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Methodological Debates in Human
Rights Research: A Case Study of
Human Trafficking in South Africa



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Abstract

Debates over human trafficking are riddled with methodological dilemmas. Agencies with vested interests in the anti-trafficking agenda advance claims about numbers of victims, level of organized trafficking and scale of exploitation, but with limited data and using questionable techniques. Skeptics, pour water on these claims, by subjecting them to basic social scientific tests of validity, reliability and representativity. Yet, the same critics proffer few ways of developing valid generalizations about the nature and scope of human trafficking. The result is a debate with few shared assumptions and little common ground. This paper attempts to generate points of agreement in this debate, through the rigorous application of qualitative methods. The study draws on a case study of human trafficking in South Africa, paying attention to both the nature of exploitation in the sex industry, and the manner in which the ‘rescue industry’ generates practical knowledge on the subject. Drawing on extensive fieldwork conducted in the sex industry, police stations, home affairs offices and international policy-making forums, the paper explores the emergence of an anti-trafficking initiative during the 2010 World Cup of Football, and how this initiative transformed the way state institutions defined and regulated the sex industry.

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Human Trafficking, Research Methods, South Africa, Advocacy, Migration

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Introduction

The study of human trafficking¹ is fraught by a range of methodological problems. For example, the criminal nature of the subject matter raises a range of ethical dilemmas. The fact that many potential respondents lack adequate documentation generally makes them reluctant respondents. The broad nature of the legislation and its apparent applicability to a variety of forms of unconscionable work practices, make the identification and enumeration of victims a complex process. These problems significantly limit our ability to understand the nature and extent of the phenomenon and to provide policymakers with meaningful ways forward. This point has been made in some detail by scholars on both sides of the debate. With the risk of greatly oversimplifying, let us divide the literature into two camps: believers and skeptics. For the believers, the problem is one of invisibility. They contend that since trafficking is clandestine we can never adequately measure its extent or severity. Relying heavily on anecdotal evidence that trafficking exists; they argue that the numbers of trafficked persons are considerably greater than the number of confirmed cases. Skeptics, unsurprisingly, argue to the contrary. They suggest that the believers have seriously exaggerated the problem. They argue that, while we need to adapt research methods to better capture the nature and extent of human trafficking, we need to accept that when existing methods consistently reveal small numbers of trafficked victims or considerably less exploitative practices than we may have envisaged, then there needs to be some consideration given to the idea that activists and scholars involved with planning programmes and interventions should significantly scale back the level of their response.

Let me start out by saying that in the South African context, where I can speak with relative confidence, I side with the skeptics in this debate. Based on what I have read and what I know, estimates of the victims of human trafficking and depictions of the level of abuse endured by many of the proclaimed victims of this practice are routinely exaggerated. However, I also want to set out some key differences between my position and that of the growing amount of skeptical literature. Specifically, I argue that the skeptics may be fighting a battle with the believers on the wrong

1 The Palermo protocol to the UN Convention on Organised Crime defines human trafficking as ‘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.’

front. The war being fought over prevalence in particular is unwinnable for two reasons. The first reason is that the believers are partly right. The question of the prevalence of trafficking is indeed an intractable methodological problem, where certainty about numbers and severity will remain elusive for the foreseeable future. The second and more troubling reason is that the believers, as their moniker suggests, cannot be convinced by methodological reason, if indeed they can be convinced by reason at all. They believe in trafficking on normative and in some cases purely instrumental grounds, which are in many respects impervious to the welter of evidence one might throw at them. Indeed, given the fact that many of believers' have developed an interest in trafficking by way of communities of faith, it is possible that scholarly critique may in some ways strengthen their convictions, further undermining the potential for diplomatic climb downs or for the mere passage of time to allow boredom to kick in and other categories of victim to absorb their attention.

Moving beyond a purely critical position, this paper seeks to understand how scholars can more fruitfully engage with policy-making and implementation on issues of migration, labour and exploitation in Southern Africa. Here, my position starts with the observation that fruitful and meaningful work on the constituent crimes of Human Trafficking: kidnapping, human smuggling, labour exploitation *etc.* occurs routinely, in the everyday work of ordinary officials in government departments of labour, policing and immigration, and without the support of trafficking awareness and legislation. Furthermore, this important work, and the way problems are conceptualized by officials at the proverbial coalface, is often ignored by the high level policy-makers (and shakers) where trafficking has been routinely discussed and debated. Hence, while not abandoning the need for macro-level analyses and policies, I argue that scholars need to pay more attention to 'low' policy instead of focusing squarely on 'high' policy (Heyman 1995, Mountz 2010).

Scholarship and dialogue with practitioners

My argument rests on a particular philosophy of knowledge, and understanding of how scholarly knowledge is socially constructed. These epistemological questions are given short shrift in most analyses of contemporary humanitarian and human rights issues. This is despite the fact that our core epistemological assumptions – how we know what we know – not only effects the way in which we study issues like human

trafficking, but dictate the range of outcomes that we are able to achieve. There are, of course, a wide range of positions on this subject. Here, I am going to radically simplify by pointing out the temptations and possible limitations of one particularly prominent assumption in our current discussions: the assumption that the production of knowledge proceeds in accordance with the progressive realization of truth. The earliest origins of this position stem as far back as the Socratic Method, which holds that dialogue and debate between opposing positions will conclusively lead to the collective production of greater insight and collective acceptance of a common reason. This basic principle underpins a whole host of forms of scientific analytical techniques and methodological frameworks, has fundamentally shaped contemporary academic ritual and procedure, and has informed the manner in which scholars create and organize academic disciplines and institutions. It inspires various forms of philosophical and moral reasoning, including most famously John Rawls theory of justice (1973). Perhaps more importantly, it informs the way we conceptualize the nature, purpose and functioning of the public realm. This position has been forcefully advanced by Jürgen Habermas (1979), who defines modernity in terms of the progressive transformation in Western European public culture from a representational age to one of rational public debate and decision-making.

Of course, this does not mean that progressive, truth-discovering dialogue crowds out other positions on the social construction of academic knowledge. Thomas Kuhn (1962) is perhaps the most famous proponent of the notion that scientific knowledge and ‘progress’ is instead the product of indeterminate contests between incommensurate and historically constituted traditions of knowledge production. Wittgenstein argues that theories of human behavior, society and politics consist of a series of speech acts whose true meaning cannot be interpreted and genuinely understood outside of their unique historical contexts – as efforts to simultaneously speak truth and to shape both discourse and the world around them.²

This admittedly somewhat labored reminder of graduate philosophy helps to contextualize our engagements with practitioners in the debate on human trafficking in two important ways. First, it serves to highlight the notion that despite making important concessions to social constructivists and tipping our hat at post-modernity, academics who work on human trafficking probably all work within a knowledge framework that at least gives credence to the notion that the best idea will ultimately

2 For a thorough application of his theory to the study of the history of political thought see (Skinner 1978)

win the day. The more we know, the more likely we will have good policy. Second, it helps to illustrate the fact that, at least as far as ideational progress within the academy is concerned, even the more critical bodies of scholarship do not believe that truth is crudely shaped by human interests, social contexts and material concerns. While, critical theorists from Marx on down, have been keenly aware of the way in which the brute forces of social structure and power often *influence* questions regarding what versions of the truth are deemed to be legitimate, we will always want to keep open some small window for the power of reason to prevail. This is natural. As traffickers in knowledge, we want to believe that our cargo has some intrinsic value.

These preliminary acknowledgments are important because they help us to explain how we as scholars often approach the practical or praxeological sides of our work.³ Scholars, partly because of the dominant understanding of how knowledge is produced in our profession, and partly because of the way in which we have been socialized into our profession, are generically uncomfortable with the notion that reasoned debate can lead to progressive social change. While we might be completely aware of the instrumental, rhetorical and in some cases, shamefacedly deceitful concerns which underlie the thoughts, speech acts and arguments constructed by our interlocutors, even the most cynical among us generally function with a working assumption that there are some respects in which the tools of our trade (rigorous method, clear argumentation and appeal to a body of received wisdom) can effect, change and even improve the manner in which practitioners understand the world, and therefore, the manner in which they act.

Studying the trafficking campaign

This paper is the product of several efforts to test these assumptions through a sustained analysis of the human trafficking discourse and debate in Southern Africa and particularly South Africa. Some aspects of this work have been intuitively conceived and are serendipitous. I draw on approximately four years of work conducting advocacy oriented research in the field of refugee and migration rights. In this role, I conducted several studies of policy making, provided expert consultation to Interpol, the European Union, UNHCR and IOM on trafficking issues, assisted in the development of training materials on trafficking for the South African National

3 On praxis see (Bernstein 1971)

Prosecuting Authority and helped prepare numerous advocacy and rights-oriented inputs to South African government agencies like the Department of Home Affairs and the Police.⁴ In these and other roles, I have had the opportunity to engage in a many discursive encounters with policy-makers, international NGO workers and anti-trafficking advocates: public debates, formal private consultations and (often more important and useful) informal discussions, and institutional gossip. These engagements gave me many opportunities to map out the various ways in which public (as opposed to academic) truths and myths about trafficking are generated, disseminated and sustained.

Other aspects of my work on trafficking have been more deliberate and planned. Here, the cornerstone has been a three year, comparative ethnographic study of the implementation of immigration control policies in the Department of Home Affairs and South African Police Force. Our researchers observed officials' everyday work practices in government offices, accompanied police and immigration officials on patrol and held informal conversations and more formal interviews with local officials. This research focused on three types of research sites: i) the Beitbridge Border Post and its surrounding areas where the majority of Zimbabweans enter South Africa; ii) the Johannesburg (Harrison Street and Crown Street) Offices of the Department of Home Affairs; and iii) six police stations spread across the greater Johannesburg metropolitan area. As part of this study, we initiated a project, albeit as we shall see, with mixed success, to specifically analyze the manner in which human trafficking policies of South Africa were being implemented by ordinary officials in South Africa's migration and policing regimes. This research provided us with a unique set of insights into the manner in which ordinary officials confront trafficking-related problems and the set of tools (cognitive, procedural, legal and material) which they use to develop effective interventions.

4 These engagements include: (2009-10) Southern African Police Service Gauteng Management Services, Presentation to Senior Management on Corruption and Immigration Policing. Johannesburg, (2009) 'Policing and Migration: Documentation, Integrity and Policy', Presentation to INTERPOL and SARPCCO Working Group Meeting, Dar es Salaam, (2009) South African National Prosecuting Authority Task Team on Human Trafficking, Provided Inputs on Training Manuals for Government Officials. (2007) EuropeAid Training Workshop on 'Migration and Trafficking in Human Beings in EC external assistance: Opportunities and Challenges in the SADC region, Pretoria. (2006) Department of Home Affairs: Public Hearings in Preparation for the United Nations High Level Dialogue on Migration, Workshop 1 on 'The Effects of International Migration on Social and Economic Development': Chair.

Trafficking policy in South Africa: a tide of funding, a trickle of victims

The issue of human trafficking emerged on the South African policy agenda in a very specific historical and political context. A conjuncture of factors following the end of National Party rule in 1995 meant that a variety of migration rights issues would receive renewed attention. First, with the passage of a progressive constitution, and the country's concomitant ratification of a raft of international human rights conventions and treaties that the Apartheid government had judiciously refused to sign, South Africa emerged as a potential new frontier for human rights advocacy and progress. Second, with the doors now open to international organisations and NGOs, a host of donors and institutions sought to set up shop in South Africa. In principle, they intended to play a part in the process of democratic transition, but strategically many also hoped to position themselves as key players in virgin territory that was fast becoming a high profile case on the international human rights and humanitarian landscape. Third, South Africa's international migration streams grew and diversified markedly during this period. Due to these several factors, human trafficking has competed for attention and funding with issues like international labour rights, refugee rights, migrant health and education, xenophobia awareness and freedom of movement. The key active advocates of the human trafficking agenda have been the International Organization for Migration and to a lesser extent Interpol and the UNODC. The key funders of this rights initiative have been European Countries, and to a lesser extent, the United States. The South African Government has been a cooperative but not driving partner in this process, and has recently tasked the National Prosecuting Authority to coordinate domestic legislation and implementation.

In addition to this supportive migrant rights context, the balance of institutional interests and identities amongst the various partners has helped to launch and keep human trafficking on the agenda. Take for example the IOM, whose main contribution to the field has been to administer the Southern African Counter Trafficking Assistance Programme (SACTAP), which began in 2003. The IOM is a large international organisation that curiously operates largely on project funding. In 2010, its operating budget stood at over \$ one billion, but only three per cent of this was what we might call core funding, with the remaining 97 per cent consisting of voluntary

contributions, mostly from member states, for projects.⁵ In essence, this means that the IOM is constantly in a position of financial precariousness that is common to much smaller NGOs: the majority of its operational budget comes from short term, issue-specific funding grants like the SACTAP. However, unlike small NGOs, the IOM has the added problem of being a huge organisation without the same issue area flexibility. For example, in South Africa, it currently maintains offices in three cities (Pretoria, Cape Town and Durban). These offices not only require staff salaries but substantial contributions for infrastructure and operating expenses.

This does not mean that the IOM is a struggling organisation or that it is overly dependent on trafficking as its main issue. A more accurate reading would be that the organisation used the trafficking issue to establish an institutional presence, and then slowly diversified their sources of funding while the trafficking issue was 'hot'. Then, as funders gradually lost interest in the cause, the organisation sought to capitalise on opportunities to keep the trafficking debate alive (see Table 1). In 2003,

Table 1: SACTAP Budget Figures 2003-2010⁶

	Contributors				Total SACTAP Budget	Total SA Budget	Trafficking as percentage of total budget
	Norway	SA	US	UK			
2003	297597		455000		752597	1176420	64
2004	321373	7403	455000		783776	1689516	46
2005	613945	25269			639214	1718200	37
2006	1137093	23534	160000		1320627	4659326	28
2007	2473204		110000		2583204	8198215	32
2008	1185771		205000	103748	1494519	6574589	23
2009	676353		72000		748353	8371297	9
2010	-9589				-9589	11112303	
Total Contributions 2003-10	6695747	56206	1457000	103748	8312701		

5 Source: International Organization for Migration <http://www.iom.int/jahia/Jahia/about-iom/organizational-structure/lang/en>, accessed 23/6/2011.

6 Source: International Organization for Migration, *Financial Reports*, 2003-2010

when the SACTAP programme began, it equalled almost two thirds (64%) of the South African regional office's annual budget expenditure. Funding for the SACTAP peaked in 2007 and then began a steady decline until 2010 when Norway, the principal funder, discontinued funding after a formal evaluation of its limited successes. By this stage, however the IOM was far less dependent on SACTAP. In 2009, SACTAP only equalled about nine per cent of its South Africa budget. The IOM had also, partly on the back of its SACTAP programme, attracted funding from the US, UK and South Africa, and positioned itself as the key voice on trafficking in the region. Hence, in 2010 it was able to win new funding contracts for trafficking operations in South Africa, stemming from a US funded programme on the World Cup and the EU funded training of government officials to comply with South Africa's new trafficking legislation. Given these considerations, we can see why the IOM as an organisation has been institutionally committed to trafficking as a policy arena, at least over the short term, regardless of questions of prevalence.

The position of the South African Government is somewhat less materially determined, but nonetheless equally constrained by issues of interest and international influence. Here, the main issues appear to be, on the one hand, South Africa's dependence on foreign aid, and on the other, South Africa's interest in maintaining an international reputation as an African leader on human rights issues. A key example of the former motivating factor was the impact of the US decision to place South Africa on the US State Department Trafficking in Persons (TIP) Report 'Tier 2 Watch List' for four consecutive years from 2005-2008.⁷ The Tier ratings in the TIP report are less concerned with issues of prevalence and instead have more to do with questions of whether states can show palpable evidence that they are tackling the phenomenon, through legislation, prosecution and prevention. It is likely that the US decision, which put in jeopardy elements of its \$USD half a billion aid budget,⁸ was a significant influencing factor in the South African government's decision to table trafficking legislation in 2008. In 2009, South Africa was taken off the watch list and unsurprisingly, its trafficking bill has since been shelved as the ANC government moves back to its core legislative agenda.

The 2010 FIFA World Cup of Football is a better example of South Africa's efforts to shore up its international reputation on trafficking. Here, in the aftermath of stories of sex trafficking at the 2006 German World Cup, the US government,

7 Source: United States of America State Department, *Trafficking in Persons Reports*, 2005-8

8 Source: USAID, *South Africa Budget Fact Sheet*, FY- 2007-2009

media and other anti-trafficking campaigners began to raise the spectre of similar threats to the South African event, involving the prospect of a marked increase in sex trade trafficking. Here, the government was keen to ensure that its moment in the international limelight, where it hoped to present itself as a beacon of humanitarianism and hope on the African continent, would not be sullied by the disparaging image of tourists flocking to South Africa and exploiting sex slaves.

These examples do not suggest that there are not individuals within the IOM or the South African government who are personally concerned and committed to the anti-trafficking agenda or that the machinations of global finance and funding account entirely for their level of zeal on this issue. Rather, they suggest that structural factors provide reasons why these groups were able to successfully launch anti-trafficking initiatives onto a political landscape that is already replete with pressing rights (gender, HIV/AIDS, poverty, education etc.) and non-trafficking related criminal justice problems (rape, organised crime, human smuggling etc.) where prevalence is not an issue, and why they might struggle to keep this issue on the agenda, even in the face of conflicting evidence concerning the prevalence of trafficking.

The proponents of the anti trafficking agenda are not the only ones with strategic interests at play and normative concerns that define their approach to research findings. Academics have careers to develop, and pouring water on the propositions of international organizations is certainly one way to make a career. In their defence, in terms of the funding framework of the South African social sciences and the interests of international academic journals, there is far less to be gained through research which generates null hypotheses and/ or fails to reveal new and important dimensions of practices of sexual exploitation. That said, many of the critics possess sympathies with what one might broadly call a decriminalization of the sex work agenda and are concerned, beyond their immediate scholarly interest, that the human trafficking agenda may substantially jeopardize efforts to improve the working conditions of sexworkers.

It is partly with this latter issue in mind, that researchers have sought, admittedly somewhat strategically, to test the merits of the trafficking agenda on more neutral ground. Avoiding irresolvable questions regarding the definition of trafficking or moral attitudes towards sex work, researchers have sought to debate issues of prevalence. The anti-trafficking lobby in South Africa has routinely justified their requests for more resources on the grounds that trafficking is a large and growing problem. So researchers have sought to ask: 'how many victims are there?'

Here, crucial work has been done by the Institute for Security Studies researcher Chandré Gould in collaboration with Nicole Fick of the Sew Worker Education and Advocacy Taskforce (2008). Gould & Fick's work began with the observation that over the course of the last decade, while certain high profile cases had attracted a lot of interest, very few human trafficking victims had been discovered across Southern Africa. They also began by explicitly recognising that there were problems associated with a) developing suitable sampling techniques to gauge the prevalence of vulnerable populations because they tend to under-report; and b) doing research on clandestine practices because everyone involved in such practices has strong reasons not to admit involvement. Gould & Fick's methodology was specifically designed to tackle these issues. They began by looking for the proverbial 'easy case' to begin testing issues of prevalence. According to the available literature and the various forms of received wisdom on the subject, trafficking in Southern Africa was particularly rife in the sex industry in Cape Town (Molo Songololo 2000a, Molo Songololo 2000b, Martens *et al.* 2003). Hence, if trafficking indeed was prevalent across South Africa and issues of prevalence are not completely methodologically intractable, then a study of Cape Town could potentially reveal significant numbers. The researchers then developed an elaborate and targeted research strategy to investigate issues of prevalence in the industry. This involved partnering with a local NGO to counter issues of access, extensive demographic and geographic mapping of the industry in order to develop a sample frame; qualitative interviews with sexworkers, pimps and brothel owners in order to gain different perspectives on the industry and the practices therein; and a quantitative survey of the sexworker industry to develop a statistical portrait of trafficking practices. This procedure is outlined in detail in their study. Suffice to say, that despite deploying these various forms of rigour, they revealed significant amounts of exploitation in the sexwork industry, but few instances that resembled trafficking, and certainly nothing that resembled the extent of claims put forward by organisations such as the IOM.

Gould and Fick's study is as interesting for the response that followed, as it is for the incredible ingenuity they exhibited in developing their research strategy and approach. If the principles of scholarly research I outlined in my opening section held and knowledge about a topic proceeded, at least in some small way, in line with the idea that 'the best idea will win', then we might expect some of the following responses to Gould and Fick's work:

- A) acceptance: efforts to tailor existing programmes on human trafficking to suit the newly available evidence on prevalence;

- B) replication/falsification: efforts to repeat Gould and Fick's method in Cape Town or elsewhere to determine whether their study was limited by contextual factors;
- C) substantive critique: development of alternative methods to gauge issues of prevalence involving illustration of their superiority to Gould and Fick's approach and/or their capacity in countering perceived limitations.
- D) immanent critique: efforts to question whether Gould and Fick's normative predilections or institutional biases have in fact skewed their sample, approach or techniques.

Each of these forms of engagement might have constituted a valid means of engaging with Gould and Fick's work as a piece of scholarship. Yet none of these responses have materialised. Instead, the approach has involved the following:

- A) silence/ ignorance: the most common approach to Gould and Fick's work by IOM officials and trafficking campaigners has been to simply ignore it. This usually involves reiteration of pre-existing research or anecdotal evidence that were explicitly questioned by Gould and Fick but without making any reference, in passing or by implication, to Gould and Fick's substantive argument or methodology.
- B) diversion: this version often builds on the silence technique but adds to it through the adoption of a parallel but non-representative (or simply pseudo-scientific) research, which is predetermined to reveal prevalence. Here, a useful example is the recent government commissioned report on human trafficking by the Human Sciences Research Council (Human Sciences Research Council 2010). This report cited the Gould and Fick study but did not engage in any way with their findings or methods. The report then adopted its own approach to issues of prevalence, which involved asking a small sample (n=37) of public prosecutors the question: how big do they believe the problem of human trafficking is?. It would be too painstaking and banal to point out the many limitations of such an approach to the issue of prevalence.
- C) insistence: this is a slightly more subtle technique, which involves recognising Gould and Fick's findings but refusing to engage with their explicit efforts, in terms of methodological adaptation, to deal with issues of invisibility and under reporting. In this version, campaigners will acknowledge that Gould and Fick did some research, but simply restate the fact that research will never be able to deal with prevalence because trafficking is a clandestine practice.

Anti-trafficking campaigners have deployed these same lines of rhetoric in many different contexts including academic forums, closed door policy making sessions, individual interviews, consultancy meetings, and international intergovernmental conferences. When this happens, it is extremely tempting for scholars who are aware of Gould and Fick's work, to attempt to engage with anti-trafficking advocates in a genuine scholarly debate, about the pros and cons of the anti-trafficking agenda and the need for more sound research findings. More tempting still, is to engage with anti-trafficking experts using their own data. Here, the remarkable inability of the SACTAP programme to uncover significant numbers of victims is significant. Despite extensive publicity, hotline, training and research agenda, the programme only provided assistance to approximately 306 victims across the Southern African region between January 2004 and January 2010 and it is not clear whether such victims would classify as trafficked according to their definitions or those of the Palermo Protocol.⁹

I say that these lines of discursive engagement are 'tempting' because they rarely convince one's interlocutors of the logic of one's argument. They are doomed to fail because most anti-trafficking campaigners are not genuinely interested in issues of prevalence at all, let alone in methodological and mathematical reason. Hence, when confronted with all of the evidence to the contrary, the most common fall-back response of many anti-trafficking campaigners will be to deploy the following line of reasoning: 'one victim is too many'. Put simply, prevalence doesn't matter anyway. This quickly turns into an *ad hominem* argument: that the people who want to sort out questions of prevalence really do not care about the (however few) victims of trafficking and are in some way, bad people. In a recent editorial in SACTAP's *Eye on Trafficking Bulletin*, the SACTAP programme manager offered a version of this response:

What is the magic number then that will make us stand up and care? Somebody let us know – because that number is out there, it's just a matter of caring enough to combat it. The more partnerships we develop, the stronger the fight against trafficking will be. Let us put aside counting numbers for now—and focus on what is really happening, in our very midst! (Khokar 2010)

This illustrative discussion of the imperviousness of anti-trafficking campaigners to reason is not an isolated case. I have encountered similar resistances to research find-

9 IOM & NORAD. 2010. "Southern African Counter-Trafficking Programme (SACTAP): Review report." Oslo & Centurion

ings which strike at a wide range of the central planks of their representation of the trafficking problem, including a) that the 2010 World Cup did not, in fact, generate significant amounts of international sex trafficking or indeed changes in the nature of the sex trade (Harper *et al.* 2010); b) that most human smugglers working across the South Africa/Zimbabwe border are not involved in trafficking migrants for the purposes of exploitation in South Africa (Vigneswaran *et al.* 2010); and c) that insofar as trafficking is a problem in South Africa, it is more prevalent in sectors like domestic work and farm labour than in the sex industry (Human Rights Watch 1998). The difference, as is implied in the quote from the SACTAP Programme Manager, is that queries about issues of *prevalence* draw more defensive responses from anti-trafficking campaigners, because these types of critique put their core interests in jeopardy, i.e. their funding. In addition to non-reasoned and *ad hominem* responses, critiques of prevalence have also drawn another sort of response from anti-trafficking campaigners, which is more strategic and calculating. The next section will begin by discussing these approaches and their potential impact on migration governance and policing in South Africa.

Making up the numbers

One of the ways in which anti-trafficking campaigners have sought to address the prevalence issue has been to change the way in which government agencies and ancillary organisations conceptualise criminal activity. This approach begins with the argument that the reason why law enforcers do not uncover more cases of trafficking is not due to the fact that trafficking is not widespread. The problem instead, has to do with the fact that criminal justice officials are routinely diagnosing cases of trafficking as mere instances of its component crimes (kidnapping, rape, forced labour, illegal migration, human smuggling etc.). The key element that might transform a set of criminal activities into a trafficking offence is of course, to radically simplify, that the victim was moved for the purpose of exploitation. Many ordinary officials simply do not ask themselves whether this element of criminal activity has occurred and hence do not collect evidence that might allow prosecutors to convict on this basis. So, for example, the HSRC study of the South African criminal justice system found that ‘there is no ‘flagging’ system in place that alerts the prosecution at an early stage (prior to an arrest) that a particular investigation may be a human trafficking case’(Human Sciences Research Council 2010: p. 58).

This gap, which is evident in most criminal justice systems, has several potentially problematic outcomes for the way criminal justice officials do their job. Here I want to focus on just two: policing and protection. The first issue refers to the fact that international trafficking instruments and their domestic counterparts represent a key means by which police agencies can shift their posture towards transnational criminal activity. Rather than merely responding to isolated criminal instances *in situ*, trafficking and the other two protocols within the UN Convention on organised crime encourage officials to think more broadly about criminal enterprise and to inquire into the expanding networks and associations which increasingly support and encourage contemporary crime. While the linkages between trafficking and other forms of organised crime and transnational activity have often been overblown, there can be little doubt that trafficking, almost by definition, is heavily dependent on the existence of a broader criminal conspiracy. In countries like South Africa, there is a significant demand for a raft of measures to ensure that, in particular, detectives and prosecutors are encouraged to detect transnational criminal networks and associations, rather than responding in piecemeal and isolated fashion to criminal acts as they arise or are encountered. Yet, when knowledge of and familiarity in the use of the international protocols are low, we can't expect these changes to occur.

The second issue relates to the remedies that most trafficking legislation provides to victims of trafficking. Most trafficking legislation encourages criminal justice officials to approach migrant workers as potential victims and not merely potential law-breakers. Here the provisions offering victims of trafficking with potential relief from immigration control laws and access to a variety of victim support mechanisms in the host country create the potential for a radically different administrative response to that suggested by immigration control laws, which often result in mere issuance of deportation proceedings, often without complimentary sanctions against employers.

In the South African criminal justice system, anti-trafficking campaigners confront a range of policies, incentive structures and institutional cultures which act against these international policing and protection mandates. In the case of the former, the detective work of the local police is usually driven by the need to produce convincing and often isolated convictions of criminals, as opposed to the longer and potentially more fruitful investigations required to define, detect and prosecute a transnational criminal conspiracy (Matshedisho 2009). In the case of the latter, policies which encourage officials throughout the government bureaucracy to enforce immigration law (Vigneswaran 2008) and the habit of type-casting of foreign natio-

nals as potential criminals both limit the potential for trafficking laws to substantially alter the disposition of officials towards potential victims.

One of the potential ways in which organisations like INTERPOL have sought to encourage these sorts of broader changes in the policing and regulative posture of government officials has been by funding pilot transnational policing operations, which focus on areas where good evidence exists of a transnational criminal enterprise, and use the resources of international agencies to exhibit how they can be tackled.¹⁰ In some senses, this sort of approach follows a similar logic to that employed by Gould and Fick in the research environment, in the policing sphere.

Anti-trafficking campaigners have yet to opt for this sort of intervention. Instead, they have opted for a series of measures which – somewhat tautologically – assume prevalence and then seek to illustrate it. These include:

- advertising campaigns, which seek to reach a broad audience of potential victims or potential informants so that they can begin to conceptualise practices that they already know about as trafficking;
- hotlines, which provide what is assumed to be a broad audience of victims and potential informants, with opportunities to ensure that this information is channelled to central data management systems;
- establishment of intra-governmental coordinating agencies whose responsibility includes the analysis of existing government criminal databases to check which cases of criminal activity might have involved trafficking elements and the establishment of governmental information reporting systems, which encourage officials to channel information on trafficking to the centre;
- training of government officials, which encourages officials to reclassify a range of criminal activities they may ordinarily encounter as trafficking.

The latter approach has been particularly important. As part of the SACTAP programme, the IOM has trained over 10 000 officials across Southern Africa in the dimensions of trafficking, its laws and the appropriate case management procedures. Yet, these training sessions rarely sought to address the deeper structural realities which prevent officials in the South African criminal justice system from a) investigating transnational criminal activity, and b) seeking to provide protection to foreign nationals. In part, this has to do with the fact that it is very hard to tackle these issues. One other potential reason may be that the campaign's main concern has not been

10 INTERPOL and SARPCCO Working Group Meeting, Dar es Salaam 2009.

with the transformation of criminal justice, but the redefinition of existing criminal activity as trafficking, so that sufficient information on suspected trafficking cases begins to filter towards the centre, and thereby begins to deal with the problem of prevalence.

According to our research with police detectives in inner-city Johannesburg, the outcomes of this sort of approach to trafficking are, at best ambivalent and, at worst simply counterproductive and damaging. The first point to note here is that, in the absence of broad awareness of trafficking legislation or instruments, officials often intervene decisively in trafficking cases. So, for example, despite the fact that a police detective working in the Missing Persons unit in Johannesburg did not know what trafficking was, he was quite capable of locating and taking custody of a South African child sex worker and transferring custody to the Child Protection Agency. If he had felt it was necessary, he would have also been capable of determining whether to make a referral to the Organised Crime Unit. The second point to note is that due to the way trafficking is being taught within South Africa, wherein such a broad range of activities can potentially count as trafficking, many officials are beginning to include a much broader range of crimes within their definition of trafficking. For example, one group of police officers we spoke to included cases of hi-jacked buildings, unpaid mineworkers, or blind migrants working in a begging operation as cases of trafficking. The third point to note is that all criminal justice institutions, and particularly the police, depend on an array of largely unwritten case management procedures, which are difficult to transform. In South Africa, these include insider understandings of the division of labour between operational police and detective services or between the police as a whole and Social Services/Immigration/Labour. They also include a set of often personal relationships across these divides to ensure that cases are appropriately handled and passed on to the organisations and individuals with the appropriate expertise. In South Africa, in part due to its Apartheid history, the strongest set of relationships of this sort are between the Police and the Department of Home Affairs, regarding the referral of cases of suspected illegal foreigners. The first question that police officers will ask any civilian suspect is to see their documents and from that point, police officials are schooled in a set of procedures to handle a suspect leading towards deportation. In this respect, it is doubtful that the training trickling down from the human trafficking initiatives will fundamentally transform the disposition of police officers towards migrants from one of prosecution to protection.

Concluding remarks

This paper has provided some reasons why academics struggle to have critical findings about trafficking taken seriously in the policy sphere. While the structural reasons for myths about human trafficking and the fraught character of this debate have been gaining prominence in recent discussions, there remains a set of more fundamental reasons for why scholars struggle to translate their research into palpable policy changes: words into action. In part this has to do with the sheer material resources, which anti-trafficking campaigners use to keep the issue alive, as pointed out in the discussion on the response to Gould and Fick. However, this has in part to do with the unpredictable responses of rescue campaigns to research-based critique. Indeed, if the discussion in the final section of this paper is accurate, the efforts of the campaigners to fend off criticisms by increasing their case numbers has produced a largely counter-productive training process, where the objective of proving prevalence takes precedence over improving overall performance. In this respect, the paper concludes with the suggestion that scholars engaging critically with practitioners on questions of human trafficking would do well to first engage in, at least, a preliminary analysis of some of the epistemological assumptions and material motivations of their interlocutors. There may be room for dialogue and progress, but common ground will also be hard to find.

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