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## CRITICAL REFLECTIONS ON ANTI-HUMAN TRAFFICKING: THE CASE OF TIMOR-LESTE

By Zbigniew Dumieniowski

Human trafficking is commonly seen as a heinous crime affecting millions of migrants from all parts of the globe. The struggle against this phenomenon is perceived as noble, moral and necessary. However, more careful research reveals that the story is far from simple, and that the concept of trafficking is highly problematic. Similarly, anti-trafficking efforts, while probably well-meaning, can be detrimental to the interests of the migrants. This NTS Alert highlights these issues, looking at the problem both from a broader, global perspective and by presenting the case of 'trafficking' in Timor-Leste (also known as East Timor). In addition to a critique of current approaches, it suggests an alternative way of looking at the challenges faced by migrants.



Money and a 'good' passport – the essential prerequisites for hassle-free international work and travel. Without those, one is left with two options: becoming a victim or a criminal.

Credit: Christopher Ellison/Flickr.com

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### Introduction

Human trafficking is reportedly a worldwide, mass-scale phenomenon where men, women and little children are horribly abused, exploited and sold like cattle (Gillan, 2003). Activists, journalists and even governments claim there are more 'slaves' today than at any time in the past (One World One Future, n.d.). According to the US *Trafficking in Persons (TIP) Report 2010*, there are as many as 12.3 million human trafficking victims worldwide and trafficking is a huge multi-billion dollar business (US Department of State, 2010) run by both small networks of traffickers, and increasingly, by 'large polycrime international criminal organizations' (US Government, 2000). One could say that these are very alarming developments and that the authors of the preceding claims should be thanked and congratulated for bringing them so forcibly to public attention (to paraphrase Naylor's comment on transnational-crime scare stories in Naylor (2007)). The only problem is that there is no evidence that any of the above is true.

To be sure, the business of illegal migration can be 'messy' (O'Neill, 2008). The very fact that someone's situation is not legal makes him or her very vulnerable to various forms of hardship and exploitation. Yet, it is one thing to note the risks associated with unregulated movement

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across borders and another to speak of global 'modern-day slavery' (Polaris Project, n.d.). This sky-is-falling vision was shaped in the mid-1990s (for a historical perspective on concerns about trafficking, see Doezema (2000)) when the collapse of the Iron Curtain and Eastern European economies led to a new wave of migration to the West (Davies, 2009a). Later, this notion was extended to millions of predominantly female migrants across the globe and especially Southeast Asia, that itself became known as the epicentre for human trafficking (NUS, 2010). Yet, while many of the migrants have surely been exploited and perhaps forced into prostitution (Rothschild, 2009b), it seems that all that the term 'human trafficking', and its conceptualisation, has done is to depoliticise the debate on migration and turn 'everyone into a pathetic victim' (McCormack, 2009)

This issue of the NTS Alert will seek to evaluate the human trafficking concept, and consequently, it will try to highlight the challenges and limitations of anti-human-trafficking campaigns. A critical perspective on these issues seems both timely and needed, with ASEAN countries currently debating a more holistic approach to human trafficking. This NTS Alert will refer to the increasing body of critical literature on the subject, as well as to the findings of a field study conducted in Timor-Leste (also known as East Timor) in April 2011 by a team from the Centre for Non-Traditional Security (NTS) Studies.

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## Fishy Numbers

As Andreas and Greenhill (2010:1) once observed, '[i]n practical political terms, if something is not measured it does not exist, if it is not counted it does not count'. This reality has certainly been recognised by the US *TIP Report 2010* which presents figures on the estimated number of victims worldwide (with the word 'estimated' curiously omitted before the figure of 12.3 million in the report; see US Department of State (2010:7)) and the number of people experiencing forced labour in North Korea (150,000–200,000, according to US Department of State (2010:198)), which is remarkable intelligence on a country that is considered an impenetrable 'intelligence nightmare' (Baer, 2009). Journalists too like to use big numbers to inform the public about the alleged scale of trafficking. For instance, every new major sports event attracts dramatic news stories (of dubious merit) on the 'thousands' of victims of human trafficking (O'Neill, 2010).

What all these figures have in common is that they rarely have identifiable sources or transparent methodologies behind them (Belser, in Bialik, 2010; see also the criticism of the *TIP Report* in US Government Accountability Office (2006)). In most instances, they are nothing more than the 'result of certain activists who pull their numbers out of thin air' (Weizer, in Bialik, 2010). These estimates are so often so tenuous that debunking them has become 'a sport for sceptical journalists' (Howley, 2007). The truth is that all attempts to quantify human trafficking are 'questionable' (Agustin, 2008:36) since the phenomenon of trafficking is reportedly a vague 'covert activity' happening in the 'shadow economy' (Rothschild, 2009b). What statistics on human trafficking seem to do best is obscure the murkiness of the concept itself.

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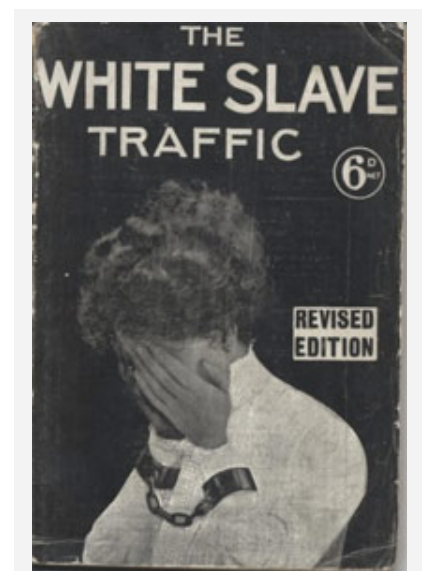
## Problematic Concepts and Responses

### Crime or Crimes?

Human trafficking is usually seen as a monolithic crime, but this notion can be misleading. Ultimately, this 'single big crime' is a composite category that lumps together actions that are distinct in nature – some of them can involve force or fraud, and some of them can be based on consent; some of them have easily identifiable victims, and some do not; some involve such offences as forgery or smuggling, and some are based on the use of perfectly legitimate documents and channels of transportation (for a broader approach to profit-driven offences, see Naylor (2003:83)). Hence, what is commonly understood as the single big crime of human trafficking is any act of illegal migration that involves some crimes (and sometimes a mere *possibility* of crimes) against the migrant.

At first sight, this seems fair and logical. However, if particular crimes can be readily identified, why is there a need for a new, all-encompassing (and vague) category of a single big crime? The problem with the single-big-crime approach is twofold. First, not all elements of the complex process of illegal migration are of a criminal or coercive nature. It is difficult to see how it could be helpful to the migrant to criminalise the *whole* process of migration just because *some* elements of the process involve coercion.

Second, not everything that might seem coercive or abusive is considered as such by the migrant. Illegal migration is a complex phenomenon that always involves some elements that



The current moral furore over trafficking is not new. A century ago,

could be considered criminal or coercive. For instance, 'would-be travellers commonly seek help from intermediaries ... who sell information, services and documents. When travellers cannot afford to buy these outright, they go into debt' (Agustin, 2008:27). These debts must be paid back, often on very harsh terms, yet in most instances, they were incurred voluntarily.

Similarly, 'being forced to work' might mean many different things. In the context of the sex industry, 'some people feel forced who could physically escape' (Agustin, 2008:32). Others might feel forced because it is the best or the only choice available to them (Greer, in Evans, 2008). Even in cases of actual violence (or threats of it), it is not clear why existing laws would not be sufficient to deal with the perpetrator of the violent act. Moreover, perhaps less rather than more criminalisation is necessary to help migrants avoid violence as the violent element of the human-trafficking single big crime is likely a result of the fact that the migration of certain people and/or the work performed by these people are illegal (see, for example, Ilkcaracan and Gulcur, 2002).

The only possible rationale for the creation of a unified crime of 'human trafficking' seems to be that it may perhaps allow the illegal migrant to not be treated as a criminal (which could have been achieved simply by easing migration regulations). This proposition is underpinned by a strange logic – a helpless 'victim' should be 'rewarded' with no criminal charges, and perhaps even legal status, while an able-bodied and successful, but illegal, economic migrant would continue to be 'punished' and persecuted as a criminal (Agustin, 2009).

Despite the above problems, the most dominant feature of anti-trafficking campaigns is a broad approach to illegal migration that may involve some form of what campaigners would define as abuse or coercion. The result is that 'efforts to prevent "trafficking" often try to prevent migration itself' (Agustin, 2008:40). In many instances, anti-traffickers seek to identify people in danger of experiencing abuse and try to prevent them from undertaking a risky migration (see, for example, One World One Future, n.d.). The possibility that some people may actually take the risks is not taken into consideration. This leads to the most fundamental problem with the current human trafficking discourse – the belief that illegal migrants do not necessarily have free will.

## Subjects or Objects?

Agustin (2008:17–18) observes that 'migrations are commonly discussed in terms of "push-pull" factors. Armed conflict and loss of farm [sic] may push people away from home, while labour shortages and favourable immigration policy [sic] might pull them elsewhere: the basic concept is unarguable, but it also envisions migrants as acted upon, leaving little room for desire, aspiration, anxiety or other states of the soul. In contrast, first-world travellers are imagined to be modern individuals searching for ways to realize themselves'.

However, if external factors were the only determinants for migrations from non-Western countries, one could expect 'truly massive numbers of [the] poor invading highly developed countries, a great indiscriminate flow of human beings from misery to wealth' (Sassen, 1999:2). The reality is that 'migrations are highly selective processes, only certain people leave, and they travel on highly structured routes to their destinations, rather than gravitate blindly toward any rich country they can enter' (Sassen, 1999:2). Contrary to popular assumptions, poor migrants are, more often than not, aware of the risks associated with migration (see, for example, Shuster (2010) or Lunde (2010:51)) and they are capable of consciously choosing to take these risks (such as in the case of the African sex workers cited in Agustin (2008:33)).

Yet, the anti-traffickers continue to reject the notion that poor migrants have free will and choice. In human trafficking discourse, people do not migrate, but are moved across the globe like objects. They do not make any decisions, but instead are forced, coerced, misled, manipulated, sold and bought. Similarly, they cannot be supported or listened to, instead they must be 'rescued' and 'sent back to their country of origin as if they were children escaped from a nursery' (O'Neill, 2008).

## The Rescue Industry and Its Opponents

Today there are 'hundreds' of NGOs worldwide, particularly in Southeast Asia, working on 'rescuing' victims of human trafficking (Rothschild, 2010). In addition to running shelters, they advocate new anti-trafficking legislation and assist law enforcement agencies on their so-called rescue missions (raids). They are perhaps the most visible manifestation of the tendency to view migrants as pathetic victims who need to be saved.

While this all might sound good and noble, the reality is that in many instances the greatest opponents of the 'rescuers' are not some evil traffickers but the alleged victims. Rescue raids everywhere from the UK to Cambodia have not only failed to find any perpetrators or victims (see Rothschild (2009a); Davies (2009b)) but have also demonstrated that 'the anti-trafficking industry can cause harm and distress to migrant families, undermine global freedom of movement, and warp the public's perception of immigration' (O'Neill, 2008; see, for example, the story of women from China refusing to be 'rescued' from the Congolese sex industry (Chinese Prostitutes, 2011)). This is not to suggest that migrants do not require help, or that they do not experience abuse, but rather that in most cases they do not necessarily need to be rescued. Migrants are not passive objects and have often demonstrated a striking capacity to fight against abuses or exploitation. In one instance, a group of Thai migrants approached their embassy in Madrid to complain about being 'forced into working as prostitutes' (Spanish Sex, 2010).

the public was fed with scare stories about countless white women allegedly kidnapped and enslaved by salacious 'orientals' and 'blacks'. Careful investigations proved that there was no truth to these stories.

Credit: maggiemcneill.wordpress.com

However, the lack of evidence of large-scale trafficking requiring rescue missions does not necessarily make anti-traffickers reconsider their position. Rather, this is used to put forward a more sinister scenario in which women fail to identify themselves as victims and their employers as traffickers either because they are suffering from some Stockholm Syndrome-style psychological disorder or because they are lying (Puidokiene et al., 2008; Siddharth, 2010). This is a terrifying logic that effectively suggests that no evidence of oppression should be seen as evidence of particularly severe oppression. One is free to imagine where such thinking can lead.

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## Trafficking in Timor-Leste from a Critical Perspective

Timor-Leste is a small, young and extremely poor Southeast Asian country (Horta, 2009). Yet, despite its underdevelopment, it has been reported as a 'destination country for human traffickers' (Dodd, 2009). Allegedly, 'women are being trafficked from South East Asian countries into East Timor to work as sex slaves' for local men, and above all, the wealthy and salacious UN workers and foreign security personnel (McKenzie, 2003). These claims sound very alarming. However, a closer look at the situation of migrants in Timor-Leste reveals that the stories of 'slaves' and 'victims' are largely founded on the kind of misunderstandings and prejudices highlighted in the previous sections of this NTS Alert.

So far, the most comprehensive report on human trafficking in Timor-Leste is one from a local non-governmental organisation (NGO), the Alola Foundation (2004). While the authors of the report should be thanked for informing the public of the estimated numbers of foreigners employed in the sex industry (they should also be congratulated for using the term 'sex workers' rather than 'sex slaves' and for calling for a stop to the assumption that all these workers are criminals), their judgment on trafficking suffers from several limitations. First, while they admit to having failed to collect any significant data on a specific group of sex workers (most notably on workers from China, who reportedly form the second largest group of foreign sex workers), they write that '100%' of them should be seen as 'potential trafficking victims'. Why 100 per cent of them should not instead be seen as 'potential successful economic migrants' is not clear. Second, 'to be forced' is interpreted quite loosely. For instance, a person responsible for coordinating the anti-trafficking efforts at the Alola Foundation explained to the Centre for NTS Studies team that 'traffickers forced Chinese girls to work as prostitutes by taking their passports away' (interview at the Alola Foundation office, 11 April 2011). The withholding of passports alone cannot be seen as enslavement, especially since the Chinese embassy is among the most visible buildings in Dili.



UN workers in Timor-Leste: villains, saviours or neither?

*Credit: PK Hangzo/NTS Centre*

The Alola Foundation admits that since they started their work on the topic a few years ago, there have only been a handful of cases in which foreign women have been subjected to violence, manipulation and coercion. At the same time, Alola Foundation staff agreed that in all those cases, the abuse had much more to do with the illegality and underground character of brothels than with the process of migration per se (interview at the Alola Foundation office, 11 April 2011).

The UN rejects the media stories about its staff using the services of 'sex slaves'. According to the UN Integrated Mission in Timor-Leste's (UNMIT) spokesman, Gyorgy Kakuk, UN personnel are in fact strictly prohibited from using any type of sex services (interview at the UNMIT headquarters, 8 April 2011; interview with a high-ranking police officer at the police headquarters, 11 April 2011). In fact, several aid workers also observed that the foreign soldiers do not need to go to brothels to have sex, as the vast majority of aid workers in Dili are single females who too have sexual needs (interview with two female aid workers, 6 April 2011). And even if, despite the above, some soldiers might decide to pay for sex, there is no reason why this should be accompanied by violence or abuse.

According to those interviewed by the Centre for NTS Studies team, foreigners in the sex industry in Timor-Leste make good money by catering to the needs of foreign workers or by serving the wealthier locals. The biggest problem they face is not 'trafficking', but the illegality of the organised sex industry – and the associated brutal and humiliating police rescue raids (Alola Foundation, 2004:39). While the focus of anti-traffickers is on the sex industry – with the International Organization for Migration (IOM) and a local NGO, Psychosocial Recovery & Development in East Timor (PRADET), jointly establishing a shelter for 'trafficked women and girls' (US Department of State, 2010:323) – so far the only 'victims' using the help of the 'rescuers' have been a few fishermen from Myanmar who claim to have been kept as forced labour on the foreign fishing vessels from which they had managed to escape by swimming to the shores of Timor-Leste when the boats happened to be passing by (interview with IOM representatives on 8 April 2011; interview with the Director of PRADET on 11 April 2011). As tragic as their story is, this is hardly an example of human trafficking to Timor-Leste.

There is simply no evidence for 'networks of traffickers' in Timor-Leste. However, yet again, a lack of evidence has been taken as 'proof' that a problem exists. Apparently, either the traffickers are very sophisticated or the Timorese criminal justice system very inefficient at 'recording' traffickers (Dodd, 2009). With such an approach, one can only expect a rise in the 'trafficking' warnings coming from Dili.

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## Conclusion

Illegal migration is risky. Many who undertake it experience abuse, mistreatment and live in fear. Illegal migrants usually have little choice but to accept what many in the developed world would consider humiliating or inhumane jobs. Certainly, these migrants would welcome more rights and protection. Yet, the current anti-trafficking hype – and the associated depoliticising of debates on migration – can hardly make their situation better. The problem faced by the vast majority of illegal migrants is not that they can be ‘sold like cattle’, but rather that with legal migration denied to them, they must take many more risks than they would prefer.

In Timor-Leste, illegal migrants are rarely, if ever, seen as individuals with agency who may require solidarity and advocacy. Instead, they are either seen as criminals or as pathetic victims who need to be rescued and sheltered. While the former is probably worse for migrants than the latter, neither of these approaches effectively deals with the problems experienced by the entire range of illegal migrants. What is needed not only in Timor-Leste, but also in the ASEAN region and elsewhere, is a serious debate on freedom of movement. Hopefully, the current moral furore over trafficking will not make this impossible.

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In 2009, the Centre was chosen by the MacArthur Foundation as a lead institution for the MacArthur Asia Security Initiative, to develop policy research capacity and recommend policies on the critical security challenges facing the Asia-Pacific.

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