. Chapter VI analyzes how when law enforcement administrative structure is dysfunctional, gender and ethnic biases may go unchecked, undermining law enforcement’s efforts to combat trafficking. Each part includes recommendations, both general and country-specific, to guide TIP in its country assessments. Chapter VII briefly revisits the issue of training, highlighting the difficulty of conducting effective trainings for countering trafficking given existing legal, structural and cultural forces, and identifying what aspects could improve the efficacy of training. Finally, the report concludes in Part III with comprehensive recommendations on what could improve law enforcement’s response to sex trafficking within Hungary.

II. Trafficking in Persons in Hungary

A. The Problem: Scope and Nature of Trafficking in Hungary

Hungary currently lacks reliable estimates of the number of people who are trafficked to, from and through the country annually. This is partly due to the fact that no agency has been charged with compiling national data on victims of trafficking. At present, statistics are maintained at the local level. Recent estimates have suggested that “as many as 150,000 victims transit through Hungary each year.”² However, this figure is believed to be too high, as it conflates smuggling and trafficking.³

Prosecution statistics are available, but fail to capture the scope and gravity of Hungary’s trafficking problem. Only 22 individuals were prosecuted under Hungary’s trafficking

² United States of America State Department, Trafficking in Persons Report (Washington, D.C.: State Department, June 2004), 147.

³ Khushbu Srivastava and Nus Choudhury, Interview with Jozef Poltl, National Police Headquarters of Hungary, National Bureau of Investigation, Organized Crime Department, Division of Trafficking in Human Beings, Budapest, 19 March 2005.

law in 2004.⁴ This low rate of prosecution is due to a number of factors: trafficking victims are often too intimidated to testify against their traffickers; police systematically fail to recognize trafficking victims; border guards lack jurisdiction to investigate suspected trafficking cases; and perverse incentives discourage the police from investigating trafficking cases. In short, prosecution statistics do not reflect the fact that a large number of trafficking cases are never detected, and those that are detected are rarely prosecuted.

It is also difficult to gauge what forms of trafficking are most prevalent in Hungary. The prosecution data provided by the National Police was not disaggregated to distinguish between sex, labor and other forms of trafficking. Moreover, any effort to extrapolate based on such a small sample would be inconclusive. The division leader of the Criminal Investigation and Intelligence Department of the Hungarian Border Guards reported that 60 percent of Hungarian trafficking cases were related to forced labor while the other 40 percent were related to other forms of trafficking, such as forced sex labor.⁵ By contrast, most of the police officers and border guards we interviewed spoke of trafficking almost exclusively in terms of the sex trade; this conflation of trafficking with sex trafficking was likely due both to misunderstandings of the definition of trafficking and, as we note in Chapter III, translation issues.

The lack of reliable data on trafficking in Hungary poses a serious challenge to the police's anti-trafficking efforts. Many officers said that they could not gauge the gravity of Hungary's trafficking problem because of the absence of data. One officer responded, "I don't have an answer because I don't have any data. You need to ask someone with data who knows about this. I have only heard lectures about it."⁶ The scarcity and inconsistency of statistics, and the fact that prosecution statistics tend to seriously downplay the prevalence of trafficking, give the impression that trafficking is not a major problem in Hungary. This creates a vicious cycle – law enforcement officials fail to investigate trafficking because they perceive it to be a minor problem; yet, their failure to investigate further exacerbates the deficiency of data on the crime.

B. The Context: Trafficking and Other Illicit Transactions

Trafficking in persons typically occurs in the shadow of a range of other illicit transactions. In Hungary, trafficking is variously connected to smuggling, organized crime, corruption and, most notably, prostitution.

Trafficking in persons and prostitution are linked in complex ways. While not all prostitutes in Hungary are victims of trafficking, the interviews we conducted with law

⁴ TIP Report, US State Department, 2004.

⁵ Nus Choudhury and Alyson Zureick, Interview with Zoltan Boross, Division Leader of Criminal Investigation and Intelligence Department, National Headquarters of Hungarian Border Guards, Budapest, 17 March 2005.

⁶ Khushbu Srivastava and Tressa Johnson, Interview with Captain at Rail Station, Miskolc, 16 March 2005.

enforcement officials and service providers⁷ suggest that many prostitutes should be categorized as such under Hungarian and international law. Prostitution in Hungary is not entirely illegal – municipalities are obligated to establish “zones of tolerance” in which prostitutes may operate. However, outside of Budapest and Miskolc, no zones have actually been established. As a result, prostitution has been driven indoors and police officers have had greater difficulty identifying victims and perpetrators of trafficking, and are subject to fewer incentives to do so.

Trafficking may also be closely connected with smuggling. While the former involves an element of coercion and exploitation the latter is voluntarily self-determined. Many of the border guards we interviewed asserted that smuggling was a much bigger issue in Hungary than trafficking, although statistics remain unavailable. At the same time, they acknowledged that it was often difficult to distinguish between the two. This is because smuggling and trafficking are often part of the same process; a person may be voluntarily smuggled into a country, only to face exploitation, coercion or bondage at a later point in time. As one law enforcement official noted, “For the border guard, what he sees is that someone pays for entry – he doesn’t know whether that person will be pushed into slavery afterwards.”

Some of the police officers interviewed for this project pointed to the involvement of organized crime elements in trafficking in persons. In particular, they suggested that the Ukrainian, Russian and/or Albanian mafia controlled (e.g., through extortion) many of the strip clubs where trafficked women were believed to be held.

Corruption may also impede efforts to combat trafficking in Hungary. Law enforcement officials have been known to demand “police benefits” – in the form of money or discounted/free sexual favors – from prostitutes, who feel pressured to comply in order to avoid being arrested, reported or otherwise harassed. This complicity makes trafficking victims who have been forced into sex work reluctant to seek out police assistance. Corruption also appears to be prevalent among border guards (although one deputy commander insisted that monitoring has improved). In the past, smugglers have paid off border guards to obtain easier entry or to glean tips about which areas of the border are being patrolled.

C. Interventions: IOM Training

One response to Hungary’s trafficking problem has been the implementation of training programs to enhance awareness and understanding of the issue. Last year, the International Organization for Migration (IOM) launched a series of anti-trafficking workshops geared towards police, border guards, key governmental representatives, as well as relevant NGOs and media organizations. The project employed a “Training of Trainers” method, whereby a limited number of participants (25) attended a training in

⁷The term “service providers” refers to NGOs that provide a range of services—such as legal referrals, counseling and shelters—to prostitutes, domestic violence victims, and/or victims of trafficking. Many of these NGOs also work to educate the broader Hungarian population about these issues.

Budapest, then led regional workshops to train others. In total, the IOM conducted four training programs: the national training in Budapest, and three follow-up regional programs organized by the national trainers.

The IOM training covered a wide range of topics, including: an overview of international, EU and Hungarian laws on trafficking; the relationship between trafficking in persons and organized crime; the experiences of trafficking victims (including post-traumatic stress disorder); and the relationship between gender roles, sexual violence and trafficking in persons. Some role playing exercises were also included. Evaluations of the training were generally positive, although the gender-related topics earned relatively low ratings from participants, some of whom felt that there was too much emphasis on gender and that their feminist approach was biased.

Despite the generally positive feedback, our interviews with IOM trained law enforcement officials revealed that the trainings had only a limited impact. Some officers were unable to define trafficking, and those who were able to do so still had difficulty recognizing real-life cases of trafficking. As noted above, we realized that a number of structural issues – legal, administrative and cultural – continued to shape the way police officers and border guards conceptualized and responded to trafficking. This observation underscored the need to shift our project from evaluating the impact of the IOM training to providing a framework for analyzing baseline information about the legal, administrative and cultural context in which of law enforcement structure operates.

III. Methodology

Project Definition

The project was conducted by a team of graduate students and faculty from Princeton University's Woodrow Wilson School of Public and International Affairs and Central European University in Hungary. The motivation behind the project was to aid our client, the United States Embassy, in assessing Hungary's anti-trafficking efforts for the State Department's Trafficking in Persons Report. As noted in Chapter 1, we initially planned to evaluate the impact of a series of IOM trainings on the attitudes of participating police officers and border guards. However, given the difficulty of gaining access to a significant number of trainees, we modified our research design. Rather than conduct an impact evaluation, we decided to do a broader qualitative assessment of the attitudes of Hungarian police and border guards towards trafficking, and the structural problems impeding effective intervention.

Evaluation Design

The team conducted a series of interviews based on two qualitative surveys targeted at two broad groups:

- Police officers and Border Guards

- Service providers (NGOs working on human trafficking issues)

The working team collected survey data in five locations:

- **Budapest:** Hungary’s capital and largest city seats the ministries that currently exercise jurisdiction over trafficking, the National Headquarters of the Border Guards, and most NGOs working on human trafficking and prostitution.
- **Miskolc:** Situated near the Slovakian border, this is the only Hungarian city outside of Budapest to authorize the creation of a “zone of tolerance” for prostitution (although the zone is no longer in existence).
- **Nyirbator:** This Eastern Hungarian town is the site of the Regional Border Guard Offices responsible for the Hungarian-Ukrainian border.
- **Hungarian-Ukrainian border checkpoint:** The border guards at this site monitor transit to and from the Ukraine, one of the major source countries for trafficked women.
- **Nyiregyhaza:** Also in Eastern Hungary, Nyiregyhaza has one of the largest numbers of prostitutes per square kilometer in the country.

Working with colleagues at the Central European University, we were able to hire translators for the interviews. Most of the interviews were conducted in Hungarian and translated into English. We consulted outside experts regarding the appropriate translation for “trafficking in persons.” The closest approximation was *emberkereskedelem*, which translates roughly as “trading women”, was most often used, raising the possibility of potential bias in the research findings towards sex trafficking.

Research Magnitude

The working team spent one week in Hungary, conducting a total of 53 interviews. Appendix II provides a list of the individuals and organizations interviewed. The two questionnaires used are included in Appendices III and IV. In addition, we conducted background research before and after our fieldwork in Hungary.

PART II: A THREE PART FRAMEWORK FOR ANALYSIS: LAWS, ADMINISTRATIVE STRUCTURES, AND CULTURAL CONTEXT

Our research of counter-trafficking efforts in Hungary points toward the primacy of three crucial structures – legal, administrative, and cultural – that shape law enforcement officers’ understanding of the problem and create barriers against effective training and programs. The following three chapters analyze the nature and impact of each of these structures.

IV. Legal Structure

General Guiding Framework: In evaluating how effective a country is in addressing trafficking, one should:

1. Determine which laws cover traffickers and trafficked persons, including:
 - a. trafficking laws
 - b. prostitution laws
2. Analyze the clarity and consistency of laws.
3. Ascertain how well national laws match up to international standards.
4. Assess whether laws grant actors the mandate to implement the laws.
5. Evaluate whether laws create perverse incentives.

Hungarian Example:

1. Law enforcement officials are unaware of or confused by the definition of trafficking in persons under national and international law.
2. Given that prostitution is permissible in some locations, police lack incentives to investigate whether prostitution is linked to trafficking.
3. Police assume that prostitutes have all consented to sex work and cannot be victims of trafficking.
4. Misperceptions about the evidence required to prove a trafficking case, challenges in obtaining evidence and the length of time required to secure a successful prosecution dissuade police from investigating the crime.
5. Confusion about the status of minors within prostitution undermines police efforts to combat trafficking.

Hungary- Specific Recommendations:

1. Amend prostitution law to acknowledge that prostitutes may be victims of trafficking.
2. Develop standard implementation regulations that clearly define trafficking victims and the elements required to convict a perpetrator of the crime. Create mechanisms to disseminate the regulations in a comprehensible manner to all officers.

The effectiveness of anti-trafficking measures depends in large part on the legal structure of the country in question. The legal structure includes not only laws on trafficking, but also those dealing with prostitution, immigration, labor and other relevant issues. In evaluating how effectively a country is dealing with trafficking, one should examine how clear and consistent national laws are, how well the laws match up to international standards, if there is a mandate for implementing the laws, and whether the laws create any perverse incentives.

Using this framework, we discovered through our interviews with police officers, border guards, and senior officials in both administrative departments that current laws defining trafficking in persons and prostitution generate confusion, fail to provide incentives to investigate potential trafficking cases, particularly within the practice of prostitution, and redirect police attention towards arresting potential victims rather than the perpetrators of the crime.

Hungary's Law on Trafficking in Persons

Hungary adopted Section 175/B, its current law criminalizing trafficking in persons, in 1998⁸. There has been no significant change to the law or new legislation with respect to trafficking in persons since that time. The law defines trafficking as a felony committed by “[a]ny person who sells, purchases, conveys, or receives another person or exchanges a person for another person, or appropriates one for such purpose for another party,” punishable with imprisonment of up to three years. This law does not differentiate between the trafficking of persons within the country from the trafficking of persons into or out of Hungary. In fact, it does not require that a trafficking victim be physically transported from one location to another, at all. As such, Hungary’s trafficking legislation addresses both internal and external trafficking.

Hungary’s anti-trafficking law criminalizes trade in persons for sexual and non-sexual exploitation, and mandates punishments that correspond to the presence or absence of identified six aggravating factors. These six aggravators include

- Depriving the trafficking victim of his/her personal freedom,
- Trafficking a person under the age of eighteen
- Trafficking a person for the purpose of forced labor
- Trafficking a person for the purpose of sodomy or sexual intercourse, or to force them to engage in sodomy or sexual intercourse with another person
- Trafficking as part of a criminal organization.
- Trafficking against a person under the tutelage, guardianship, supervision or medical treatment of the perpetrator.

If all six aggravators are present in a given case, a perpetrator will be eligible for ten to fifteen years imprisonment.

In contrast to international law, Section 175/B does not require the presence of coercion or involuntary servitude in order to make out a prima facie case of trafficking in persons.

⁸ See Appendix V for text of the law.

The law merely requires demonstration that a perpetrator has sold, purchased, conveyed, or received another person, exchanged a person for another person, or has appropriated a person for such purposes. *The victim's consent is irrelevant to the determination of whether a crime constitutes trafficking under Hungarian law.*

European Union Council Framework Decision on Combating Trafficking in Human Beings

Hungary has signed various international conventions on trafficking, including the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)⁹, and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography in March 2002. As an EU member state, Hungarian law must be in line with the EU [Council Framework Decision on Combating Trafficking in Human Beings](#) (EU Framework Decision)¹⁰. This decision uses language that is nearly identical to that found in the U.N. Protocol¹¹. It is binding on Member States and mandated domestic implementation before August 2004.

The EU Framework Decision concerns “trafficking in human beings for the purposes of labour exploitation or sexual exploitation” (Article 1) and defines the crime as “the recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person” conducted through at least one of the following means:

for the purpose of exploitation of that person's labour or services, including at least forced or compulsory labour or services, slavery or practices similar to slavery or servitude, or for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography.

To constitute trafficking, however, a crime must be carried through one of the following means, unless it is carried out against a child under the age of 18.

- (a) use is made of coercion, force or threat, including abduction, or
- (b) use is made of deceit or fraud, or
- (c) there is an abuse of authority or of a position of vulnerability, which is such that the person has no real and acceptable alternative but to submit to the abuse involved, or
- (d) payments or benefits are given or received to achieve the consent of a person having control over another person

⁹ See Appendix VI for text of the Convention.

¹⁰http://europa.eu.int/smartapi/cgi/sga_doc?smartapi!celexapi!prod!CELEXnumdoc&lg=EN&numdoc=32002F0629&model=guichett

¹¹ See Appendix VII for text of the Framework.

When any of these means have been demonstrated, the presence or absence of consent is irrelevant.¹²

In general, Hungarian Section 175/B falls in line with the EU Framework Decision. However, Hungarian trafficking law criminalizes a *broader range of activity* because it does not require the presence of the means outlined above for an act to constitute trafficking. It should therefore be easier to identify a crime as trafficking under Hungarian law than under the EU Framework Decision.

On the issue of trafficking in minors, Section 175/B conforms to Article 1(3) of the decision which holds that “[w]hen the conduct referred to in paragraph 1 involves a child, it shall be a punishable trafficking offence even if none of the means set forth in paragraph 1 have been used,” defining “child” as any person below the age of 18. Moreover, as already mentioned, both Article 1(2) of the EU Framework Decision and the Hungarian law render the issue of consent irrelevant in determining whether a given act constitutes trafficking.

Hungary’s Law on Prostitution

Trafficking in persons and prostitution are linked in complex ways. While it is important not to conflate prostitutes with trafficked persons, many prostitutes may be victims of trafficking. This persistent link between trafficking and prostitution renders the country’s law on prostitution relevant to our research into the challenges facing police in addressing trafficking.

According to the EU Framework Decision, Hungary may exercise discretion in its approach towards prostitution. Prostitution in Hungary is currently not prohibited in all locations, nor is it entirely legal. The 1999 Anti-Mafia law (1999/LXXV) prohibits prostitution in “protected areas” which are defined as locations that are

- 50 m away from residential areas
- 100 m away from the highways and motorways,
- 300 m away from public institutions
- on streets where institutions for children’s education or health care are situated

However, the Anti-Mafia law¹³ does permit local governments to delineate one or more “tolerance zones” in non-protected areas. In these tolerance zones, prostitutes may offer their sexual services if they are 18 years of age, register with the Ministry of Health, and carry mandatory health documentation when soliciting customers in public.

Due to public opposition, only two localities—Budapest and Miskolc—have successfully designated tolerance zones. Since the abolition of the tolerance zone in Miskolc in 2004, only two streets in Budapest currently constitute official tolerance zones

¹² EU Framework Decision Article 1(2) states: “The consent of a victim of trafficking in human beings to the exploitation, intended or actual, shall be irrelevant when the required components of trafficking have been demonstrated.”

¹³ See Appendix VIII for text of the law.

where prostitution is permitted. Controversy continues over whether the 1999 law *requires* (rather than *allows*) municipalities to designate tolerance zones. In February of 2004, the Supreme Court of Hungary decided that local governments are not obligated to do so. However, in January 2005, the country's Civil Rights Ombudsman proclaimed that the failure to designate tolerance zones constitutes a violation of prostitutes constitutional rights. These controversies surrounding the designation of tolerance zones have engendered widespread confusion about the legal status of prostitution.¹⁴

The 1999 law also changed the status of prostitution from a “crime” to a “minor offense.”¹⁵ The Hungarian criminal code continues to criminalize the keeping of brothels (See Law on Promotion of Prostitution, Section 205), pimping (See Living on the Earnings from Prostitution, Section 206), and pandering (Section 207).

Police are largely ignorant of the elements of Hungarian trafficking law. Moreover, by politicizing prostitution, Hungarian prostitution law has rendered the status of the activity unclear, indeterminate, and constantly changing. **Both problems have generated perverse incentives that weaken counter-trafficking interventions in the sex industry.**

(1) Law enforcement officials may be unaware of or confused by the definition of trafficking in persons under national and international law.

In general, the police officers and border guards we interviewed struggled to define trafficking in persons, suggesting that it is not a high profile issue among Hungarian law enforcement officials. Several stammered in confusion and asked in return, “Is there something we should say?”¹⁶ At least one police officer said that he had never heard of the issue. Others were familiar with trafficking, but were unable to define it, and searched their books for an adequate response. Among those who could not provide a definition were two police officers who had participated in the IOM training and whose job responsibilities included “[making] people aware of the issue.”¹⁷ In addition, most respondents indicated that they had received little or no exposure to trafficking cases through their work. Some admitted that their knowledge about the issue came from newspapers, television programs and lectures.

When asked to define trafficking, police officers and border guards gave a wide range of responses, many of which were inconsistent with Hungarian or international law:

*Trafficking in persons is involuntary transport across the border in order to do work like prostitution.¹⁸

¹⁴ One example of this type of confusion occurred in an interview with a detective in Miskolc.

Khushbu Srivastava, Interview with Detective, Miskolc, 16 March 2005.

¹⁵ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

¹⁶ See Alyson Zureick, Interview with detective, 5th District, Budapest, 18 March 2005.

¹⁷ Khushbu Srivastava and Tressa Johnson, Interview with Police Officers, Miskolc, 16 March 2005.

¹⁸ Siham Nurhussein, Interview with 2nd Deputy Commander, Border Guards, Ukrainian Border, 17 March 2005.

*Trafficking can be understood as pimps arranging women and using them for prostitution.¹⁹

*Trafficking happens when someone is forced or influenced or deceived to do something. Then they are sold to do some kind of work.²⁰

*Trafficking is people selling people. It's like selling a good but with people and abroad.²¹

*Trafficking is the taking away of rights of people for financial gain. It's a violation of basic human rights and freedom of movement.²²

*Trafficking involves trading people – children, organs, prostitutes, etc.²³

*Trafficking involves poor people who see no other way to survive than moving to western countries. There are criminals who live off this. It's a form of organized crime.²⁴

These definitions highlight a number of knowledge gaps including: the conflation of trafficking and smuggling; the tendency to conceive of trafficking in persons almost exclusively in terms of the sex trade with women; a mental disconnect between trafficking and domestic prostitution; and the belief that trafficking cases require the involvement of organized crime.

a. Conflation of Trafficking and Smuggling

One of the difficulties the police officers and border guards struggled with was the distinction between trafficking and smuggling. Although some used terms such as 'deception,' 'exploitation,' and 'involuntary' to distinguish trafficking from smuggling, a number of respondents conflated the two:

One of my definitions of trafficking is smuggling when people are smuggled from China, Sri Lanka, Afghanistan, or when you take Hungarian women to the West.²⁵

Trafficking means illegal transportation of people from one country to another – wait, but that means smuggling. Trafficking is usually a problem for women and children. They are sold and trafficked. In poor countries there are cases where

¹⁹ Siham Nurhusein, Interview with Police Officer, Nyirbator, 17 March 2005.

²⁰ Khushbu Srivastava and Tressa Johnson, Interview with Detective, City Police Headquarters, Miskolc, 17 March 2005.

²¹ Dessi Dimitrova, Interview with Patrolman, Nyirbator 17 March 2005.

²² Dessi Dimitrova, Interview with Head of Patrolmen, Nyirbator, 17 March 2005.

²³ Dessi Dimitrova, Interview with Major, Criminology Department, Nyirbator, 18 March 2005.

²⁴ Dessi Dimitrova, Interview with Investigator, Criminal Division, Nyiregyhaza, 18 March 2005.

²⁵ Dessi Dimitrova, Interview with Police Commander, Nyiregyhaza, 18 March 2005.

those or other children are sold and forced to work and do things they don't want to do.²⁶

There are very poor people who see no other way to survive by (sic) moving to western countries. There are criminals who live off this... This is an increasingly prominent problem as population grows in areas such as India, China, Afghanistan, etc... Trafficking is a broader term, and smuggling is a smaller category within trafficking. Trafficking is the organizational part and smuggling is the act of doing it.²⁷

Even officers who were able to draw a distinction between trafficking and smuggling often found themselves lapsing into a discussion of the latter, suggesting that they may conflate the two concepts. Some law enforcement officials understand the distinction in theory, but find it difficult to distinguish smuggling from trafficking cases *in practice*. As one interviewee noted, "For the border guard, what he sees is that someone pays for entry – he doesn't know whether that person will be pushed into slavery afterwards."²⁸

b. Ignorance of Non-Sex Trafficking

Most of the law enforcement officials interviewed for this project conceptualized trafficking in terms of the sex trade. Although a handful of officers made reference to labor trafficking, the organ trade, and trafficking of mentally or physically disabled persons (for begging), the overwhelming majority seemed to associate trafficking with prostitution. For example, one police officer stated, "I know no cases, other than prostitution, where people are trafficked and sold."²⁹

Moreover, when asked to define trafficking, most respondents focused exclusively on the exploitation of women, or of women and children. As noted in Chapter III, this may be due in part to our use of the Hungarian term *emberkereskedelem*, which translates roughly as 'trading women'. However, another explanation for the gendered response could be the tendency to conceptualize trafficking in terms of sex trafficking, and to think of prostitution as a female profession. Even when we used the term of trafficking in persons, officers spoke about sex trafficking. For example, when asked to define trafficking in persons, one respondent stated, "I think your focus would be on women. I believe that trafficking is closely related to prostitution."³⁰ Only a handful of police officers acknowledged that men could also be trafficked, and this was only after some reflection or discomfort.³¹

²⁶ Alyson Zureick, Interview with Police Officer, 5th District, Budapest, 18 March 2005.

²⁷ Dessi Dimitrova, Interview with Investigator, Criminal Division, Nyiregyhaza, 18 March 2005.

²⁸ Siham Nurhusein, Interview with Deputy Commander, Border Guards, Ukrainian Border, 17 March 2005.

²⁹ Dessi Dimitrova, Interview with Investigator, Criminal Division, Nyiregyhaza, 18 March 2005.

³⁰ Nusrat Choudhury, Interview with Police Officer, 11th District, Budapest, 18 March 2005.

³¹ One example of this sort of discomfort occurred during an interview with Maj. Dr. Zsolt Sogor of the Crime Prevention Department of the Metropolitan Office of the Budapest Police. Alyson Zureick and

c. Failure to See Linkage between Trafficking and Domestic Prostitution

It is interesting to note that while many officers' understandings of trafficking seemed to be limited to sex trafficking, the same officers often failed to see a connection between domestic prostitution and trafficking in persons. It was not uncommon for interviewees to state that trafficking was not a problem in Hungary or that they had never dealt with trafficking cases, and then proceed to describe interactions with prostitutes who appeared to have been forced into sex work, had their earnings or their passports taken away, and/or seemed afraid to leave their pimps. One police detective stated, "There are some cases in Hungary where women are forced into prostitution, but that is not trafficking, that's a violation of personal freedom."³² In response to the question, "Do you encounter trafficking in your work?" another police officer responded, "No, I encounter selling and buying of prostitutes, but not trafficking."³³ Many officers incorrectly assumed that trafficking had to involve a cross-border dimension. Some definitions of trafficking in persons included "involuntary transport across the border in order to do work like prostitution"³⁴ or "like selling a good but with people and abroad."³⁵

Such responses reveal a gross misunderstanding of trafficking as defined by Section 175/B which defines a trafficker as "[a]ny person who sells, purchases, conveys, or receives another person or exchanges a person for another person, or appropriates one for such purpose for another party." While the buying and selling of prostitutes would ostensibly fall into this category, many police assume that prostitution is a completely separate sphere of activity to which trafficking is not linked. As a result, many conclude that they bear no obligation to investigate the existence of trafficking within prostitution.

d. Organized Crime as a Necessary Component

In addition to ignoring the intersections of prostitution and trafficking, many police mistakenly assume that factors such as the presence of organized crime are *required* for a given activity to constitute trafficking. One police officer reported, "As long as you cannot see the whole process, legally speaking you cannot talk about trafficking. . . The evidence must show that it happened repeatedly . . . it has to be systematic and organized."³⁶ This observation is completely inconsistent with Hungarian law on trafficking which does not require the involvement of organized crime for a crime to constitute trafficking; rather, Section 175/B considers the presence of organized criminal activity to be an aggravating factor.

Nusrat Choudhury, Interview with Zsolt Sogor, Crime Prevention Department, Metropolitan Office of the Budapest Police, Budapest, 18 March 2005.

³² Siham Nurhussein, Interview with the Chief of Organized Crime Unit, Nyiregyhaza, 18 March 2005.

³³ Dessi Dimitrova, Interview with Police Officer, Nyiregyhaza, 18 March 2005.

³⁴ Siham Nurhussein, Interview with Deputy Commander, Border Guards, Ukrainian Border, 17 March 2005.

³⁵ Dessi Dimitrova, Interview with Patrolman, Nyiabator 17 March 2005.

³⁶ Siham Nurhussein, Interview with Chief of Organized Crime Unit, Nyiregyhaza, 18 March 2005.

(2) When the permissibility of prostitution is unclear and constantly changing, police may lack incentives to investigate whether prostitution is linked to trafficking.

The recent reform of prostitution law in 1999 has left many police officers confused about the legality of prostitution and the existence and location of zones of tolerance. While police understand that operating brothels, pimping and pandering remain strictly prohibited, they remain unclear as to the precise circumstances under which prostitution may be practiced. Several police officers asserted that prostitution is permitted in zones of tolerance, while echoing the observation of one police officer in the 5th district of Budapest, “It is not clear from the law the conditions under which they can legally work. . . .”³⁷

Border guards and key officials in the National Border Guard Headquarters are similarly confused. For example, the division leader in the Criminal Investigation and Intelligence Department of the National Border Guards reported that four zones of tolerance currently exist in Hungary, when in fact there are only two.³⁸ Even prostitutes and the NGOs that work with them expressed ignorance of the current status of tolerance zones.³⁹

Moreover, many police were unable to identify the current locations of zones of tolerance. Police officers interviewed in Miskolc tended to be more knowledgeable, on average, due to the recent public outcry which led to the revocation of the city’s zone of tolerance in 2004. However, even in Miskolc, one police officer stated, “It’s legal to sell your own body if you have a health certificate and don’t go near public buildings.”⁴⁰

Such statements reveal a misunderstanding of the Anti-Mafia Law of 1999, which provides only that localities *may* designate zones of tolerance in non-protected areas. This misconception is characteristic of police officers’ and border guards’ larger misunderstanding that the 1999 law for the most part *legalized* prostitution and relegated it to the status of a *regulated* practice, when in reality, prostitution is only permissible in two locations in Budapest.⁴¹

In fact, the law has had the opposite result; far from legalizing prostitution, it has created only two zones in which prostitution is effectively legal and regulated. In all other areas, police are permitted to arrest prostitutes for prostitution as a minor offense. In some areas patrol officers noted that they routinely arrest prostitutes for minor infringements of

³⁷ Alyson Zureick, Interview with Police Officer, 5th District, Budapest, 18 March 2005.

³⁸ Alyson Zureick and Nusrat Choudhury, Interview with Zoltán Boross, Division Leader, Criminal Investigation and Intelligence Department, Hungarian National Border Guards, Budapest, 17 March 2005.

³⁹ Alyson Zureick and Nus Choudhury, Interview with prostitutes, Prostitute Rights Protection Association, 18 March 2005.

⁴⁰ Tressa Johnson, Interview with Police Officer, Miskolc, 16 March 2005.

⁴¹ Police officers were, on the whole, divided on the issue of legalizing prostitution. One officer advocated legalization, stating, “We could do more about (prostitution) if there are zones designated for prostitution.” Dessi Dimitrova, Interview with Police Officer, Police Station, Nyireghaza, 18 March 2005.

the law including the failure to carry identification or required health documentation. One police officer from the Nyiregyhaza police station commented that in 2004, there were 924 cases in which prostitutes were fined in the street:

In this area, it is enough to see someone standing on the street and fine them. We have a law that we cannot offer these services within 300 meters of a church or a school and here the city is such that people cannot stand far from those. In Hungary, prostitution is legal except on roads with numbers . . . or [within] 300 meters, of schools and churches. Plus the girls must have medical documents. We have not seen girls with such documents.⁴²

If prostitutes are unable to pay the fines, they are frequently jailed for anywhere between thirty to ninety days⁴³.

Rather than ending police harassment of prostitutes, the effect of granting prostitution an imprecise and changing legal status has been to lull police into the belief that they should not bother to interrogate prostitutes for evidence of trafficking in human beings. Police either ignore prostitution entirely, or continue to arrest, fine, and jail prostitutes, without investigating whether they are victims of trafficking. This misconception that prostitution is legal serves as a disincentive to police, pulling them away from looking seriously into the possibility of trafficking within the sex industry.

(3) Police assume that individuals who have consented to prostitution may not be victims of trafficking.

As explained earlier, both Hungarian Section 175/B and the EU Council Framework Decision on Combating Trafficking in Human Beings regard the consent of the victim as irrelevant to a determination of whether a given action constitutes the crime of trafficking in human beings. Hungarian law requires only a demonstration that an act of sale, purchase, conveyance, receipt, exchange, or appropriation of a person has taken place; if such an act has occurred, a case is considered a trafficking case, despite the victim's consent.

However, the majority of police interviewed reported that the issue of consent was central; many claimed that a prostitute's consent to prostitution ruled out any evidence of trafficking. When asked if pimping or pandering could be linked to trafficking, one police officer responded, "It's not [a] trafficking issue because there is a mutual agreement between [the] woman and man that the woman is going to pursue this job. So we can't talk about trafficking."⁴⁴ Many police report that when prostitutes state that they consensually engage in prostitution, they decline to investigate for further evidence of trafficking. While many of them did note that "forced" prostitution may constitute

⁴² Dessi Dimitrova, Interview with Police Commander, Nyiregyhaza, 18 March 2005.

⁴³ Dessi Dimitrova, Interview with Head of Criminal Division, Nyiabator, March 16, 2005.

⁴⁴ Siham Nurhusein and Steve Barnes, Interview with Lieutenant Colonel for Crime United & Lieutenant Colonel for Minor Offenses, Nyiabator, 17 March 17.

criminal activity, they characterized such situations as private issues between prostitutes and their pimps. As one police officer answered in response to our question of whether a prostitute may be coerced into sex work, “No there’s never force, because then forcing is a crime. There is always a contract between pimps and prostitutes that is legally followed.”⁴⁵ The majority of police officers did not link the presence of coercion in prostitution with trafficking in human beings.

(4) Challenges in obtaining evidence and the length of time required to secure a successful prosecution of trafficking could dissuade police from investigating the crime.

Police officers cited the length of investigations and the difficulty of obtaining evidence as factors impeding the successful prosecution of human trafficking cases. One police officer commented, “It is the result of long investigation to know if somebody is trafficked. You need a long investigation.”⁴⁶

Regarding evidence, one border guard noted the difficulty of obtaining visual clues: “[A]ccording to my experience, just looking at ladies, [there are] no visible signs that they are being forced, or that anything is wrong. . . .”⁴⁷ Another border guard commented that “trafficking is more difficult (than human smuggling) to prove because often a person who is brought from one country to another doesn’t know that they will be trafficked later.”⁴⁸ One investigator with the Border Guards recounted a situation in which a woman was trafficked after responding to an ad for a dancer. Asked about the challenges confronting the prosecution of the crime, he answered, “Lack of evidence. In Hungary, it is the victim and the authority that has to prove that she’s a victim of the crime committed against her.”⁴⁹

This observation runs directly counter to the EU Framework Decision Combating Trafficking in Human Beings which mandates in Article 7 (1) that “Member States shall establish that investigations into or prosecution of offences covered by this Framework Decision *shall not be dependent on the report or accusation made by a person subjected to the offence*” in cases in which a Member State has established jurisdiction according to Article 6(1)(a).⁵⁰ Our interviews revealed that in contradiction to both Hungarian and EU law, many of the police officers continue to assume that victim testimony is necessary to prove a trafficking case.

⁴⁵ Khushbu Srivastava, Interview with First Lieutenant, 11th district, Budapest, 18 March 2005.

⁴⁶ Dessi Dimitrova, Interview with Head of the Criminal Division of the Border Guards, Nyiabator 16 March 2005.

⁴⁷ Siham Nurhussein, Interview with 2nd Deputy Commander, Border Guards, Ukrainian Border, 17 March 2005.

⁴⁸ Dessi Dimitrova and Siham Nurhussein, Interview with Border Guard who participated in IOM Training, Nyiabator, 18 March 2005.

⁴⁹ Siham Nurhussein Interview with police, Investigative Division, Nyireghaza, 18 March 2005.

⁵⁰ EU Framework Decision, Article 6 (1) (a) simply mandates that a Member State establish jurisdiction over offenses when such offenses are “committed in whole or in part within its territory.”

While harboring the assumption that victim testimony is necessary to prosecute a trafficking case, many police justify their refusal to investigate trafficking by highlighting the difficulty of obtaining victim testimony. One police officer claimed, “The real problem is that even though we have laws, it is difficult to find evidence and prove that people were held captive. The victims stay silent out of fear.”⁵¹ Another junior patrol officer noted, “Women are too afraid to say anything to the police.”⁵²

The links between prostitution and trafficking further compound this problem. Many police officers noted that when arrested or brought into the station, prostitutes are hesitant to speak out against their pimps. One officer commented, “[U]sually when officers go talk to prostitutes, she defends the pimp and won’t give him up. Women don’t help police arrest the pimp.”⁵³ Another police officer noted that although pimps may engage in trafficking by selling prostitutes to each other, “these girls deny that they have pimps.”⁵⁴

Not only do many police officers mistakenly assume that victim’s testimony is required to successfully pursue a case of trafficking, they also interpret prostitutes’ hesitancy to come forward against their pimps as evidence that they are not victims of trafficking. These assumptions serve as powerful incentives preventing them from investigating prostitution cases for evidence of trafficking.

The ease of achieving convictions for minor prostitution-related offenses also deters police from investigating crimes as trafficking offenses. When asked about challenges confronting police in combating trafficking, one police official stated, “Many people ask, ‘Why on earth should we dig deeper when we can charge offenders with petty offenses?’ . . . Police do not have the time to properly investigate crimes.” He explained, “[I]t is illegal to help prostitutes by providing them a place to work or by living off the salary of a prostitute. Sometimes the investigation into a trafficking case stops at this level so that they can take it to court.”⁵⁵

In this manner, the ease of obtaining charging and convicting pimps under laws banning brothel keeping (Section 205), pimping (Section 206) and pandering (Section 207), creates disincentives for police to pursue the relatively more rigorous and challenging investigation required to prove a trafficking case.

(5) Confusion about the status of minors within prostitution undermines police efforts to combat trafficking in children.

⁵¹ Dessi Dimitrova, Interview with Head of Patrolmen, Nyiabator Police, 17 March 2005.

⁵² Khushbu Srivastava, Interview with Junior Patrol Man, Miskolc, 17 March 2005.

⁵³ Siham Nurhussein and Steve Barnes, Interview with Lieutenant Colonel for Crime United & Lieutenant Colonel for Minor Offenses, Nyiabator, 17 March 2005.

⁵⁴ Siham Nurhussein, Interview with Chief of Unit of Public Order & Safety for the Police, Nyireghaza, 18 March 2005.

⁵⁵ Nusrat Choudhury, Interview with Zsolt Sogor, Budapest Police Crime Prevention Department, 18 March 2005.

Similarly, police officers are confused about the status of children under the age of 18 with respect to both trafficking and prostitution. Section 175/B regards the trafficking of anyone under the age of 18 to be an aggravating factor. With respect to prostitution, while most police officers reported that children under a certain age are unable to consent to sex, many police officers were unclear whether the age of statutory rape is set at 12 or 14.¹ While some police reported that no individuals under the age of 18 could be prosecuted for prostitution,⁵⁶ others argued that the minimum age is set at 14, and that children under 18 may be prosecuted but are only eligible for lighter penalties.⁵⁷ Similarly, police officers were unclear as to which children should be referred to public guardian authorities if discovered to be practicing prostitution.⁵⁸

This confusion regarding the status of children under the age of 18 engaging in prostitution directly impacts police efforts to combat trafficking in children. Police are unclear as to which age categories should be used to determine when children's cases should be referred to public guardian authorities or prosecutors. There needs to be greater clarity regarding police's responsibilities to these populations and improved understanding as to how and when police may investigate trafficking within the context of these cases.

As illustrated in the cases above, police misconceptions about the current status of Hungarian law on prostitution and trafficking have combined to create powerful forces that push them away from identifying potential cases of trafficking and pursuing investigations of the crime, particularly in the case of prostitutes, a highly vulnerable group.

Recommendations

1) Analyze how a country's legal definition of trafficking works with other domestic and international laws to frame who may be considered a perpetrator or victim of trafficking.

- a. Amend prostitution law to acknowledge that prostitutes may be victims of trafficking.

⁵⁶ See Siham Nurhussein and Steve Barnes, Interview with Lieutenant Colonel for Crime United & Lieutenant Colonel for Minor Offenses, Nyiabator, 17 March 2005; Tressa Johnson Interview with detective who participated in the IOM training, Detective's Office at Police Headquarters, Miskolc, 16 March 2005.

⁵⁷ Tressa Johnson, Interview with detective who participated in the IOM training, Detective's Office at Miskolc Police Headquarters, 16 March 2005.

⁵⁸ Ibid. See also Siham Nurhussein, Interview with Chief of Unit of Public Order & Safety of the Police, Nyireghaza, 18 March 2005.

2) Determine how legal incentives encourage or restrain law enforcement officials from investigating and prosecuting traffickers, and finding and assisting trafficked persons.

- a. Develop standard implementation regulations that clearly define trafficking victims and the elements required to convict a perpetrator of the crime. Create mechanisms to disseminate the regulations in a comprehensible manner to all officers.

V. Law Enforcement Administrative Structure

General Guiding Framework: *In evaluating how effective a country is in addressing trafficking, one should:*

1. Examine how flaws in the way law enforcement agencies are structured prevents local, regional and national forces from taking on trafficking.
2. Determine whether structures support open communication and provide incentives to investigate trafficking.
3. Assess if structures are capable of dealing with complex cross-border issues.

Hungarian Example:

1. Lack of communication impedes their ability to successfully combat trafficking.
2. Defects in the structure result in few positive incentives to investigate trafficking cases.
3. Police complicity may lead them to ignore trafficking.
4. Difficulties adapting to a rapidly changing criminal environment impedes law enforcement's ability to effectively combat trafficking.
5. The lack of an internal evaluation loop exacerbates communication problems.

Hungary- Specific Recommendations:

1. Recommend that agencies that are in contact with trafficking are empowered to act appropriately to address it.
2. Institutionalize non-threatening officer-feedback mechanisms in which officers will not be punished for sharing their thoughts and experiences and in which commanding officers have the incentives and power to respond to feedback.
3. Promote regular and sustained institutionalized contact between counterparts of different agencies.

In the previous chapter, we demonstrated that law enforcement officials hold very different understandings of trafficking, many of which are inconsistent with Hungarian and international law and prevent adequate investigation of the problem. In this chapter, we explore how flaws in the way law enforcement agencies are structured prevents local,

regional and national forces from effectively taking on the issue of trafficking in persons in Hungary. Whether these structures support open communication, provide incentives to investigate trafficking, and are capable of dealing with complex cross-border issues are of critical importance.

Exploratory interviews with police officers and border guards in Hungary yielded several important insights into how the organizational structures of law enforcement agencies impede successful engagement with trafficking in persons. The two main agencies, the national police and border guards, function according to a rigid, hierarchical organizational model in which there is little information sharing, insufficient ongoing training, and almost no encouragement of officer feedback. These factors shape and restrict how the police are able to intervene in the trafficking process in terms of the detection, investigation and prosecution of cases, and connection to other areas of crime.

Complications

(1) Lack of communication among law enforcement officers impedes their ability to successfully combat trafficking.

The lack of communication within the Hungarian police force hinders their ability and motivation to successfully combat human trafficking. The communication gaps are felt along the following dimensions:

a. Hierarchical chain of command

Superior officers, who were generally able to cite textbook definitions of trafficking, often said that interviewing their patrol officers would not be useful because they would have no knowledge of trafficking. However, the majority of patrol officers we interviewed had more extensive knowledge of the existence of trafficking elements than their superiors. Even when patrol officers did not specifically refer to these elements as signs of trafficking (e.g. complete pimp control over prostitutes' revenue and movements), they were able to share their everyday experiences with us which pointed to trafficking.

b. Lack of Interdepartmental Communication

There seemed to be little sharing of information among departments located in the same stationhouse. For example, detectives in the organized crime unit did not have the same information about trafficking in the area that other specialized detectives had. Two detectives with offices down the hall from each other illustrate this; First detective: "I haven't heard of any cases. If there were, I wouldn't have heard of them because Interpol would have gotten it... If someone is forced into prostitution, which doesn't happen here, it would not be us but the national-level police that deal with it"⁵⁹. Second detective: "Yes [We see trafficking cases here]. One or two cases a year. It's not very common.

⁵⁹ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

Most of the cases are hidden because the victims don't know. It's a business between the pimps... Different criminal groups are represented there for whom the women work. When there's a fight, it becomes clear that these girls are forced into prostitution"⁶⁰.

c. Geographic and Regional divisions

Police in each distinct geographical area were often reluctant to admit that they may see a few cases of trafficking a year, but were quick to point out that it was much more common in other areas of the city (Budapest) or country. For example, those in Miskolc said it was a Budapest problem, while those in the 11th district (Budapest) were sure that it was an 8th district (Budapest) problem, who, in turn, were sure that it was an outer district problem. While successful human trafficking depends on maneuvering multiple cross-national routes that often pass through the capital city, police stations within Budapest do not even have mechanisms for sharing information.

d. Overarching national framework

There is a small unit in the organized crime division of the national police tasked with investigating trafficking in persons, The Counter-Trafficking Unit of the National Police. While the two officers we interviewed from this unit had a thoughtful and nuanced analysis of sex trafficking in Hungary, they had an investigative staff of eight, very limited resources (their computers had been donated by the U.S. government) and are mandated to operate in secrecy. Very few officers in Hungary were aware of this unit, and no detectives we spoke of described working with them. In particular, one organized crime detective in Miskolc even told us that there was no institutionalized connection between his work as a detective and trafficking.

e. Jurisdiction

Currently, the national police have jurisdiction over suspected trafficking cases while the border guards do not. Despite this fact, several police, including superior officers, passionately maintained that border guards have sole jurisdiction over trafficking. Many interviewees recommended that we visit the border guards, since trafficking was not perceived to be an issue with which the police dealt. One police officer said, "Basically, there's a special unit of border police that have trafficking as their specific task. [Trafficking] is not the jurisdiction of the regular police, just this special unit."⁶¹ Another stated, "We do not have any role in the fight against trafficking... We do not have the personnel or the infrastructure to deal with it here. This is not the role of the police."⁶² A First Lieutenant in the 11th District of Budapest even became angry when we mentioned that our research colleagues had informed us that border police do not, in fact, have jurisdiction over trafficking and are unable to do anything. He yelled,

⁶⁰ Khushbu Srivastava, Interview with second detective, Miskolc, 16 March 2005.

⁶¹ Khushbu Srivastava and Tressa Johnson, Interview with police colonel, 11th district, Budapest, 18 March 2005.

⁶² Nusrat Choudhury, Interview with Police Officer, 11th District, Budapest, 18 March 2005.

What should they do? Shoot them? Border guards can do something about it (trafficking) because they're actually armed. Within the legal framework, he can try to do his job. They can check buses. If they can tell it's trafficking, they can arrest the men. For me it's hard to believe that their arms are tied, that the government wouldn't let them do anything about it. They can get screening equipment, so there's nobody that could slip by them, through the forest, through the nature. They can patrol the forest area to make sure nobody can slip through.⁶³

The border guards are expected to get jurisdiction soon (parliament is currently debating such a law), but this may not actually increase interagency cooperation as many officers told us that when they hand over immigration cases, they never hear about them again. We were informed by an American embassy official that a new command center which will facilitate the cooperation between police and border guards is currently being set up for cross-border crimes. However, the same official cautioned that such initiatives often appear on paper and do not occur in actual fact.

Communication gaps between departments indicate three possibilities: that actual breakdowns in organizational communication lead to information simply not being transmitted; intentional gaps in which information is being shared, but due to disbelief, mistrust, other motives, and/or the suspected incompetence of patrol and other officers it is disregarded by superiors; or lastly, that strategic information sharing occurred on the part of interviewees, in which officers knew more than they shared with us.

Most likely, all three possibilities occur, leading to lack of coherent and transparent information-sharing on multiple levels. We suspect that they are actual, although perhaps intentional, gaps in the law enforcement agencies. The majority of officers we spoke with were friendly, open, and responsive. They seemed to be genuinely interested in sharing their experiences with us and many either explicitly or indirectly referenced their personal frustrations with the system in which they worked.

(2) Defects in the law enforcement structure could result in few positive incentives to investigate trafficking cases.

Several aspects of the current structure hinder the police from actively looking for signs of trafficking. Police officers, especially patrol officers, are not encouraged to be 'investigatory' in their everyday jobs. They are told what the major problems in their district are and how to deal with them. Trafficking is not among these problems even though (or perhaps because) trafficking is often difficult to detect, trace, and document if law enforcement officials are not specifically alerted to its signals and impacts. In contrast, for example, to organizational cultures in which people are able to do anything except what they are expressly told not to do, Hungarian police can only do what they are expressly told to do. This leaves little room for officers to use intuition, creativity, or even simple investigation of suspicious people and activities.

⁶³ Khushbu Srivastava, Interview with First Lieutenant, Budapest, 18 March 2005.

Additionally, police are aware that the new prostitution laws have had the effect of pushing prostitution indoors in many areas. They could describe how this indoor prostitution operates, including how they advertise and where the revenue goes. However, they would often describe this phenomenon and then immediately relate that they were not really interested in pursuing these cases because they were not creating public problems. This adds further evidence to the idea that police officers are told what to do from above and are either unwilling or unable to deviate from this model of command. We typically heard things like, “I don’t have knowledge, of course, of what the police don’t have information on. It’s a latent thing. There may be [trafficking] cases connected to organized crime or transit, I don’t know”⁶⁴.

Constraints on investigation can be partly attributed to the lack of resources available to the Hungarian police, who have limited funds and equipment. Knowing that detecting, tracing, and documenting trafficking is likely to involve not only significant resources, but significantly more resources than other types of cases, officers at all levels are unwilling to commit themselves to it. They might also suspect that they would not be given permission to investigate a suspicious prostitution case because of the decreased importance prostitution is given in the hierarchy of crimes.

Some measures that were instituted to keep track of crime in general and trafficking in particular have created perverse incentives for the police. Police are now required to track and report statistical data on different types of crimes and cases. This has affected police work in at least two ways. First, the police allow their investigations to be driven by the numbers they need. They pursue the cases that can potentially contribute high numbers. As one senior official shared, “Some police commissioners do not like to address trafficking because it takes time away from efforts that will boost their criminal statistics.”⁶⁵ Second, the police are wary of any sudden or large increases in reporting specific types of cases found because this would reflect badly on their past work. “If there is an increase in their crime statistics, they will have to explain why previous numbers were so low. That leads to people questioning whether they were previously not doing their job”⁶⁶.

(3) Police complicity may lead them to ignore trafficking.

Furthermore, there are a few incentives for police officials to ignore trafficking when they do discover telltale signs of its existence. Trafficking, especially when it involves crossing international borders, often thrives because there is some amount of official complicity. We found signs that some police are engaged to some extent in systematic relationships whereby illegal activity is allowed to flourish in exchange for either money or discounted services. As one prominent prostitutes’ rights’ activist shared, “In Hungary, there is also the notion of ‘police benefits.’ This refers to the fact that if the prostitutes give service freely or at a lower cost, the police don’t report, arrest or harass them...

⁶⁴ Tress Johnson, Interview with a patrol officer, Miskolc, 17 March 2005.

⁶⁵ Alyson Zureick and Nusrat Choudhury, Interview with Zsolt Sogor, Metropolitan Police Crime Prevention Department, Budapest, 18 March 2005.

⁶⁶ Ibid.

Some police also demand money from prostitutes.”⁶⁷ It’s not clear if this corruption occurs because the police are underpaid, because feel like they aren’t able to actually combat the problem anyway, or they are simply opportunistic, or some combination of all three. We found very few officials even willing to discuss corruption, but those that did were pretty sure that it was wide spread. In addition, interviews with several prostitutes indicated that some patrol officers engage in blackmail or are willing to overlook illegal activity for discounted sex. Such evidence indicates that as long as the police structure is unwilling to internally address the existence, causes, and consequences of corruption, their ability to combat trafficking and organized crime is compromised.

(4) Difficulties adapting to a rapidly changing criminal environment impede law enforcement’s ability to effectively combat trafficking.

Officers from colonels to patrolmen discussed how Hungary is evolving in light of EU accession and the Shengen treaty. The criminal environment and the nature of crime is changing, and many police officers don’t feel prepared. In addition to the EU accession, the worldwide globalization of people, ideas, and crime is impacting the law enforcement environment in Hungary. Police officers believe that organized crime is rising, but they don’t know how because of the structural constraints cited above. Prostitution and trafficking existed during the communist era, but they were mostly controlled by local groups. Many of these local groups still exist, but they are now connecting to and benefiting from links with international networks. Hungarian police all over the country realize that they will have to deal increasingly with cross border issues and will have to collaborate with foreign police forces more, but they don’t understand how this will happen, without just assigning this task to the border guards. The current structure is not capable of sharing information, or making the necessary links between crimes. Yet law enforcement officials, even those fairly high in the chain of command, do not feel that they have the power to adjust this structure in light of rising crimes like trafficking. One commanding officer related, “In Hungary, these [agency] jurisdictions are very rigid. There are very specific rules about who can do what. This one-year training we had was also to make these divisions more flexible and to enhance collaboration between the border and regular police. We’ve seen no improvements, though. It [a trafficking training] won’t work because our police structure is not helpful. I was not involved in its creation, obviously. We had this training, but it can never be implemented”⁶⁸.

(5) The lack of an internal evaluation loop exacerbates communication problems.

Some of problems described above, including the lack of communication, the disincentives to ‘investigate’ suspicious people and activity, and the impact of the changing nature of crime in Hungary, could perhaps be addressed if there were some mechanism for feedback from officers built into the law enforcement system. Many of

⁶⁷ Alyson Zureick and Nusrat Choudhury, Agnes Foldi, Prostitutes’ Rights Protection Association, Budapest, 18 March 2005.

⁶⁸ Khushbu Srivastava and Tressa Johnson, Interview with a superior police officer, 11th district, Budapest, 18 March 2005.

the officers interviewed at every level indicated (although rarely said directly) that they felt constrained in their capacities. Members of the Hungarian police force are smart and capable, but hesitant, confused, and worried about how to change, or even offer suggestions for change, their working environments. As there is no organizational history of officer input or evaluation, they don't have any constructive outlet to air their concerns.

Recommendations

3) Identify which government agencies come into contact with traffickers and trafficked persons and the type of authority, if any, these institutions exercise to combat the problem.

- a. Recommend that agencies that are in contact with trafficking are empowered with the jurisdiction and resources to address it.

4) Determine how structural incentives facilitate or backstop information sharing and cooperation on counter-trafficking efforts both within and between institutions, paying attention to administrative, hierarchical and geographical divisions.

- a. Institute non-threatening officer feedback mechanisms in which officers will not be punished for sharing their thoughts and experiences and in which commanding officers have the incentives and power to respond to feedback.
- b. Promote regular and sustained institutional contact between counterparts at different agencies, such as functioning interagency task forces.

VI. Cultural Context: Gender and Ethnic Bias

General Guiding Framework: *In evaluating how effective a country is in addressing trafficking, one should:*

1. Examine if and how cultural biases undermine anti-trafficking efforts, especially in working with marginalized communities.
2. Determine to what degree law enforcement is accessible to victims of trafficking.

Hungarian Example:

1. Many law enforcement officials lack respect for trafficked women and prostitutes.
2. Rigid gender notions make police unable or unwilling to recognize or relate to victims of trafficking.
3. Structural aspects of the law enforcement bureaucracy make the police appear inaccessible to victims of trafficking.

4. Cultural biases may lead police to overlook or scapegoat vulnerable ethnic groups.

Hungary- Specific Recommendations:

1. Suggest structures that mandate and train law enforcement to work with trafficking victims, especially within marginalized communities.

In the previous two chapters, we demonstrated that both laws and law enforcement administrative structures create disincentives to investigate the crime, block communication within and between critical actors, and prevent officers from dealing effectively with complex cross-border issues. In this chapter, we explore how these flaws in legal and administrative structures permit cultural biases to further undermine anti-trafficking efforts, particularly with respect to high-risk groups such as women and Roma.

The cultural, socioeconomic and political context in which trafficking occurs is of critical importance. In particular, gender and ethnic biases may undermine anti-trafficking efforts, especially when the law enforcement structures fail to provide countervailing incentives. Given that sex trafficking disproportionately impacts women and other vulnerable communities, effective interventions against trafficking must address the gender, ethnic and socioeconomic dimensions of both trafficking and sex work.

Interviews conducted with Hungarian law enforcement officials revealed a general disrespect and disregard for prostitutes, an inability to recognize or relate to victims of trafficking, institutional arrangements that neglect trafficked victims' safety, and structural issues that made the police inaccessible to victims. While a considerable minority of law enforcement officials articulated some understanding of the complex social, economic and cultural barriers for trafficked women and girls, they felt unable to intervene because the victims do not report the crimes. This results in a bureaucracy that is both generally unwilling and practically unable to confront the complex issues surrounding the lives of girls and women who are trafficked for sex labor.

Complications

- (1) Many law enforcement officials lack respect for trafficked women and prostitutes.**

Interviews with Hungarian police revealed a general lack of respect for trafficked women and prostitutes. It is important to note that while there were a handful of police, across all ranks, that were genuinely empathetic, respectful and professionally committed to the needs of trafficked women and girls, they worked in isolation, without the power or resources to lead institutional change.⁶⁹ Most police expressed degrading views towards

⁶⁹ See Khushbu Srivastava and Tressa Johnson, Interview with patrolman, Miskolc, 17 March 2005; Khushbu Srivastava, Interview with police colonel, 5th District, Budapest, 18 March 2005; and Khushbu

prostitutes. Some, including a colonel of an important district in Budapest, referred to prostitutes as whores, while others asserted that “prostitutes [were] so ugly and dirty that no decent man would sleep with them”⁷⁰ and encouraged us to go visit the beautiful women at the strip bars in Miskolc⁷¹. Two women detectives, who had community outreach and welfare roles, discussed a prostitute they knew, noting that while her husband forced her to work for sex and physically abused her regularly, she enjoyed “opening her legs because it is easy money.” Many prostitutes with whom we spoke cited the antagonistic, aggressive and disrespectful attitudes and behaviors of both male and female police towards them as reasons why they do not report cases of trafficking.

(2) Rigid gender notions make police unable or unwilling to recognize or relate to victims of trafficking.

In addition to such demonstrations of disrespect and misogyny, police officers displayed a very rigid, idealized conception of who qualifies as a trafficking victim. Many police spoke of an imagined victim (few claimed to have ever encountered one) who was forced and kidnapped. However, they routinely discounted real-life cases of women who were kidnapped, tricked, raped and/or otherwise forced into sexual labor, arguing that those women were not trafficked because they do it of their own free will,⁷² they want it, they like to have sex, or they have an equal and fair contract with the pimp.⁷³ Others seldom believed that the woman was telling the truth. One detective spoke about a woman who was kidnapped to Spain for forced sex work. Although a church in Spain worked to get her back, the detective argued, “The family of the girl came to me for help. She came in to give a report, but most of what she said wasn’t true. I mean there was no supporting evidence. It’s not common that women go voluntarily and then get tricked.”⁷⁴ A captain shared the example of a woman who was able to prove that she was trafficked and that “it was unusual” that she could prove it.⁷⁵ In other cases where police were aware of large gangs of organized criminals who bought and sold prostitutes, locked them in apartments or otherwise restricted their movement, police still maintained that these women were not trafficked.⁷⁶ Such blaming-the victim mentality and denial results in the systematic under-identification of trafficking cases.

Moreover, the Hungarian police were generally unable to see trafficking issues from the psychological perspective of a trafficked woman or child. For instance, one detective reasoned, “If a woman doesn’t jump into a police car and ask for help, there isn’t an issue

Srivastava and Nusrat Choudhury, Interview with Polt Jozef, Head of Division of Trafficking, Organized Crime Department, National Police, Budapest, 19 March 2005.

⁷⁰ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

⁷¹ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

⁷² Khushbu Srivastava and Tressa Johnson, Interview with Police Captain, Miskolc, 16 March 2005.

⁷³ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

⁷⁴ Khushbu Srivastava and Tressa Johnson, Interview with ranking detective, City Police Headquarters, Miskolc, 17 March 2005.

⁷⁵ Khushbu Srivastava and Tressa Johnson, Interview with police colonel, 11th District, Budapest, 18 March 2005.

⁷⁶ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

of trafficking or being forced into it.”⁷⁷ To some, the fact that few trafficked women are making police reports is proof sex trafficking is not a problem. Many police are unable to understand obstacles that trafficked women face, including the inaccessibility of the police, potential language barriers, additional barriers of accessing jobs and resources, the need to take care of and protect their children, and fear of pimps and/or traffickers. A number of interviewees minimized the constraints faced by prostitutes. As one detective explained, “For example, a 15-year old girl would run away from an orphanage and prostitute so she could buy a coke.”⁷⁸ Prostitutes spoke of the discrimination they face with police, including that they make no attempt to understand their circumstances and are ready to imprison them and separate them from their children.

Not only were most police unable to see the perspective of trafficked women, but many also seemed to be more empathetic towards pimps than prostitutes. Many felt the need to emphasize the supposed self-determination of prostitutes and their equitable relationships with pimps. Many claimed that pimps aren’t violent and emphasized their laudable role in protecting women and, interestingly, the public. Police and prostitutes spoke of corroboration between the police and organized criminals, including border guards who are paid off to not notice suspicious travelers, and patrolmen who are paid in money or sex to not notice certain apartments.⁷⁹ One detective that dealt with outdoor prostitution argued that the practice should move indoors and brothels should be legalized. He argued, “As a detective, I feel that brothels would be best because then the prostitutes don’t bother the public and then they could be taxed and be more hygienic,”⁸⁰ highlighting a greater concern for clients and public decorum, over the safety needs of prostitutes.

(3) Structural aspects of the law enforcement bureaucracy can make the police appear inaccessible to victims of trafficking.

Structural aspects of the Hungarian police bureaucracy, including employment patterns, work to create a very male-dominated and masculine culture. For instance, few women were employed as police officers or detectives, and those who were appeared to have more ostensibly gendered roles like community outreach and conducting trainings at school.⁸¹ On the other hands, all secretaries and many of the cafeteria workers we saw were women, reinforcing stereotypes about women’s roles being to serve the needs of men.⁸² Similarly, the police stations that we saw appeared to be stereotypically masculine spaces; some offices were adorned with photos of guns, or calendars or pictures of scantily clad women.⁸³ In addition, it was not uncommon for interviewees to make statements indirectly valuing bravery and strength, including the use of guns and other

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ General observation made in Budapest and Miskolc.

⁸² General observation made in Budapest and Miskolc.

⁸³ General observation made in Budapest and Miskolc. In particular please see: Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005; Khushbu Srivastava and Tressa Johnson, Interview with ranking detective, City Police Headquarters, Miskolc, 17 March 2005.

forms of violence.⁸⁴ When asked how he would confront the problem of trafficking, one police detective tellingly replied, “I would take out my gun from its case and shoot the man,”⁸⁵ illustrating neglect for the needs of the trafficked victim, as well as an oversimplified view on identifying and confronting traffickers.

Not only were the structures and culture of the Hungarian police particularly masculine, but the police’s view of their scope of work reflects a gendered notion of responsibility as well. Police seemed to understand their responsibilities as being towards the public realm, focusing on readily visible forms of crime, rather than “invisible,” “latent” or subtler forms of control or coercion that push women and girls into sex work. For instance, when asked if and how they worked with prostitutes, most police described fining them if they worked in restricted areas or lacked health books, while few spoke about the need to help women who were forced and coerced into sex work. Many police noted that sex work had moved indoors and that since prostitutes were no longer bothering the public, the police no longer had to intervene. According to some, it was beyond the scope of their work to investigate if women and girls within apartments were being mistreated unless it was reported.⁸⁶

One police officer noted, “[Prostitutes] only confess to violent pimps if the confession is in their interest or if the pimps are so aggressive or violent they can’t take it anymore. If these conditions are there, we take action against the pimps because their activities are also dangerous to public security.”⁸⁷ In response to our question regarding whether police are doing enough to combat trafficking, another police officer responded,

It depends on your perspective. I think that prostitution is not a problem until it begins to bother people. The Hungarian police are overloaded dealing with the problem of crime. They use their resource to try to prevent cases. But, if a crime is not reported or visible, they have no capacity to deal with it. If prostitutes do not disturb the public, they should not deal with it. Unless the prostitute is on the streets, they should leave them alone.⁸⁸

Moreover, no police organizations we spoke with had mechanisms for working with NGOs or other government service providers to help trafficked women. There did not appear to be a specifically defined process for how to work with victims of trafficking that police are aware of, and responsibility for detecting trafficking or helping victims is not rooted within any specific police department or rank within the local and regional levels. The lack of institutional space created for confronting the issue of trafficking reflects deeper misogynistic and gendered views that make victims of sex trafficking largely invisible to the Hungarian police.

⁸⁴ See Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005; Khushbu Srivastava and Tressa Johnson, Interview with police colonel, 11th District, Budapest, 18 March 2005; Khushbu Srivastava and Tressa Johnson, Interview with ranking detective, City Police Headquarters, Miskolc, 17 March 2005.

⁸⁵ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

⁸⁶ Khushbu Srivastava and Tressa Johnson, Interview with ranking detective, City Police Headquarters, Miskolc, 17 March 2005.

⁸⁷ Ibid.

⁸⁸ Khushbu Srivastava, Interview with detective, Miskolc, 16 March 2005.

In short, the masculine nature of the Hungarian police, in terms of their structure, culture and notions of responsibility, prevent them from taking up large-scale or institutionalized efforts to address the concerns of trafficked women and girls.

(4) Cultural biases may lead police to overlook or scapegoat vulnerable ethnic groups.

The Roma are a minority ethnic group living in severe poverty throughout much of Eastern Europe. Hungary is home to large numbers of Roma, who often group together in specific geographic areas. They are present in larger numbers in the East, and within cities tend to establish a section of the city that belongs to them. Given their particular social and economic exclusion, the Roma community is disproportionately impacted by trafficking and prostitution. A majority of prostitutes and trafficked women appear to be from Roma communities, while many local pimps are Roma men.

Most people, including police and border guards, hold severe prejudices towards this population. We found two recurring themes in our interviews: law enforcement officers either failed to mention the Roma, thereby completely ignoring their presence in the relevant jurisdiction, or they viewed Roma women as making up a majority of the prostitutes and Roma men a majority of the pimps.

In the first instance, law enforcement officers would speak at length about their experiences and thoughts regarding either trafficking or prostitution without ever mentioning the Roma. For example, there is a large Roma population in the northern city of Miskolc. We toured the city with a patrol officer who spoke at length about the intersection between poverty, crime, racism, and prostitution in the Roma community. Despite the fact that this patrol officer spoke of how the Roma community is greatly impacted by trafficking and prostitution, when we interviewed nine other police officers in the city, none of them even mentioned the Roma. The invisibility of Roma was common throughout most of our interviews with police officers all over Hungary. In the face of such extreme marginalization, it is clear that the police cannot have an accurate idea of how prostitution and trafficking disproportionately impact this population in Hungary. If the Roma are all but invisible to the police, efforts cannot even begin to detect and trace trafficking within this community.

The other common reaction we found was to scapegoat the Roma community. The 8th district in Budapest is known for prostitution and is also home to a large Roma population. In describing prostitution, several officers commented that, “Now we have maybe 10 or 15 [prostitutes] trying to hide. They are older, all Roma. They are the ones that could not go West like the others.”⁸⁹ When pressed about why the Roma as a group engage in prostitution or are involved in trafficking, some officers were able to acknowledge their extreme poverty, although none connected the roots of their poverty to structural factors like lack of access to education and jobs, and marginalization by the state.

⁸⁹ Tressa Johnson, Interviews with patrol officers, 8th district, Budapest, 14 March 2005.

Many officers attributed Roma's involvement in prostitution to certain cultural values, illustrating blame-the-victim mentality. For example, some officers pointed out that in Roma families it is normal and natural for fathers and brothers to act as pimps and force their daughters and sisters into prostitution to earn money for the family. They also stated that these same family members often willingly sold their female relatives to others to earn some money. One border guard near Ukraine, when asked about prostitution, responded that the majority of those involved were Roma, adding, "...if the husband gets into jail for one or two years, then his brother takes his wife as his second wife and she moves into his apartment and she becomes literally his second wife."⁹⁰ When asked about underage prostitution, he referred again to Roma cultural practices, noting that "...among Roma [very young girls having sex is] kind of acceptable because Roma girls often get married under 14 or 15 [years]."⁹¹ Another border guard explained, "They [prostitutes] claim that they are prostitutes because they can't get any other jobs. The majority are Roma with some kids, so claim they can't get other jobs and anyway there are no jobs in the region."⁹²

This type of prejudice against Roma greatly reduces police willingness to investigate prostitution and trafficking in general, and in the Roma community in particular. Most police do not view their role as serving the Roma community, who are socially, economically and culturally viewed as inferior outsiders. Furthermore, because many police view Roma as culturally inclined to committing crimes like prostitution, they are unlikely to investigate potential trafficking within this deeply marginalized community.

Recommendations

5) Understand how cultural norms shape and potentially limit the accessibility of law enforcement authorities to trafficked persons, especially within marginalized communities.

- a. Suggest structures that mandate and train law enforcement to work with trafficking victims, especially within marginalized communities.

VI. Training

General Guiding Framework: *In evaluating how effective a country is in addressing trafficking, one should:*

1. Determine if the structural context of a country, including legal, administrative and cultural aspects, is amenable to a successful training.

⁹⁰ Siham Nurhussein, Interview with Lieutenant Colonel for Minor Offenses, Police, Nyiabator, 17 March 2005.

⁹¹ Siham Nurhussein, Interview with Lieutenant Colonel for Crime Units, Police, Nyiabator, 17 March 2005.

⁹² Siham Nurhussein, Interview with Chief of Unit of Public Order and Safety, Police, Nyiregyhaza, 18 March 2005.

2. Assess frequency and reach of training.

Hungarian Example:

1. Law enforcement officials have difficulty connecting theoretical training with their real-life work with trafficking victims.
2. Few police participated in IOM training.
3. Trafficking training not incorporated into annual mandatory trainings.

Hungary- Specific Recommendations:

1. Training must be structured in a way that helps participants recognize and respond to trafficking on the ground.
2. The training must have broad reach.
3. Issue of trafficking in persons should be integrated into officers' required annual trainings, as well as other trainings on related issues like gender sensitivity and working with marginalized communities.

The previous three chapters underscore the fact that structures fundamentally shape the effectiveness of counter-trafficking efforts. When a country's legal framework, administrative structures and cultural norms fail to consistently convey the nature of the problem and provide incentives to combat it, training and other measures will continue to fall short of making a significant or lasting impact. This chapter further illustrates that the effectiveness of trainings directed towards law enforcement very much depends on the way in which they are implemented. Three issues in particular merit attention.

First, training must be structured in a way that helps participants recognize and respond to trafficking on the ground. In Hungary, some of the officers who underwent IOM training could provide a definition of trafficking, but had difficulty identifying real-life cases of trafficking. For example, when asked if he encountered trafficking in his work, one police officer responded, "No, I encounter selling and buying of prostitutes, but not trafficking." In addition, some officers had a fairly nuanced understanding of trafficking, but felt that they lacked the practical tools to detect trafficking suspects. Some useful training strategies might include: making greater use of role-playing; sharing the perspective of a woman who has been trafficked; and discussing tactics – for example, how to recognize a trafficking victim or launch an investigation.

Second, in order to have an impact, the training must have a broad reach. Only a handful of police officers and border guards participated in the IOM workshops in Hungary, and little information sharing took place once participants returned to their departments. Shared learning and retraining did not seem to be actively encouraged by commanders, at least with respect to trafficking. For example, when asked if any of his staff members who participated in the IOM workshops later trained their colleagues, a Border Guards

Deputy Commander was unable to provide details, adding that, “These are not students who have to report and do exams.”⁹³

Finally, given the complex linkages among trafficking, prostitution, smuggling and organized crime, a holistic approach to training would be beneficial. Some of the law enforcement officers we interviewed said that they had undergone training on a wide range of related topics, including domestic violence and organized crime, but not on trafficking. The issue of trafficking in persons should be integrated into the police officers’ required annual trainings, as well as trainings on related issues like gender-sensitivity and working with marginalized communities.

⁹³ Siham Nurhusein, Interview with Border Guards Deputy Commander, Nyirbator, 16 March 2005.

PART III: RECOMMENDATIONS

Our analysis points to the need to take a guided approach to assessing anti-trafficking interventions in any country, one that takes into account the broader context in which law enforcement officers operate. We identified the primacy of three structures that critically impact the effectiveness of counter-trafficking measures in Hungary: laws, administrative structure, and culture. First, legal structures promote very conflicting understandings of the nature of trafficking, many of which are inconsistent with Hungarian and international law, and prevent adequate investigation of the problem. Second, structural flaws in Hungary's law enforcement administration create disincentives to investigate the crime, block communication within and between critical actors, and prevent local, regional and national actors from dealing effectively with complex cross-border issues. Third, these flaws allow cultural biases against women and Roma, groups at high-risk of trafficking, to further undermine counter-trafficking efforts.

This three-part analysis of the context in which counter-trafficking efforts operate in Hungary can be generalized as a framework for other countries. We recommend that the Trafficking in Persons Office use these points as guideposts for structuring its evaluation of the effectiveness of interventions in any given country:

- 1) Use the framework presented in this report to look at trafficking in every country.
- 2) Develop a working conception of how a country's legal and administrative structures function and interact with each other and with the related structures of other countries and international institutions.
- 3) Figure out how complicating factors, such as cultural biases, lack of training, and different types of crime interact with trafficking.

Concrete Recommendations

- 1) Analyze how a country's legal definition of trafficking works with other domestic and international laws to frame who may be considered a perpetrator or victim of trafficking.
 - a. Harmonize Hungarian laws relating to prostitution and trafficking and bring them into line with EU laws.
 - b. Institutionalize connections between countries and international bodies to facilitate information sharing, experiences and best practices.
- 2) Determine how legal incentives encourage or restrain law enforcement officials from investigating and prosecuting traffickers, and finding and assisting trafficked persons.
 - a. Develop standard implementation regulations that reflect the intent of trafficking, prostitution, and immigration laws. Create mechanisms to disseminate the regulations in a comprehensible manner to all officers.

- 3) Identify which government agencies come into contact with traffickers and trafficked persons and the type of authority, if any, these institutions exercise to combat the problem.
 - a. Recommend that agencies that are in contact with trafficking have the appropriate jurisdiction and resources to address it.
- 4) Determine how structural incentives facilitate or backstop information sharing and cooperation on counter-trafficking efforts both within and between institutions, paying attention to departmental, hierarchical and geographical divisions.
 - a. Institute non-threatening officer feedback mechanisms in which officers will not be punished for sharing their thoughts and experiences and commanding officers have the incentives and power to respond to feedback.
 - b. Promote regular and sustained institutional contact between counterparts at different agencies.
- 5) Understand how cultural norms shape and potentially limit the accessibility of law enforcement authorities to trafficked persons, especially within marginalized communities.
 - a. Suggest structures that mandate and train law enforcement to work with survivors of trafficking, especially within marginalized communities.

APPENDIX I: MAP OF HUNGARY



APPENDIX II: LIST OF INTERVIEWS

Organization	Rank	Male	Female
NATIONAL POLICE			
Budapest			
5th District Budapest	Patrol Officer	3	2
11th District Budapest	Patrol Officer	1	
	Patrol Oversight	1	
	First Lieutenant	1	
	Detective	1	
	Captain	1	
5th District Budapest	Patrol Oversight	1	1
	Detective	1	
	Lieutenant Colonel	1	
	Captain	1	
National Bureau of Investigation	Head of Trafficking Unit	1	
Crime Prevention Department	Head of Training	1	
Miskolc			
Railway Station	Patrol Officer	1	
	Captain	1	
Headquarters of City Police	Patrol Officer	2	
	Detective	3	2
Nyiregyhaza			
	Patrol Officer	1	
	Patrol Oversight	1	
	Detective	1	
	Lieutenant Colonel	2	
Nyiabator			
	Major	1	
	Sheriff	1	
BORDER GUARDS			
Ukrainian Border			
	Deputy Commander	1	
Nyiabator			
	Deputy Commander	1	
	Lieutenant Colonel	2	
Budapest			
	Lieutenant Colonel		1
	Lieutenant Colonel	1	
	Division Leader	1	
SERVICE PROVIDERS			
Budapest			
	NaNE		1
	Baptist Aid	2	
	Prostitutes Rights Protection Association	5	10

	Roma Women's Rights Center		1
	Academics		1
Miskolc			
	Orphanage		4

APPENDIX III: LAW ENFORCEMENT SURVEY

Law Enforcement Survey

Interview Information:

Date and Time:

Interviewers' names:

Location of interview:

Type of interview (border, urban, etc.):

Introduction: Thank you for taking the time to speak with us today. We are researchers from Princeton University in the United States and are here to learn more about trafficking in Hungary. Your responses are very important because it will help government officials (including the International Office on Migration), police and service providers improve how Hungary deals with trafficking. This interview will be anonymous and your responses will be aggregated with the responses of others. Your specific responses will be impossible to track down. The following survey should take approximately 40 minutes. Is that okay? When we run into translation confusion, we will use time-outs. (Show time-out gesture) Please feel free to ask any questions that you have. Is there anything you would like to know more about before we begin?

1. What year did you start working as a police officer?
2. What is your current job?
3. What is your rank?
4. What kind of training or education have you received as an officer and when?
5. What areas of police work would you like to do/are the most prestigious (best) to do? Why?
6. Have you heard about the issue of trafficking in people? (If no, skip to 23.)
7. What is trafficking and why is it a problem?
8. How much of a problem is trafficking in Hungary?
9. Is trafficking connected to other problems that you deal with? If yes, what problems?
10. What is your experience with trafficked people? (If no experience, skip to 12.)
11. How often do you come across situations involving trafficking?
12. Have you heard of trafficking cases in your area/Hungary? Can you tell us about them?
13. Who are the trafficked people?
14. How can you tell?
15. Who is doing the trafficking?
16. How do you know?
17. Why does trafficking happen? What are the incentives?
18. What do you do when you suspect trafficking?
19. Do you have procedures to follow in such situations?
20. What does the law say about trafficking?

21. What kind of impact is your agency having on trafficking?
22. What are the obstacles your agency faces in combating trafficking?
23. Speaking of obstacles, have you seen/heard evidence of collusion with traffickers/pimps?

[Prostitution Questions]

23. Do you deal with prostitutes as part of your job?
24. Can you describe a typical encounter?
25. Have you ever arrested anyone for prostitution?
26. What is the usual procedure when someone is suspected of prostitution? Does it differ based on age, nationality, ethnicity, gender?
27. Are people known to be prostitutes involved in crimes besides prostitution?
28. Who has control over the money prostitutes make?
29. Do police encounter people living off the earnings of prostitutes?
30. How do you deal with them? Do you arrest them?
31. Do you think prostitutes are often victims of crime?
32. Is anyone forced into prostitution in Hungary? Have you seen/heard of any such cases?

[If the interviewee is talking freely/willingly about prostitution and there is time.]

33. Who buys sex in Hungary?
34. How do the police deal with them?
35. Do you think there the police pay enough attention to prostitution?

Follow up for those trained by IOM

Recently you attended a training about trafficking. Can you tell us about that training?

1. Where was it?
2. What was the purpose of the training?
3. What did you do during the training?
4. What were the problems with the training?
5. Did any aspect of the training bother you?
6. Should other officers take part in the same training?
7. After the training, did you talk about the training with anyone else in your office or precinct?
8. What did you talk about?
9. What did they say in reaction?
10. Did the training change your mind about how best to do your job?
11. If IOM wanted to conduct more training, what suggestions would you have?
12. Are there other concerns that are more important than trafficking about which you want more training? What are they?

Thank you so much for your time.

APPENDIX IV: SERVICE PROVIDER SURVEY

Service Provider Survey

Interview Information:

Date and Time:

Interviewers' names:

Location of interview:

Type of interview (border, urban, etc.):

Introduction: Thank you for taking the time to speak with us today. We are researchers from Princeton University in the United States and are here to learn more about the problem of trafficking in Hungary, specifically concerning police attitudes towards the problem of trafficking. The following survey should take approximately 30 minutes. Please feel free to ask any questions that you may have at any point. Is there anything you would like to know more about before we begin?

I. Your job: The first set of questions that I will ask you pertain to your job.

1. What agency do you work with?
2. How long have you currently been in this job?
3. Could you briefly describe some of the everyday responsibilities of your job?
4. In your job, what are problems that you deal with on an every-day level?

II. Trafficking: The next questions are about trafficking.

5. How does your agency work with trafficked people?
6. How would you define trafficking? Who is trafficked? Who is responsible for it?
7. How severe would you say the problem of trafficking is in Hungary? Please explain.
8. What are some challenges that you or your agency face in working with trafficked people?
9. Does your agency compile any regular data about your clients and whether they have experienced trafficking situations? If so, would you feel comfortable sharing that with us?

II. Police: Next, I will ask some questions about your experiences working with the police.

10. In your work, do you encounter, meet with, or work with police? How frequently do you meet with them? Please describe the circumstances that you work with police.
11. What do you feel is the best role for police to play in addressing the problem of trafficking?

12. How do you feel the police view trafficked people?
13. How would you currently rate the police's ability to work with trafficked people?
Do you feel that they have adequate training, resources and sensitivity? Please explain.
14. What do you think is needed to improve how the police address trafficking?
15. How effectively is your agency able to work with the police around the issue of trafficking? What works well and what does not?
16. With which other agencies (service or other) do you interact with in regards to trafficking? Under which circumstances?
17. Do you work with other agencies in providing other services? Which agencies and how do you work with them?

Thank you so much for your time and thoughtful responses to our questions!

APPENDIX V: HUNGARIAN LAW ON TRAFFICKING IN PERSONS

Trafficking in Human Beings, Section 175/B

- (1) Any person who sells, purchases, conveys, or receives another person or exchanges a person for another person, or appropriates one for such purpose for another party, commits a felony offense and shall be punishable with imprisonment of **up to three** years.
- (2) The punishment shall be imprisonment between one to five years if the criminal act is committed
 - a) against a person deprived of personal freedom,
 - b) against a person under the age of eighteen,
 - c) for the purpose of forced labor,
 - d) for the purpose of sodomy or sexual intercourse, or to involuntarily engage in such with another person.
- (3) The punishment shall be imprisonment between **two to eight years** if the criminal act
 - a) involves two of the cases described in Subsection (2), or if the criminal act is committed
 - b) as part of a criminal organization,
 - c) against a person against a person under the tutelage, guardianship, supervision or medical treatment of the perpetrator.
- (4) The punishment shall be imprisonment between five to ten years if the criminal act
 - a) Involves three of the cases described in Subsection (2), or if the criminal act is committed
 - b) Against a person under the tutelage, guardianship, supervision or medical treatment of the perpetrator, and deprived of personal freedom.
- (5) The punishment shall be imprisonment between ten to fifteen years or life imprisonment if the criminal act is committed for the purpose of forced labor and sodomy or sexual intercourse, or to involuntarily engage in such with another person.
 - a) Against a person deprived of personal freedom, as part of a criminal organization,
 - b) Against a person under the tutelage, guardianship, supervision or medical treatment of the perpetrator, and deprived of personal freedom.

APPENDIX VI: UN CONVENTION ON TRAFFICKING

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime

G.A. Res. 25, annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (2001), *entered into force* Sept. 9, 2003.

<http://www1.umn.edu/humanrts/instree/trafficking.html>

Preamble

The States Parties to this Protocol,

Declaring that effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights,

Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,

Concerned that, in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected,

Recalling General Assembly resolution 53/111 of 9 December 1998, in which the Assembly decided to establish an open-ended intergovernmental ad hoc committee for the purpose of elaborating a comprehensive international convention against transnational organized crime and of discussing the elaboration of, inter alia, an international instrument addressing trafficking in women and children,

Convinced that supplementing the United Nations Convention against Transnational Organized Crime with an international instrument for the prevention, suppression and punishment of trafficking in persons, especially women and children, will be useful in preventing and combating that crime,

Have agreed as follows:

I. General provisions

Article 1

*Relation with the United Nations Convention
against Transnational Organized Crime*

1. This Protocol supplements the United Nations Convention against Transnational Organized Crime. It shall be interpreted together with the Convention.
2. The provisions of the Convention shall apply, *mutatis mutandis*, to this Protocol unless otherwise provided herein.
3. The offences established in accordance with article 5 of this Protocol shall be regarded as offences established in accordance with the Convention.

Article 2

Statement of purpose

The purposes of this Protocol are:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among States Parties in order to meet those objectives.

Article 3

Use of terms

For the purposes of this Protocol:

- (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;

- (d) "Child" shall mean any person under eighteen years of age.

Article 4

Scope of application

This Protocol shall apply, except as otherwise stated herein, to the prevention, investigation and prosecution of the offences established in accordance with article 5 of this Protocol, where those offences are transnational in nature and involve an organized criminal group, as well as to the protection of victims of such offences.

Article 5

Criminalization

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and

(c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

II. Protection of victims of trafficking in persons

Article 6

Assistance to and protection of victims of trafficking in persons

1. In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.

2. Each State Party shall ensure that its domestic legal or administrative system contains measures that provide to victims of trafficking in persons, in appropriate cases:

(a) Information on relevant court and administrative proceedings;

(b) Assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders, in a manner not prejudicial to the rights of the defence.

3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.

4. Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.

5. Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.

Article 7

Status of victims of trafficking in persons in receiving States

1. In addition to taking measures pursuant to article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.

2. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.

Article 8

Repatriation of victims of trafficking in persons

1. The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.
2. When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.
3. At the request of a receiving State Party, a requested State Party shall, without undue or unreasonable delay, verify whether a person who is a victim of trafficking in persons is its national or had the right of permanent residence in its territory at the time of entry into the territory of the receiving State Party.
4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the State Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving State Party shall agree to issue, at the request of the receiving State Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.
5. This article shall be without prejudice to any right afforded to victims of trafficking in persons by any domestic law of the receiving State Party.
6. This article shall be without prejudice to any applicable bilateral or multilateral agreement or arrangement that governs, in whole or in part, the return of victims of trafficking in persons.

III. Prevention, cooperation and other measures

Article 9

Prevention of trafficking in persons

1. States Parties shall establish comprehensive policies, programmes and other measures:
 - (a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.

2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

Article 10

Information exchange and training

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:

(a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;

(b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and

(c) The means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

2. States Parties shall provide or strengthen training for law enforcement, immigration and other relevant officials in the prevention of trafficking in persons. The training should focus on methods used in preventing such trafficking, prosecuting the traffickers and protecting the rights of the victims, including protecting the victims from the traffickers. The training should also take into account the need to consider human

rights and child- and gender-sensitive issues and it should encourage cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.

3. A State Party that receives information shall comply with any request by the State Party that transmitted the information that places restrictions on its use.

Article 11

Border measures

1. Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons.

2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol.

3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State.

4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article.

5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol.

6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.

Article 12

Security and control of documents

Each State Party shall take such measures as may be necessary, within available means:

(a) To ensure that travel or identity documents issued by it are of such quality that they cannot easily be misused and cannot readily be falsified or unlawfully altered, replicated or issued; and

(b) To ensure the integrity and security of travel or identity documents issued by or on behalf of the State Party and to prevent their unlawful creation, issuance and use.

Article 13

Legitimacy and validity of documents

At the request of another State Party, a State Party shall, in accordance with its domestic law, verify within a reasonable time the legitimacy and validity of travel or identity documents issued or purported to have been issued in its name and suspected of being used for trafficking in persons.

IV. Final provisions

Article 14

Saving clause

1. Nothing in this Protocol shall affect the rights, obligations and responsibilities of States and individuals under international law, including international humanitarian law and international human rights law and, in particular, where applicable, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement as contained therein.

2. The measures set forth in this Protocol shall be interpreted and applied in a way that is not discriminatory to persons on the ground that they are victims of trafficking in persons. The interpretation and application of those measures shall be consistent with internationally recognized principles of non-discrimination.

Article 15

Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Protocol through negotiation.

2. Any dispute between two or more States Parties concerning the interpretation or application of this Protocol that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States

Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.

3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Protocol, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.

4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 16

Signature, ratification, acceptance, approval and accession

1. This Protocol shall be open to all States for signature from 12 to 15 December 2000 in Palermo, Italy, and thereafter at United Nations Headquarters in New York until 12 December 2002.

2. This Protocol shall also be open for signature by regional economic integration organizations provided that at least one Member State of such organization has signed this Protocol in accordance with paragraph 1 of this article.

3. This Protocol is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

4. This Protocol is open for accession by any State or any regional economic integration organization of which at least one Member State is a Party to this Protocol. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Protocol. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 17

Entry into force

1. This Protocol shall enter into force on the ninetieth day after the date of deposit of the fortieth instrument of ratification, acceptance, approval or accession, except that it shall not enter into force before the entry into force of the Convention. For the purpose of this paragraph, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Protocol after the deposit of the fortieth instrument of such action, this Protocol shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Protocol enters into force pursuant to paragraph 1 of this article, whichever is the later.

Article 18

Amendment

1. After the expiry of five years from the entry into force of this Protocol, a State Party to the Protocol may propose an amendment and file it with the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the Parties to the Convention for the purpose of considering and deciding on the proposal. The States Parties to this Protocol meeting at the Conference of the Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties to this Protocol present and voting at the meeting of the Conference of the Parties.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.

3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.

4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.

5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Protocol and any earlier amendments that they have ratified, accepted or approved.

Article 19

Denunciation

1. A State Party may denounce this Protocol by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Protocol when all of its member States have denounced it.

Article 20

Depositary and languages

1. The Secretary-General of the United Nations is designated depositary of this Protocol.
2. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Protocol.

APPENDIX VII: EU FRAMEWORK ON TRAFFICKING

European Union Council Framework Decision of 19 July 2002 on combating trafficking in human beings

32002F0629

2002/629/JHA: Council Framework Decision of 19 July 2002 on combating trafficking in human beings

Official Journal L 203 , 01/08/2002 P. 0001 – 0004

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29, Article 31(e) and Article 34(2)(b) thereof,

Having regard to the proposal of the Commission(1),

Having regard to the opinion of the European Parliament(2),

Whereas:

(1) The Action Plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice(3), the Tampere European Council on 15 and 16 October 1999, the Santa Maria da Feira European Council on 19 and 20 June 2000, as listed in the Scoreboard, and the European Parliament in its Resolution of 19 May 2000 on the communication from the Commission "for further actions in the fight against trafficking in women" indicate or call for legislative action against trafficking in human beings, including common definitions, incriminations and sanctions.

(2) Council Joint Action 97/154/JHA of 24 February 1997 concerning action to combat trafficking in human beings and sexual exploitation of children(4) needs to be followed by further legislative action addressing the divergence of legal approaches in the Member States and contributing to the development of an efficient judicial and law enforcement cooperation against trafficking in human beings.

(3) Trafficking in human beings comprises serious violations of fundamental human rights and human dignity and involves ruthless practices such as the abuse and deception of vulnerable persons, as well as the use of violence, threats, debt bondage and coercion.

(4) The UN protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the UN Convention against transnational organised crimes, represents a decisive step towards international cooperation in this field.

(5) Children are more vulnerable and are therefore at greater risk of falling victim to trafficking.

(6) The important work performed by international organisations, in particular the UN, must be complemented by that of the European Union.

(7) It is necessary that the serious criminal offence of trafficking in human beings be addressed not only through individual action by each Member State but by a comprehensive approach in which the definition of constituent elements of criminal law common to all Member States, including effective, proportionate and dissuasive sanctions, forms an integral part. In accordance with the principles of subsidiarity and proportionality, this Framework Decision confines itself to the minimum required in order to achieve those objectives at European level and does not go beyond what is necessary for that purpose.

(8) It is necessary to introduce sanctions on perpetrators sufficiently severe to allow for trafficking in human beings to be included within the scope of instruments already adopted for the purpose of combating organised crime such as Council Joint Action 98/699/JHA of 3 December 1998 on money laundering, the identification, tracing, freezing, seizing and confiscation of the instrumentalities and the proceeds from crime(5) and Council Joint Action 98/733/JHA of 21 December 1998 on making it a criminal offence to participate in a criminal organisation in the Member States of the European Union(6).

(9) This Framework Decision should contribute to the fight against and prevention of trafficking in human beings by complementing the instruments adopted in this area such as Council Joint Action 96/700/JHA of 29 November 1996 establishing an incentive and exchange programme for persons responsible for combating trade in human beings and sexual exploitation of children (STOP)(7), Council Joint Action 96/748/JHA of 16 December 1996 extending the mandate given to the Europol Drugs Unit(8), Decision No 293/2000/EC of the European Parliament and of the Council of 24 January 2000 adopting a programme of Community action (the Daphne programme) (2000 to 2003) on preventive measures to fight violence against children, young persons and women(9), Council Joint Action 98/428/JHA of 29 June 1998 on the creation of a European Judicial Network(10), Council Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union(11) and Council Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters(12).

(10) Council Joint Action 97/154/JHA should accordingly cease to apply in so far as it concerns trafficking in human beings,

HAS ADOPTED THIS FRAMEWORK DECISION:

Article 1

Offences concerning trafficking in human beings for the purposes of labour exploitation or sexual exploitation

1. Each Member State shall take the necessary measures to ensure that the following acts are punishable:

the recruitment, transportation, transfer, harbouring, subsequent reception of a person, including exchange or transfer of control over that person, where:

(a) use is made of coercion, force or threat, including abduction, or

(b) use is made of deceit or fraud, or

(c) there is an abuse of authority or of a position of vulnerability, which is such that the person has no real and acceptable alternative but to submit to the abuse involved, or

(d) payments or benefits are given or received to achieve the consent of a person having control over another person

for the purpose of exploitation of that person's labour or services, including at least forced or compulsory labour or services, slavery or practices similar to slavery or servitude, or

for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including in pornography.

2. The consent of a victim of trafficking in human beings to the exploitation, intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 have been used.

3. When the conduct referred to in paragraph 1 involves a child, it shall be a punishable trafficking offence even if none of the means set forth in paragraph 1 have been used.

4. For the purpose of this Framework Decision, "child" shall mean any person below 18 years of age.

Article 2

Instigation, aiding, abetting and attempt

Each Member State shall take the necessary measures to ensure that the instigation of, aiding, abetting or attempt to commit an offence referred to in Article 1 is punishable.

Article 3

Penalties

1. Each Member State shall take the necessary measures to ensure that an offence referred to in Articles 1 and 2 is punishable by effective, proportionate and dissuasive criminal penalties, which may entail extradition.

2. Each Member State shall take the necessary measures to ensure that an offence referred to in Article 1 is punishable by terms of imprisonment with a maximum penalty that is not less than eight years where it has been committed in any of the following circumstances:

(a) the offence has deliberately or by gross negligence endangered the life of the victim;

(b) the offence has been committed against a victim who was particularly vulnerable. A victim shall be considered to have been particularly vulnerable at least when the victim was under the age of sexual majority under national law and the offence has been committed for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including pornography;

(c) the offence has been committed by use of serious violence or has caused particularly serious harm to the victim;

(d) the offence has been committed within the framework of a criminal organisation as defined in Joint Action 98/733/JHA, apart from the penalty level referred to therein.

Article 4

Liability of legal persons

1. Each Member State shall take the necessary measures to ensure that legal persons can be held liable for an offence referred to in Articles 1 and 2, committed for their benefit by any person, acting either individually or as part of an organ of the legal person, who has a leading position within the legal person, based on:

(a) a power of representation of the legal person, or

(b) an authority to take decisions on behalf of the legal person, or

(c) an authority to exercise control within the legal person.

2. Apart from the cases already provided for in paragraph 1, each Member State shall take the necessary measures to ensure that legal persons can be held liable where the lack of supervision or control by a person referred to in paragraph 1 have rendered possible the commission of an offence referred to in Articles 1 and 2 for the benefit of that legal person by a person under its authority.

3. Liability of legal persons under paragraphs 1 and 2 shall not exclude criminal proceedings against natural persons who are perpetrators, instigators or accessories in an offence referred to in Articles 1 and 2.

4. For the purpose of this Framework Decision, legal person shall mean any entity having such status under the applicable law, except for States or other public bodies in the exercise of State authority and for public international organisations.

Article 5

Sanctions on legal persons

Each Member State shall take the necessary measures to ensure that a legal person held liable pursuant to Article 4 is punishable by effective, proportionate and dissuasive sanctions, which shall include criminal or non-criminal fines and may include other sanctions, such as:

- (a) exclusion from entitlement to public benefits or aid, or
- (b) temporary or permanent disqualification from the practice of commercial activities, or
- (c) placing under judicial supervision, or
- (d) a judicial winding-up order, or
- (e) temporary or permanent closure of establishments which have been used for committing the offence.

Article 6

Jurisdiction and prosecution

1. Each Member State shall take the necessary measures to establish its jurisdiction over an offence referred to in Articles 1 and 2 where:

- (a) the offence is committed in whole or in part within its territory, or
- (b) the offender is one of its nationals, or
- (c) the offence is committed for the benefit of a legal person established in the territory of that Member State.

2. A Member State may decide that it will not apply or that it will apply only in specific cases or circumstances, the jurisdiction rules set out in paragraphs 1(b) and 1(c) as far as the offence is committed outside its territory.

3. A Member State which, under its laws, does not extradite its own nationals shall take the necessary measures to establish its jurisdiction over and to prosecute, where appropriate, an offence referred to in Articles 1 and 2 when it is committed by its own nationals outside its territory.

4. Member States shall inform the General Secretariat of the Council and the Commission accordingly where they decide to apply paragraph 2, where appropriate with an indication of the specific cases or circumstances in which the decision applies.

Article 7

Protection of and assistance to victims

1. Member States shall establish that investigations into or prosecution of offences covered by this Framework Decision shall not be dependent on the report or accusation made by a person subjected to the offence, at least in cases where Article 6(1)(a) applies.

2. Children who are victims of an offence referred to in Article 1 should be considered as particularly vulnerable victims pursuant to Article 2(2), Article 8(4) and Article 14(1) of Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings(13).

3. Where the victim is a child, each Member State shall take the measures possible to ensure appropriate assistance for his or her family. In particular, each Member State shall, where appropriate and possible, apply Article 4 of Framework Decision 2001/220/JHA to the family referred to.

Article 8

Territorial scope

This Framework Decision shall apply to Gibraltar.

Article 9

Application of Joint Action 97/154/JHA

Joint Action 97/154/JHA shall cease to apply in so far as it concerns trafficking in human beings.

Article 10

Implementation

1. Member States shall take the necessary measures to comply with this Framework Decision before 1 August 2004.

2. By the date referred to in paragraph 1, Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Framework Decision. The Council will, by 1 August 2005 at the latest, on the basis of a report established on the basis of this information and a written report transmitted by the Commission, assess the extent to which Member States have taken the necessary measures in order to comply with this Framework Decision.

Article 11

Entry into force

This Framework Decision shall enter into force on the day of its publication in the Official Journal.

Done at Brussels, 19 July 2002.

For the Council

The President

T. Pedersen

(1) OJ C 62 E, 27.2.2001, p. 324.

(2) OJ C 35 E, 28.2.2002, p. 114.

(3) OJ C 19, 23.1.1999, p. 1.

(4) OJ L 63, 4.3.1997, p. 2.

(5) OJ L 333, 9.12.1998, p. 1. Joint Action as last amended by Framework Decision 2001/500/JHA (OJ L 182, 5.7.2001, p. 1).

(6) OJ L 351, 29.12.1998, p. 1.

(7) OJ L 322, 12.12.1996, p. 7.

(8) OJ L 342, 31.12.1996, p. 4.

(9) OJ L 34, 9.2.2000, p. 1.

(10) OJ L 191, 7.7.1998, p. 4.

(11) OJ L 105, 27.4.1996, p. 1.

(12) OJ L 191, 7.7.1998, p. 1.

(13) OJ L 82, 22.3.2001, p. 1.

APPENDIX VIII: HUNGARIAN LAW ON PROSTITUTION AND RELATED OFFENSES

Promotion of Prostitution (Section 205)

- (1) The person who makes available a building or another place for prostitution to another person, commits a felony and shall be punishable with imprisonment of up to three years.
- (2) The person who maintains, heads a brothel, or makes available financial means to the functioning thereof, commits a felony and shall be punishable with imprisonment of up to five years
- (3) The punishment shall be imprisonment from two years to eight years if
 - a) any person who has not yet completed his eighteenth year engages in prostitution in a brothel
 - b) prostitution is promoted as part of a criminal organization.
- (4) The person who persuades another person to engage in prostitution, shall be punishable in accordance with subsection (1).

Living on Earnings of Prostitution (Section 206)

The person who lives wholly or in part on the earnings of a person engaging in prostitution, commits a felony, and shall be punishable with imprisonment of up to three years. Banishment may also take place as a supplementary punishment.

Pandering (Section 207)

- (1) The person who solicits another person for sexual intercourse or fornication for somebody else in order to make profit, commits a felony, and shall be punishable with imprisonment of up to three years.
- (2) The punishment shall be imprisonment from one year to five years, if the pandering is business-like.
- (3) The punishment shall be imprisonment from two years to eight years, if the pandering is committed
 - a) to the injury of a relative of the perpetrator or of a person under his education, supervision or care or who has not yet completed his eighteenth year of age,
 - b) with deceit, violence or direct menace against life or limbs,
 - c) As part of a criminal organization
- (4) The person who agrees on the perpetration of pandering defined in subsection (2) commits a felony and shall be punishable with imprisonment of up to three years.

APPENDIX IX: THE NEW YORK AGREEMENT

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others [a.k.a., “The New York Agreement”]

Approved by General Assembly resolution 317 (IV) of 2 December 1949

Entry into force: 25 July 1951, in accordance with article 24

Preamble

Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community,

Whereas , with respect to the suppression of the traffic in women and children, the following international instruments are in force:

(1) International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, as amended by the Protocol approved by the General Assembly of the United Nations on 3 December 1948,

(2) International Convention of 4 May 1910 for the Suppression of the White Slave Traffic, as amended by the above-mentioned Protocol,

(3) International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children, as amended by the Protocol approved by the General Assembly of the United Nations on 20 October 1947,

(4) International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age, as amended by the aforesaid Protocol,

Whereas the League of Nations in 1937 prepared a draft Convention extending the scope of the above-mentioned instruments, and

Whereas developments since 1937 make feasible the conclusion of a convention consolidating the above-mentioned instruments and embodying the substance of the 1937 draft Convention as well as desirable alterations therein:

Now therefore

The Contracting parties

Hereby agree as hereinafter provided :

Article 1

The Parties to the present Convention agree to punish any person who, to gratify the passions of another:

- (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
- (2) Exploits the prostitution of another person, even with the consent of that person.

Article 2

The Parties to the present Convention further agree to punish any person who:

- (1) Keeps or manages, or knowingly finances or takes part in the financing of a brothel;
- (2) Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.

Article 3

To the extent permitted by domestic law, attempts to commit any of the offences referred to in articles 1 and 2, and acts preparatory to the commission thereof, shall also be punished.

Article 4

To the extent permitted by domestic law, intentional participation in the acts referred to in articles 1 and 2 above shall also be punishable.

To the extent permitted by domestic law, acts of participation shall be treated as separate offences whenever this is necessary to prevent impunity.

Article 5

In cases where injured persons are entitled under domestic law to be parties to proceedings in respect of any of the offences referred to in the present Convention, aliens shall be so entitled upon the same terms as nationals.

Article 6

Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.

Article 7

Previous convictions pronounced in foreign States for offences referred to in the present Convention shall, to the extent permitted by domestic law, be taken into account for the purposes of:

- (1) Establishing recidivism;
- (2) Disqualifying the offender from the exercise of civil rights.

Article 8

The offences referred to in articles 1 and 2 of the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereafter be concluded between any of the Parties to this Convention.

The Parties to the present Convention which do not make extradition conditional on the existence of a treaty shall henceforward recognize the offences referred to in articles 1 and 2 of the present Convention as cases for extradition between themselves.

Extradition shall be granted in accordance with the law of the State to which the request is made.

Article 9

In States where the extradition of nationals is not permitted by law, nationals who have returned to their own State after the commission abroad of any of the offences referred to in articles 1 and 2 of the present Convention shall be prosecuted in and punished by the courts of their own State.

This provision shall not apply if, in a similar case between the Parties to the present Convention, the extradition of an alien cannot be granted.

Article 10

The provisions of article 9 shall not apply when the person charged with the offence has been tried in a foreign State and, if convicted, has served his sentence or had it remitted or reduced in conformity with the laws of that foreign State.

Article 11

Nothing in the present Convention shall be interpreted as determining the attitude of a Party towards the general question of the limits of criminal jurisdiction under international law.

Article 12

The present Convention does not affect the principle that the offences to which it refers shall in each State be defined, prosecuted and punished in conformity with its domestic law.

Article 13

The Parties to the present Convention shall be bound to execute letters of request relating to offences referred to in the Convention in accordance with their domestic law and practice.

The transmission of letters of request shall be effected:

- (1) By direct communication between the judicial authorities; or
- (2) By direct communication between the Ministers of Justice of the two States, or by direct communication from another competent authority of the State making the request to the Minister of Justice of the State to which the request is made; or
- (3) Through the diplomatic or consular representative of the State making the request in the State to which the request is made; this representative shall send the letters of request direct to the competent judicial authority or to the authority indicated by the Government of the State to which the request is made, and shall receive direct from such authority the papers constituting the execution of the letters of request.

In cases 1 and 3 a copy of the letters of request shall always be sent to the superior authority of the State to which application is made.

Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the State to which the request is made may require a translation in its own language, certified correct by the authority making the request.

Each Party to the present Convention shall notify to each of the other Parties to the Convention the method or methods of transmission mentioned above which it will recognize for the letters of request of the latter State.

Until such notification is made by a State, its existing procedure in regard to letters of request shall remain in force.

Execution of letters of request shall not give rise to a claim for reimbursement of charges or expenses of any nature whatever other than expenses of experts.

Nothing in the present article shall be construed as an undertaking on the part of the Parties to the present Convention to adopt in criminal matters any form or methods of proof contrary to their own domestic laws.

Article 14

Each Party to the present Convention shall establish or maintain a service charged with the co-ordination and centralization of the results of the investigation of offences referred to in the present Convention.

Such services should compile all information calculated to facilitate the prevention and punishment of the offences referred to in the present Convention and should be in close contact with the corresponding services in other States.

Article 15

To the extent permitted by domestic law and to the extent to which the authorities responsible for the services referred to in article 14 may judge desirable, they shall furnish to the authorities responsible for the corresponding services in other States the following information:

(1) Particulars of any offence referred to in the present Convention or any attempt to commit such offence;

(2) Particulars of any search for any prosecution, arrest, conviction, refusal of admission or expulsion of persons guilty of any of the offences referred to in the present Convention, the movements of such persons and any other useful information with regard to them.

The information so furnished shall include descriptions of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.

Article 16

The Parties to the present Convention agree to take or to encourage, through their public and private educational, health, social, economic and other related services, measures for the prevention of prostitution and for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in the present Convention.

Article 17

The Parties to the present Convention undertake, in connection with immigration and emigration, to adopt or maintain such measures as are required, in terms of their obligations under the present Convention, to check the traffic in persons of either sex for the purpose of prostitution.

In particular they undertake:

(1) To make such regulations as are necessary for the protection of immigrants or emigrants, and in particular, women and children, both at the place of arrival and departure and while en route ;

(2) To arrange for appropriate publicity warning the public of the dangers of the aforesaid traffic;

(3) To take appropriate measures to ensure supervision of railway stations, airports, seaports and en route , and of other public places, in order to prevent international traffic in persons for the purpose of prostitution;

(4) To take appropriate measures in order that the appropriate authorities be informed of the arrival of persons who appear, prima facie , to be the principals and accomplices in or victims of such traffic.

Article 18

The Parties to the present Convention undertake, in accordance with the conditions laid down by domestic law, to have declarations taken from aliens who are prostitutes, in order to establish their identity and civil status and to discover who has caused them to leave their State. The information obtained shall be communicated to the authorities of the State of origin of the said persons with a view to their eventual repatriation.

Article 19

The Parties to the present Convention undertake, in accordance with the conditions laid down by domestic law and without prejudice to prosecution or other action for violations thereunder and so far as possible:

(1) Pending the completion of arrangements for the repatriation of destitute victims of international traffic in persons for the purpose of prostitution, to make suitable provisions for their temporary care and maintenance;

(2) To repatriate persons referred to in article 18 who desire to be repatriated or who may be claimed by persons exercising authority over them or whose expulsion is ordered in conformity with the law. Repatriation shall take place only after agreement is reached with the State of destination as to identity and nationality as well as to the place and date of arrival at frontiers. Each Party to the present Convention shall facilitate the passage of such persons through its territory.

Where the persons referred to in the preceding paragraph cannot themselves repay the cost of repatriation and have neither spouse, relatives nor guardian to pay for them, the cost of repatriation as far as the nearest frontier or port of embarkation or airport in the direction of the State of origin shall be borne by the State where they are in residence, and the cost of the remainder of the journey shall be borne by the State of origin.

Article 20

The Parties to the present Convention shall, if they have not already done so, take the necessary measures for the supervision of employment agencies in order to prevent persons seeking employment, in particular women and children, from being exposed to the danger of prostitution.

Article 21

The Parties to the present Convention shall communicate to the Secretary-General of the United Nations such laws and regulations as have already been promulgated in their States, and thereafter annually such laws and regulations as may be promulgated, relating to the subjects of the present Convention, as well as all measures taken by them concerning the application of the Convention. The information received shall be published periodically by the Secretary-General and sent to all Members of the United Nations and to non-member States to which the present Convention is officially communicated in accordance with article 23.

Article 22

If any dispute shall arise between the Parties to the present Convention relating to its interpretation or application and if such dispute cannot be settled by other means, the dispute shall, at the request of any one of the Parties to the dispute, be referred to the International Court of Justice.

Article 23

The present Convention shall be open for signature on behalf of any Member of the United Nations and also on behalf of any other State to which an invitation has been addressed by the Economic and Social Council.

The present Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

The States mentioned in the first paragraph which have not signed the Convention may accede to it.

Accession shall be effected by deposit of an instrument of accession with the Secretary-General of the United Nations.

For the purposes of the present Convention the word "State" shall include all the colonies and Trust Territories of a State signatory or acceding to the Convention and all territories for which such State is internationally responsible.

Article 24

The present Convention shall come into force on the ninetieth day following the date of deposit of the second instrument of ratification or accession.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification or accession, the Convention shall enter into force ninety days after the deposit by such State of its instrument of ratification or accession.

Article 25

After the expiration of five years from the entry into force of the present Convention, any Party to the Convention may denounce it by a written notification addressed to the Secretary-General of the United Nations.

Such denunciation shall take effect for the Party making it one year from the date upon which it is received by the Secretary-General of the United Nations.

Article 26

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 23:

- (a) Of signatures, ratifications and accessions received in accordance with article 23;
- (b) Of the date on which the present Convention will come into force in accordance with article 24;
- (c) Of denunciations received in accordance with article 25.

Article 27

Each Party to the present Convention undertakes to adopt, in accordance with its Constitution, the legislative or other measures necessary to ensure the application of the Convention.

Article 28

The provisions of the present Convention shall supersede in the relations between the Parties thereto the provisions of the international instruments referred to in subparagraphs 1, 2, 3 and 4 of the second paragraph of the Preamble, each of which shall be deemed to be terminated when all the Parties thereto shall have become Parties to the present Convention.

Final protocol

Nothing in the present Convention shall be deemed to prejudice any legislation which ensures, for the enforcement of the provisions for securing the suppression of the traffic

in persons and of the exploitation of others for purposes of prostitution, stricter conditions than those provided by the present Convention.

The provisions of articles 23 to 26 inclusive of the Convention shall apply to the present Protocol.