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Study on the **gender** dimension of trafficking in human beings

Executive summary



Migration and
Home Affairs

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EXECUTIVE SUMMARY (1)

Introduction

The purpose of this study is to contribute to the identification and understanding of what it means to be 'taking into account the gender perspective, to strengthen the prevention of this crime and protection of the victims thereof', as required in Article 1 of European Union (EU) Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims in the context of the EU strategy (COM(2012) 286 final) towards the eradication of trafficking in human beings.

The study contributes to Priority E Action 2 of the strategy, which states that 'the Commission will develop knowledge on the gender dimensions of human trafficking, including the gender consequences of the various forms of trafficking and potential differences in the vulnerability of men and women to victimisation and its impact on them.' Its specific objectives and tasks are to address: the 'gender dimension of vulnerability, recruitment, and victimisation'; 'gender issues related to traffickers and to those creating demand'; and 'an examination of law and policy responses on trafficking in human beings from a gender perspective'.

The study addresses the five priorities of the EU strategy: identifying, protecting, and assisting victims of trafficking; stepping up the prevention of trafficking in human beings; better law enforcement; enhanced coordination and cooperation among key actors and policy coherence; and increased knowledge of an effective response to emerging concerns.

This study, according to its terms of reference, aims to look specifically at the gender dimension of trafficking for the purpose of sexual exploitation. This follows evidence from statistical data from Eurostat, as well as data from the European Police Office (Europol) and the United Nations Office on Drugs and Crime (UNODC), according to which the most reported form of exploitation of victims is that of sexual exploitation and its strong gender dimension (96 % women and girls). It further addresses recommendations addressed in the Resolution of the European Parliament of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)) urging the European Commission to evaluate the impact that the European legal framework designed to eliminate trafficking for sexual exploitation has had to date and to undertake further research on patterns of prostitution, on human trafficking for the purpose of sexual exploitation and on the increased level of sex tourism in the EU, with particular reference to minors, and to promote the exchange of best practices among the Member States.

The study identifies and draws on EU law and policy competence in gender equality in its identification of the gender dimensions of trafficking. The gender dimensions are clustered into five issues: gender specificity and equal treatment; gender expertise, gender balance in decision-making and gender mainstreaming; the relationship between prostitution and trafficking; gendered policy fields and strategic priorities; gendered systems and the theory of prevention.

Methodology

There are three aspects to the methodology of the study: the first is a review of the academic and policy literature; the second is in-depth case studies; the third is high-level gender analysis.

The review of the literature is presented in two ways: a summary of the key issues that pertain to the study as a whole is in chapter 3; detailed reviews of the literature that pertain to the topics that were selected for in-depth study, and the case studies themselves are presented in chapters 4 to 9. The gender analysis is presented in three parts: the key issues to be addressed are introduced in chapter 3; the main analysis is presented in chapter 10; and the recommendations derived from the analysis are presented in chapter 11.

(1) Sylvia Walby.

Prevention

The study contributes to the goal of the directive to prevent trafficking in human beings, as well as to protecting its victims, 'to strengthen the prevention of this crime' (Article 1). Prevention requires a range of measures, identified in the directive at Article 18 as including those to 'discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings'. In this analysis of the gender dimension, we consider various measures to achieve prevention, including innovations in the instruments to reduce demand.

Victim assistance

Trafficking is gender specific. The victims of trafficking in human beings for different purposes are gender specific. Women and girls are overwhelmingly (96 %) the victims of trafficking for purposes of sexual exploitation and the majority (75 %) of victims of trafficking for all purposes, while being 26 % of those trafficked for labour exploitation and 52 % of those trafficked for other forms of exploitation (according to data for 2012 from Eurostat).

The harms from trafficking are gender specific. The harms from trafficking for purposes of sexual exploitation are different from the harms from trafficking for purposes of labour and other forms of exploitation. Their seriousness is related to the specific ways that the bodies of trafficked women are abused. There are severe, brutal and long-term, gender-specific physical, gynaecological and mental health harms, risks to life and traumas from trafficking for purposes of sexual exploitation.

Identification of victims of trafficking needs to take account of this gender specificity. Victims of trafficking for purposes of sexual exploitation can be hidden within mixed populations of independent, exploited and coerced prostitutes and in mixed migration flows. They are fearful of both traffickers and authorities. Gender expertise is needed to provide gender-sensitive processes of victim identification in these circumstances.

Specialised service provision needs to be gender specific. It needs to take account of complex intersections with other forms of disadvantage and vulnerability. It needs to recognise the gender-specific longer recovery time from the harms of trafficking for purposes of sexual exploitation as compared with other forms. The provision of specialised services to victims of trafficking needs to be appropriate to their needs. These are different according to the form of trafficking to which they have been subjected, and hence gender specific. These services are best provided by organisations that include users, victim-survivors of trafficking and gender experts in their decision-making, and that have sustainable funding.

Access to mainstream services needs to be enabled by the mobilisation of the legal principle of equal treatment in access to goods and services. This is to ensure that those trafficked for sexual exploitation (who are disproportionately female) gain access, on equal terms with others, to welfare, social protection, health, criminal justice services, financial services and support to reintegrate into the economy.

The wider context of gender equality, including but not only in employment, is relevant to the likelihood that victims of trafficking can access the independent forms of livelihood that are conducive to escape and to recuperation. This includes the actions in the EU strategy for equality between women and men (COM(2010) 491 final), reducing the regulatory gap between workers in non-standard and standard work and the inclusion of gender equality in the EU 2020 strategy for smart, inclusive and sustainable economic growth (COM(2010) 491 final).

Measurement

There are four major ways of collecting data on trafficking in human beings: administrative statistics; large-scale surveys; other studies; and the expert judgement of key actors. Ideally, all would be available for the investigation of the causal processes linking changes in policy to changes in trafficking. There are current limitations to the data. However, these could be mitigated by a sustained programme of improvement in methodology and data collection.

The Eurostat working papers on statistics on trafficking in human beings, including its gendered dimensions, have made an important contribution to available knowledge and need to be sustained and improved. Member States

should collect and provide data on victims and traffickers consistently, using the definition of trafficking in the directive, and always disaggregate them by gender.

There is a need to develop and fund a programme of research to develop methodologies to estimate the changing scale and nature of trafficking which is sensitive to the gender dimensions. This should include concern for both registered and non-registered victims and the development of theory and techniques necessary to produce estimates of the total population of trafficked victims (registered and non-registered) from collected data, and should complement work by the UN Office on Drugs and Crime and the International Labour Organisation.

This programme of methodological development should be supported within the development and funding of a wider research programme into what works to prevent trafficking in human beings with appropriate attention to its gender dimension.

Demand reduction

'Demand reduction' is a strategy to prevent trafficking by reducing the economic attraction of the institutions into which people may be coerced by traffickers. In the case of trafficking for purposes of sexual exploitation, the most important institution is prostitution. This study addresses the ways that the different forms of regulation of prostitution might reduce demand for the services of people trafficked into prostitution.

The regulation of prostitution is centred on one or more of three targets: those who sell sex/are sold; those who engage in the exploitation of the prostitution of others; and the buyers of sex. Demand reduction through the regulation of prostitution can logically be centred either on those that seek to exploit by taking profit (e.g. rent or fees) from prostitution or on the men (usually) who seek to buy sex. It is sometimes focused on reducing the forms of prostitution that are likely to have a greater association with trafficking and other forms of criminality and sometimes focused on prostitution in general.

While the ideal data to test approaches to prevent trafficking would have included robust statistics that are comparative over time and between countries (supplemented by qualitative data), these are limited. Thus adjudicating between approaches depends upon a wider range of information including administrative data, research studies and the expert judgement of key actors, such as the police. We offer in-depth case studies of the Netherlands, Germany and Sweden, as well as some cross-country comparisons of the Netherlands, Germany and Sweden.

There are variations in the form of regulation of prostitution over time and between EU Member States. Recently, in the EU, there has been a substantial move to decriminalise the sellers of sex so that, in most EU Member States, selling sex is not always illegal. This move is recommended in the European Parliament Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI)). There are some exceptions in Member States, such as Croatia where selling sex is always illegal and in other Member States where it is illegal in particular locations, for example on the street. This decriminalisation of the selling of sex, while widespread in the EU, is not found in many other jurisdictions, such as the United States. It is important to note EU specificity when engaging in debates about trafficking and prostitution and to avoid any tendency to a false universalism concerning the criminalisation of the selling of sex. We find that increased regulation of one of the three parties does not necessarily mean increased regulation of the other two. Most EU Member States have decriminalised the sale of sex (with some exceptions); maintain the criminalisation of the exploitation of the prostitution of others; and criminalise the purchase of sex in specific circumstances, including from minors. The Netherlands and Germany have permitted some profit-taking from prostitution, combined with high levels of surveillance and regulation. Sweden has criminalised the purchase of sex.

We found that Germany has the largest proportion of prostitution (for population size) of any of the three countries in our study. This is followed by the Netherlands, then Sweden, which has the lowest proportion of prostitution per head of population. Although there are limitations to the accuracy of these comparative statistics, the larger scale of prostitution in Germany is rarely disputed. Both Germany and the Netherlands have introduced additional policies to combat trafficking in some cities, including total bans on street prostitution, and are either discussing or implementing bans on the purchase of sex from those under 21, not only under 18 years. These have been introduced to close down forms of prostitution (on the street and involving young people) that are considered by expert judgement of key actors to be the most associated with trafficking.

We conclude that the changes in the legal regulation of specific forms of profit-taking from prostitution have resulted in less trafficking in this sector than in the non-regulated and illegal sectors. The best statistics available suggest the overall scale of prostitution is larger in Germany and the Netherlands than in Sweden. This correlation between the decriminalisation of profit-taking in prostitution and its scale is consistent with the claim that this aspect of decriminalisation, however well regulated, is causally connected to a larger proportion of prostitution in the population. Reductions in trafficking have also occurred through the deployment of other legal instruments in the non-regulated and illegal sector, especially bans on particular forms of prostitution that have been enforced by the criminalisation of seller and buyer, thereby reducing the forms of prostitution most associated with trafficking. The evidence does not support the claim that innovations in the regulation of the exploitation of the prostitution of others in the Netherlands and Germany that allow specific and regulated profit-taking have reduced overall levels of trafficking for purposes of sexual exploitation in these countries. Our conclusion is that the criminalisation of the exploitation of the prostitution of others and of profit (rent and fee) taking from prostitution remains an important legal instrument to reduce the demand that drives trafficking.

A key claim as to the effectiveness of the law which criminalised the purchase of sex in reducing prostitution was the halving of street prostitution in Sweden registered by the police in the period immediately after the law came into effect, while that in neighbouring Nordic countries remained at similar levels. Since street prostitution is widely held to be a key site of trafficking, this is likely to have entailed a decline in trafficking at the same time. This may be considered to be the consequence of the normative effect of the legislation on male behaviour, or perhaps the threat of sanctions. However, there are debates as to whether off-street prostitution has grown in compensation; here the evidence base is weak and contested. In this context, an alternative approach to measuring changes has been to focus on men's willingness to buy sex. The proportion of men reporting that they have paid for sex decreased substantially after the law came into effect; some studies suggest that this fell by almost half, though the evidence base as to the exact proportions is contested. Nevertheless, there are indications that Sweden has a smaller market for sex than many other European countries. Thus the law may be considered to have had some of the effects that were sought in that it has reduced demand for the purchase of sex, with consequences for the scale of the Swedish sex market.

Law enforcement and justice and home affairs agencies

The study engages with the practices of the EU justice and home affairs agencies (JHA), especially: Europol, Eurojust, the European Union Agency for Fundamental Rights (FRA), the European Police College (CEPOL) and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex). This includes a review of the materials through which they trained officers. The findings are that much progress has been made since the inception of the strategy to eradicate trafficking in human beings, particularly with regard to interagency cooperation and the coordination of activities. However, the embrace of the gender perspective remains uneven. Better acknowledgement of the gender-specific dimensions of trafficking and the development of gender expertise in addressing these would improve the likelihood of effective prosecution of traffickers. This could include: the use of explicitly gender-specific, rather than gender neutral, language in policies; the consistent application of the principle of equal treatment; the utilisation of more gender-specific materials during the training of law enforcement officers; improvement of the gender balance in decision-making; and better resourcing of JHA agencies to enable the appointment of gender-trained agency officers.

Knowledge: new technology

Various potential implications of developing techniques of analysis are emerging. The nature of the online world means that this more often concerns trafficking for sexual exploitation than for labour exploitation, and hence concerns women and girls in particular. Much of the technology development in the field is focused on victim identification. This aims to free women and children from trafficked situations but also to assist in the prosecution of perpetrators. The intersection of gender, sexual exploitation and digital technologies potentially form a distinctive nexus. This is a way of thinking about how anti-trafficking movements can effectively organise. Technical work on tracing traffickers' activities online using open-source intelligence identifies key themes that may assist in the identification and prevention of trafficking women and girls for the purposes of sexual exploitation. The gender specificity of the digital world image of trafficking for the purposes of sexual exploitation is clear in that the gender of those trafficked and displayed for sale is clearly visible. The majority of digital world image of trafficking

for sexual exploitation concern the selling of women to men for sex. Yet there appears to be little gender specificity in the law enforcement response. There is concern that anti-trafficking movements can sometimes offer exaggerated images of helpless femininity to assist their cause rather than images of resilience and resistance.

There is a need to develop gender expertise in relevant cybertechnologies. This would enable the better identification of victims and the traces left by traffickers, including their movement of illicit funds. It could discover the best ways to support those resisting trafficking. There is a need to improve the understanding of intersecting inequalities, including that of age. It is important to improve the gender balance in decision-making in cybersecurity matters. It is also important to enhance the collaboration between those with gender expertise in trafficking in human beings, law enforcement and cybersecurity experts. These developments would be assisted by the fuller implementation of the EU's principles of gender equality within the EU strategy on cybersecurity (JOIN(2013) 1 final).

Enhanced coordination and cooperation among key actors and policy coherence

There has been much development of EU policy to eradicate trafficking in human beings since the EU anti-trafficking directive in 2011 and the EU anti-trafficking strategy in 2012. The policy could be made more effective if it were more deeply embedded in the wider strategies of the EU, especially the fuller implementation of its gender aspects. This includes the strategies on security, equality between women and men, economic growth, cybersecurity, migration and external relations.

The strategy on security could include a more explicit gender dimension in the review of priorities of the European agenda on security (COM(2015) 185 final), including the 2018 mid-term review of the Internal Security Fund, and the Commission's planned reflection on maximisation of the contribution of relevant EU agencies to the Security strategy.

The strategy for equality between women and men (COM(2010) 491 final) could make an important contribution, if its principles were more fully implemented, since it addresses the interconnected nature of the forms of gender inequality that contribute to trafficking in human beings.

The EU 2020 strategy for smart, sustainable and inclusive growth (COM(2010) 2020 final) could include gender equality more explicitly as a goal. Reducing gender inequality in the economy assists the exit of women from trafficking, while prostitution should never be treated as an area for economic growth.

The strategy on cybersecurity (JOIN(2013) 1 final) could include an explicit reference to the significance of human dignity and the gender dimension of cybersecurity. This would facilitate recognition of the way that deep violations of human dignity are intrinsic to trafficking for purposes of sexual exploitation.

The European agenda on migration (COM(2015) 240 final) could give greater priority to anti-trafficking so as to facilitate the protection of victims.

The implementation of the action plan on human rights and democracy (JOIN (2015) 16 final) could include an explicit gender dimension in its anti-trafficking activities. Improving the democratic participation and economic independence of women and girls in 'source' countries aids in the prevention of trafficking.

