

Paper submitted by Portia Kurima to the Salaya Conference on Irregular Migrants, Refugees or Victims of Human-Trafficking? Analysis, Advocacy and Assistance between Categorizations and (Self) Identifications

Title: The Pattern of Human Trafficking: Comparative Case studies of Zimbabwe and the Greater Mekong Sub-Region

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Abstract

Human trafficking has been equated to contemporary slavery, even though it has been prioritized by many governments across regions, the phenomenon clearly remains under explored. One of the factors which contributes to the widespread of human trafficking is economic under-development. Due to a high rate of poverty and unemployment, laborers in countries such as Zimbabwe and the GMS are looking for the proverbial greener pastures elsewhere. These economic migrants could become victims of human trafficking especially in the countries where legal frameworks on human trafficking do not exist or are not strongly enforced. This paper seeks to explore the pattern of human trafficking in Zimbabwe and the Greater Mekong Sub region countries in terms of similarities and differences in human trafficking movement. This study argues that despite sharing the same direct causes (i.e., economic poverty), the extent of the human trafficking situation in Zimbabwe is relatively more severe as compared with those in GMS. While the latter is attributed to the weak enforcement of human trafficking laws by the government agencies, the former is caused by either lack of legal framework on human trafficking or the conflicting legal measures in sending countries and/or destination countries. For instance, the kafala system as part of the labor laws in the destination countries such as Kuwait is mostly responsible for the rise and severity of human trafficking cases in Zimbabwe since Zimbabwean economic migrants cannot move freely without the consent of their employers. This system eventually provides a conducive environment for “formalized” human trafficking to occur as it places employees at the mercies of their employers. The reflection paper will also tackle the significance of labelling and categorization of “victims” of human trafficking and explore the nexus between economic migration and human trafficking.

The Pattern of Human Trafficking in Zimbabwe and the GMS

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring 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, harboring 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 3(a) of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons)

The Palermo Protocol enjoins member states to criminalize trafficking in persons and to probe and prosecute traffickers as well as for state parties to undertake border control measures to curb the practice. From the definition of trafficking in persons as espoused by the protocol, several things can be inferred, firstly the process commences once recruitment for the purpose takes place, attendant activities which aid and abet the process in the form of transportation, transferring and receiving are considered as trafficking. Secondly, there are what will be referred to as enablers these are the use of threats or force or coercion, deception which enable or set the tone for exploitation, the latter is a key component as these enablers are there to enable exploitation. Lastly the definition elucidates the forms of exploitation which include forced labor, prostitution, and slavery *inter alia* and consent by the victim does not vitiate the

liability of the trafficker. The exploitative nature of the treatment of human trafficking victims has seen it being equated to modern day slavery, (Adejolu 2005). The 2016 Global Slavery Index reports that globally an estimated 45.8 million people are in some form of modern day slavery in 167 countries, a sharp increase when compared to an estimated 35.8million reported by the index in 2014. This is indicative of the severity and the extent of the phenomenon and points to the need to come up with strategies to curb it.

The human trafficking industry is highly comparable to the mafia, its existence is undoubted as well as its operations but locating it is a grim task because it is highly secretive and elusive. The Tsireledzani Report (2010) suggests that Zimbabwe is a major source of origin for South Africa and of late Gulf countries and that women constitute the large group of victims. On the other hand Southeast Asia has generally been pin pointed as a significant source of trafficking in persons with intra-regional trafficking on the high end, (Larsen 2010).Victims are trafficked for various reasons including but not limited to prostitution, and forced labor plus criminal activity which includes drug trafficking. The reasons why victims are trafficked are generally the same in the world, the perpetrators are motivated by reaping economic benefit and their market benefits cheap labor. Comparatively the reasons why populations become vulnerable to trafficking in persons are also similar, the pursuit of better economic opportunities and greener pastures.

The identification of the various dimensions and trends of human trafficking aids in the development of appropriate responses to the phenomenon. However its largely criminal and clandestine nature as well as lack of reliable data on trafficking makes the development of adequate challenges problematic. Smith (2011) advances that poor countries from which most of the victims originate from are also disabled to collect accurate data, this also impedes on the understanding of the extent of the problem as well as the pattern. A rather intriguing observation in terms of the pattern is made by the Tsireledzani Report (2010) as it posits women from Thailand, China, Pakistan, Russia, India, Philippines and other Asian countries among victims that are trafficked to South Africa a country in Sub-Sahara Africa. Allais (2015) intimates that trafficking is demand driven and the demand for brothel entertainers has seen an upsurge in the number of Thai and Central European women being trafficked and sold into South African brothels. The foregoing introduces a twist to the pattern of trafficking between Africa and Asia, movement is not only outward Africa as one would be more inclined to think based on the assumption that push factors push people out of Africa and pull them elsewhere rather the movement is two way, as some head outside Africa some head towards it. Intra-regional trafficking is also very much prevalent in Southeast Asia, Larsen (2010) and this can be attributed to the economic and political instability in some of the countries as well as high levels of economic disparities between the nations. The Asian Development Bank (2016) report on the GMS places the 2014 GDP at Purchasing Power Parity (PPP)

of Cambodia at \$51, Lao PDR \$35 and Thailand at \$1,070. The foregoing figures show a huge disparity of gross domestic product and it is no surprise that Thailand is a major destination for trafficking in persons in the GMS. Zimbabwe on the other hand is more of a source country and to an extent a transit and destination country. The US TIP Report (2016) states that Zimbabwe is a transit route predominantly for people trafficked from East Africa enroute to South Africa and a destination mainly for refugees from Somalia and the Democratic of Congo who are exploited in Chinese restaurants. The report also notes increased luring of Zimbabweans especially women to China and the Middle East where they are exploited. Notably the Middle East and Gulf Cooperation Council states which are destination countries for most trafficked persons from Zimbabwe implement the kafala system and this makes the Zimbabwean situation more severe when compared to the GMS where the bulk of trafficking is intra-regional.

Why does human trafficking thrive?

The root causes of human trafficking include vulnerability emanating from poverty which makes the lure of apparently greener pastures irresistible. Increasing poverty, conflict and deprivation which result in persistent unemployment also contribute to the malaise, (Adejopu 2005). As such the drivers of human trafficking create a conducive environment for its perpetuation because a “ready human market” exists on the victims’ end. The criminal and hidden nature of human trafficking makes it difficult to detect and respond in

most instances. Additionally it is highly organized and built on deception, in some instances it is disguised as migration, (Adejolu 2005). The foregoing creates a favorable environment for it to thrive as the practice can be highly organized mafia style to avoid detection, collusion with immigration officials at ports of exit and entry cannot be ruled out and were it occurs it oils the diabolical human trafficking machinery. Pearson (2003) intimates that exploitation of trafficked people usually occurs in the shadow economies where there is a high demand for cheap labour in restaurants and the sex trade for example. This results in a ready market which is on standby to absorb trafficked individuals, lay person economics suggests that the higher the demand the need to increase supply in order to satiate that demand. Hence the presence of a ready market is lifeblood for the trafficking in persons industry and this sustains and enables it to blossom.

Fitzgibbon (2003) suggests that the high profit margins coupled with the diminished risk of arrest and conviction make trafficking in persons an attractive venture. Free The Slaves (2017) estimates the annual revenue generated by slavery to be in the region of a whopping USD150 billion, if this figure is anything to go by it makes a lot of companies “underperformers”, the collective revenue of top 2017 10 Fortune 500 companies is nowhere near. Nothing can therefore be more ideal than a high profit low risk undertaking, in this stead human trafficking thrives because many are attracted by its ideal nature.

Inadequate legislation and or poor enforcement thereof also creates a conducive environment for trafficking to thrive. The United States Trafficking in Persons Report (US TIP) which is an annual report ranks countries in tiers in accordance with the extent of the states' efforts to comply with minimum standards for the elimination of trafficking as provided for in the Trafficking Victims Protection Act of the U.S. These minimum standards include but are not limited to prohibition and punishing of perpetrators and efforts by government to eliminate trafficking. The U.S TIP (2016) places Cambodia in tier 2 and it is the only GMS country in tier 2, Thailand was ranked on the tier 2 watch list and Zimbabwe in tier 3. Tier 1 is the most positive ranking and tier 3 the worst, therefore the fact that only one GMS country was ranked in tier 2 with none in tier one and Zimbabwe being ranked in the worst tier possible is indicative of inadequate action and legislations by the governments of these regions which in turn have created a fertile environment for trafficking in persons.

UNODOC (2016) suggests that as part of the general pattern which sustains trafficking in persons, traffickers in countries of origin are usually citizens of these countries and in destination countries they are either citizens of those countries or share citizenship with victims in some instances. Generally traffickers and their victims (in countries of origin especially) usually share commonalities in terms of background, language or even ethnicity and religion. From a point of view this builds trust in the victim and makes the trafficker's job

a whole lot more easier as they would have acquired trust from the victim and they can convince them to make the bold move to a foreign land from which the trafficker profits. Also the fact that traffickers are natives of destination countries makes it easier for them to navigate and elude any legal framework that might be in place to curb the practice as well as enables them to corruptly grease hands of officials should need be.

However the GMS has made efforts in the form of country legislation regional initiatives for example the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT) which is a step in the right direction in tackling the challenge, on the other hand Zimbabwe has porous legislative measures in place in respect of which reform has been called for time and again. The Zimbabwean Trafficking in Persons Act [9:25] has many lacunae which makes it ineffective and shaky, for example the Act does not provide for formalized victim identification, training of officials in identification and other attendant processes or referral for assistance to relevant service providers. Untrained officials and inability to identify victims as well as refer them for assistance is fundamentally flawed and potentially weakens any intervention after the fact.

The Kafala system

The kafala system is a system predominantly prevalent in Gulf Cooperation Council States which requires low skilled migrant workers to be sponsored by a *kafeel* (state national) who assumes legal and economic responsibility over the

migrant, (Sadiq and Wu 2015). As a result of the sponsorship the migrant worker becomes tied to the individual employer and this restricts their freedom of movement or association and the ability to change employers, (Human Rights Watch 2016). The system is based on the perception of hospitality that the host is responsible for the well-being of the visitor which is very ironical given that the system has become an instrument of repression and abuse of migrant workers as well as a vehicle for human trafficking.

Unscrupulous employers and agents have utilized this system to abuse employees and very limited recourse is available to victims as generally in the Gulf States domestic workers are excluded from labour laws, which is quite unfortunate given that most domestic workers are migrants and migrant workers constitute an estimated three quarters of the population of Gulf States, (Fargues 2011). As a result of the sponsorship, migrant workers surrender their travel documents to their agents or employers as surety, and cannot leave the premises of employment as well as the country without prior employer approval. Pearson (2003) observes that the seizure of documents by employers makes it difficult for employees to leave exploitative circumstances. In some instances allegations of restrictions equitable to house arrest have surmised wherein an employee has no contact with the outside world even their families in their home countries as they are forbidden from owning cellphones* ¹.

¹ *as narrated by repatriated Zimbabwean victims of trafficking in 2016

It is worthy to note that the Kafala system emerged after the Gulf oil boom in the 1950s which saw an influx of foreign workers, the system was introduced as a measure to regulate the flows and numbers of migrant workers, (Sadiq and Wu 2015). In light of the foregoing the assumption that this system is a social control system aimed at preventing the assimilation of migrants and maintain separation between locals and foreigners and therefore preventing a cultural ‘dilution’ of the indigenous population would not be far-fetched. This is coming from the premise that, a disempowered migrant population which is devoid of rights and freedom of movement can barely influence or “dilute” a population. One can therefore contend that, if human trafficking is modern day slavery then the kafala system oils the slavery machinery to an extent. Gulf States have been reluctant to reform the system as this would entail granting migrant workers freedom of movement and limit the hold of employers over employees.

Nexus between economic migration and trafficking in persons

Economic migration can be loosely referred to as the **choice** to move in a bid to improve one’s standard of living, on the other hand human trafficking involves force, deception and coercion among other things. The two dimensions involve movement of individuals from one place to the other within and across borders and continents, to an extent the reasons for movement are shared that is the lure of the proverbial greener pastures. Economic migration is spurred by poverty, unemployment and the search for more lucrative economic opportunities

among others and human trafficking victims fall prey because they are also in search of better economic opportunities. Migration can be independent or assisted just like human trafficking and economic migrants face potential exploitation in their destination countries. The Global Alliance Against Traffic in Women (GAATW 2016) suggests that there is an overlap between migration and trafficking with migration being an element of trafficking which is also echoed by Chibba (2013) who submits that migration is a fundamental part of trafficking. In the same vein the United Nations Office on Drugs and Crimes (UNODOC 2016) states that certain trafficking flows resemble migration flows and that the flow of human trafficking broadly shadows migratory patterns. From the foregoing it is apparent that the two are inter-connected, it is possible that one can make a choice to migrate and find themselves as a victim of trafficking through deception by crooks who pose as potential employers or deception by employers who shift and or change goalposts when one has arrived at their destination.

Aronowitz (2013) lists three stages of trafficking, the first is recruitment or abduction, second is transportation and third is exploitation. The author also asserts that human trafficking occurs in the context of migration and is driven by the law of demand and supply. The overlap between trafficking and migration is apparent in the foregoing three stages of trafficking in persons. Usually when a person makes the choice to migrate either they have already been recruited or they see potential chances of recruitment, this recruitment can be through agents

or organizations which they believe to be real, genuine and fair employers. A lot of trafficked people are also led to believe they are being recruited for legitimate fair employment, in some instances they are actually recruited but goals shift upon their arrival when conditions of employment are radically changed and contracts flouted. Larsen (2010) intimates that the industries that attract migrant workers in Southeast Asia are often poorly regulated thereby increasing the chances of exploitation of economic migrants. The possibility of deception at the onset of migration is very high as deception is one of the pillars of trafficking in persons, one can believe that they are migrating when in actual fact they are being trafficked. The question also begets, if one voluntarily migrates and after the fact the conditions change have they migrated or the change in circumstances speak to being trafficked? Such is the grey area between migration and trafficking, one can embark on the other but end up with the other what is however clear is economic migration and trafficking overlap.

Labelling and categorization

“Society is a human product. Society is an objective reality. Man is a social product”, (Berger 1991). The foregoing implies that society is what man makes it and human beings are products of society, in other words, man creates a world and then becomes a product of that which he created. According to social constructivists, social reality is inter-subjectively constructed through interface, Stein (2008), and consequently individuals and society are the product of each

other's construction, (Onuf 1989). What this entails is that individuals become a product of how society constructs them and accordingly this informs their behavior, labelling is an act perpetuated by society and labels are informed and guided by societal perceptions and interpretations. Piquero (2016) posits that labelling is indicative of social reactions and shapes the behavior of those who are labelled or reacted to. The word victim is used in respect of those who have experienced harm and victimhood is a collective identity based on effected harm, (Jacoby 2014). The United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985) defines victims as those who have suffered harm either collectively or individually, the harm can be physical, mental, economic, or emotional. The Declaration further provides that suffering substantial impairment of one's rights through commission or omission can also qualify one as a victim. Victim (s) of human trafficking is a phrase synonymous with those that have been subject of trafficking in persons, the phrase is used to express the harm and loss that they have been unfortunate to experience and it can be contended that to an extent it is used as an expression of sympathy or to invoke it. The victimhood of trafficked people is a social construction based on their experiences and has huge import on how they are treated and informs the reactions of those around them.

Kenney (2002) notes that labelling is defined by social reactions and shaped by interactional response, this finds resonance with Leisenring (2006)

who advances that institutions produce institutional identities which can be templates for self-construction. Leisenring additionally posits that the identity of a victim is tied to existing constructions by the public of victims as well as how people derive meaning from these constructions. Labelling an individual as a victim sets the tone on how the individual in question constructs themselves as well as how society perceives them given that the word elicits both positive and negative emotions. Victims of human trafficking elicit empathy and sympathy from individuals, communities and organizations. From a point of view this is because the phrase used to label them projects an image of a vulnerable person(s) upon whom undeserved evil has fallen and this instigates the need for adequate response and assistance. On the face of it the foregoing isn't bad, it actually encourages action to be taken to assist victims and responses to curb the phenomenon to be crafted. From this standpoint it can be suggested that the victimhood discourse as relating to human trafficking has enabled the issue of trafficking in persons to be treated with the urgency and seriousness it deserves and resulted in victims getting assistance as well as preventive measures in the form of legislation and awareness raising being instituted. In short this labelling has given legitimacy to advocacy initiatives among other positive responses. As observed by Hoyle et al (2011) the victim label has currency and it validates experiences as well as open doors.

Symbolic interactionism assumes that individuals act on the basis of meanings that things have for them, (Benzies and Allen 2001). Among other things the discourse holds that meaning and the importance attached to it is derived from interaction, Piquero (2016) and that individuals configure the world based on their insights and understanding of what they make the world to be. From a standpoint, people attach meaning to things and then act on the basis of that meaning, which means that meaning is derived from interaction and the action of others. Victim and victimhood are social constructs that emerge from interaction, the treatment of victims and the perceptions towards the discourse of victimhood are therefore socially emergent. To this end these constructs are malleable and fluid therefore the importance attached to them can change with time or changing societal perceptions and priorities.

Labelling is indicative of social constructs and perceptions about things and in this context it shows perceptions towards victims. These perceptions and constructs create self-awareness in the individual(s) being labelled and identities are construed. Knutsson (1977) postulates that self-awareness in an individual is created through interplay between him/her and their environment and that the basis upon which one adopts a particular identity is their ability to perceive themselves through the eyes of others. It can therefore be argued that victims' self-conceptualization derives from how society treats and interacts with them. If the societal conception of victim is that of a helpless, pitiable individual then

those referred to as victims conceptualize themselves as such and exude helplessness and expect sympathy from people even when undeserved or beyond what is reasonably acceptable. Potentially therefore, there is danger in the victim label as it can create illegitimate expectations of pity and sympathy and allegations of neglect as victims would expect more to be done for them since they conceive themselves as deserving victims. If one is labelled a victim, they are most likely to transform into a victim and victimhood becomes a self-fulfilling prophecy.

Kenney (2002) notes that victim status can be impossible to reverse and can become a lifetime tag defining conduct in the long run. In as much as in some instances the victim identity conveys suffering and harm which elicits sympathy and prompts society to act, in some, it can be used to deflect responsibility by the victim and this creates problems as eventually societal sympathy accounts are bound to run dry and they expect those that have experienced harm to stand on their own legs and get ahead with their lives.

Conclusion and recommendations

It has been shown that the pattern of human trafficking in Zimbabwe and the GMS is very similar in a lot of respects. The push and pull factors are the same, what makes the Zimbabwean situation more severe is that the major destination countries are in the Gulf Cooperation Council states which implement the kafala system. It has been shown that the system is a vehicle for trafficking in

persons as well as exploitation. The essay also showed that labelling and categorization are derived out of societal interactions and perceptions and to a larger extent they influence how individuals perceive themselves and how society responds to issues. By way of recommendation, the need for empirical research on the pattern of human trafficking is emphasized as this would bring to the fore how the practice can be countered from recruitment to exploitation. It is further suggested that “survivor” be considered as a substitute for victim in the human trafficking discourse as it is a more positive word and will probably elicit positivity in both society and those that have been trafficked.

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