European Commission

Study on the gender dimension of trafficking in human beings

Final report

Migration and Home Affairs

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CONTENTS

Executive summary 7
1. Introduction 13
2. Methodology 19
3. Review of key issues in the literature 21
4. Victim assistance: United Kingdom example 33
5. Measuring trafficking EU-28 57
6. Demand reduction: Germany and the Netherlands 93
7. Demand reduction: Sweden 123
8. Law enforcement: justice and home affairs EU agencies 141
9. Emerging cyber technology 163
10. Conclusions from gender analysis 181
11. Recommendations 195
12. Annex: Relevant law and policy instruments 201
13. References 205

LIST OF TABLES

Table 1.1 Gender of victims of trafficking in EU-28, 2012 14
Table 4.1 Boolean search strings and references 55
Table 5.1 Gendered nature of registered victims of trafficking across the EU-28: 2010-2012 61
Table 5.2 Forms of exploitation in trafficking in human beings across the EU-28: 2012 registered victims 61
Table 5.3 Gender and age dimensions of trafficking in human beings across the EU-28: 2012 registered victims 61
Table 5.4 Traffickers of human beings by form of trafficking and gender: EU-28 2012 68
Table 5.5 Recorded victims and suspects of trafficking in Germany 1994-2013 70
Table 5.6 Identified and presumed victims of trafficking in the Netherlands 71
Table 5.7 Police reported crimes in Sweden 72
Table 5.8 Identified and presumed victims of trafficking in the United Kingdom 2009-2013 73
Table 5.9 Number of on-street prostitutes in Sweden 1995-2014 79
Table 5.10 Studies on cyber-enabled prostitution in Sweden 2000-2014 80
Table 5.11 Estimated number of prostitutes in the Netherlands 81
Table 5.12 Rates of prostitution in Germany, the Netherlands and Sweden. 82
Table 5.13 Systematic review search terms 89
Table 5.14 Scholarly and grey literature repository databases and organisational websites for the systematic reviews 89
Table 5.15 Number of documents retained from each repository database and organisational website 90
Table 5.16 Exclusion and selection criteria 90
Table 5.17 Scale of trafficking in human beings, by source 91
Table 6.1 Criminal codes relevant to eradicating trafficking for purposes of sexual exploitation: Germany and the Netherlands (as of August 2015) 97
Table 6.2 Administrative provisions and procedures relevant to eradicating trafficking for purposes of sexual exploitation: Germany and the Netherlands (as of July 2015) 100
Table 6.3 Interviews for case studies of the city of Amsterdam and the city of Dortmund 105
Table 7.1 Actors interviewed for the Swedish case study 124
Table 7.2 Numbers of men suspected of and convicted for paying for sex 1999-2014 127
Table 7.3 Number of people involved in street prostitution 1998-2008 130
Table 7.4 Number of people involved in street prostitution in Stockholm 2008-2013 130
Table 7.5 Police reported cases of trafficking in adults and children for sexual purposes 133
Table 7.6 Police reported cases of procuring 133
Table 9.1 Demographics of trafficking cases identified through signals to the Polaris project (NHTRC, 2014) 166
Table 9.2 Search results 179
Table 9.3 Technology and trafficking workshop attendees 179

LIST OF FIGURES

Figure 6.1 The Service Work Triangle for prostitution 96
Figure 7.1 Screen grabs for Stockholm and Copenhagen from wikisexguide.com, 22 July 2015 132
Figure 9.1 Map of hotline and publicly available data on trafficking in the United States 166
Figure 9.2 Natural market, NGO scramble 'anti-market', synthetic market (Blair, 2014) 168
Figure 9.3 The New Abolitionists 169

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 which 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, has made an important contribution to available knowledge and needs 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, 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 expert judgement of key actors, such as the police. We offer in-depth case studies of Germany, the Netherlands and Sweden, as well as some cross-country comparisons of Germany, the Netherlands 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 de-criminalise 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)) (2014). 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 de-criminalisation 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. Germany and the Netherlands 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 Germany and the Netherlands 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, 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, JUSTICE, AND HOME AFFAIRS (JHA) AGENCIES

The study engages with the practices of the EU Justice and Home Affairs agencies, 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 (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 inter-agency 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 concern the selling of women to men

for sex, though some men and boys are also advertised. 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 cyber technologies. 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 cyber security 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 since it addresses the interconnected nature of the forms of gender inequality that contribute to trafficking in human beings, if its principles were more fully implemented.

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.

1. Introduction ([2])

PURPOSE OF STUDY

Trafficking in human beings has a gender dimension, especially in relation to trafficking for purposes of sexual exploitation (where women and girls are 96 % of the victims – Eurostat 2015). The purpose of the 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 EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

The Study contributes to the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016, Priority E Action 2, which stipulates 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'.

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 of Eurostat, as well as data from Europol and 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 is situated within the law and policy environment in the EU on anti-trafficking in human beings and on gender equality. This includes analysis of the gender dimension of each of the fields that are identified as priorities in the EU Strategy (COM(2012) 286 final) towards the eradication of trafficking in human beings (victim assistance, law enforcement, prevention by demand reduction, coherence and coordination, and knowledge and emerging concerns).

The study uses reviews of relevant literature, in-depth case studies and high-level analysis in order to reach conclusions with regard to the gender dimensions of trafficking in human beings and make recommendations concerning law and policy implementation and improvement.

([2]) Sylvia Walby.

WHAT IS TRAFFICKING IN HUMAN BEINGS?

Understanding the meaning of trafficking in human beings for the purpose of this study involves at least three elements: the legal definition; the implications for victims; and the identification of the gender dimensions.

The EU Directive, in Article 2, defines offences concerning trafficking in human beings as follows:

1. Member States shall take the necessary measures to ensure that the following intentional acts are punishable: The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those 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.

2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.

3. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.

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

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

6. For the purpose of this Directive, 'child' shall mean any person below 18 years of age.

The legal definition of trafficking in human beings in the EU is specified in the Directive 2011/36/EU. This is situated in a wider international context. The relevant legal instruments and policy documents are discussed below and listed in Annex A.

Trafficking is a serious crime and violation of human rights with particularly horrific long-term implications for its victims. Victims of trafficking for purposes of sexual exploitation experience sexual brutality that causes serious damage to health and well-being. This sexual violence may cause vaginal injuries in women that lead to high rates of sexually transmitted infections and risk of contracting HIV, and high rates of post-traumatic stress disorder, anxiety and depression. Victims live in fear of repercussions to themselves and/or their families if they attempt to escape; moreover, rates of re-trafficking of those who do exit are high. See chapter 4 for further details.

Trafficking in human beings is gendered. Eurostat (2015) published data on victims of trafficking in human beings in the EU-28 from 2012 finds that the majority (75 %) of victims registered with recognised authorities are female. Registered victims of trafficking for the purpose of sexual exploitation are almost exclusively (96 %) female. Over 60 % of registered victims are trafficked for the purposes of sexual exploitation.

Table 1.1 Gender of victims of trafficking in EU-28, 2012

Form of trafficking in human beings	Percentage (%) of victims that are female
Sexual exploitation	96
Labour exploitation	26
Other forms of exploitation	52
All	75

Percentages calculated from data in Eurostat (2015) tables A3, A4 and A5. Excludes data where the sex of the victim is 'unknown': percentages are calculated on the sub-set of Member States that provide data disaggregated by both form of exploitation and gender of the victim.

EU LAW AND POLICY ON ANTI-TRAFFICKING AND ON GENDER EQUALITY

The EU has law and policy for addressing trafficking in human beings and for gender equality, both of which are relevant for this study of the gender dimension of trafficking in human beings.

Anti-Trafficking

EU law and policy concerning trafficking in human beings is articulated in the Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims (Directive 2011/36/EU) and the EU Strategy Towards the Eradication of Trafficking in Human Beings (COM(2012) 286 final). The legal competence for the Directive derives from the Treaty on the Functioning of the European Union (TFEU) Articles 82(2), concerning judicial cooperation in criminal matters, and 83(1), which names 'trafficking in human beings and sexual exploitation of women and girls' as relevant crimes with a European dimension. The EU has established an EU Anti-Trafficking Coordinator, as required by Article 20 of the Directive, 'in order to contribute to a coordinated and consolidated Union strategy against trafficking in human beings'.

The EU Strategy Towards the Eradication of Trafficking in Human Beings has five priorities:

(a) identifying, protecting and assisting victims of trafficking;

(b) stepping up the prevention of trafficking in human beings;

(c) increased prosecution of traffickers;

(d) enhanced coordination and cooperation among key actors and policy coherence;

(e) increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.

Trafficking in human beings is identified as an issue within further EU strategies, including, but not only, the Agenda on Security (COM(2015) 185 final) where it is located within the priority concerning serious and organised cross-border crime.

The European Parliament, in its Resolution of 26 February 2014 on 'sexual exploitation and prostitution and its impact on gender equality', stresses the 'links between prostitution and trafficking' and calls for further research on 'human trafficking for the purpose of sexual exploitation'.

The development of EU law and policy has taken place within an international context, including legal instruments of both the United Nations (UN) and the Council of Europe, to which most EU Member States are parties. The UN framework includes the United Nations (1949) *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others,* the United Nations (2000) *Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* and the United Nations (1979) *Convention on the Elimination of Discrimination Against Women*. The implementation of UN legal instruments on trafficking is supported by the United Nations Office of Drugs and Crime (UNODC). This international legal context is further strengthened by the Council of Europe's (2005) *Convention on Action Against Trafficking in Human Beings* and by its monitoring mechanism, led by the Group of Experts on Action against Trafficking in Human Beings (GRETA). See Annex A for a list of the relevant international legal instruments and policy documents.

Gender Equality

EU law and policy on gender equality is legally based on the competence found in the Treaty of Lisbon (2007). The high-level aims of gender equality and equal treatment are specified in the Treaty on the European Union (TEU). The division of responsibilities between the EU level and Member State level, taking into account the principles of subsidiarity and proportionality, is specified in the Treaty on the Functioning of the European Union.

Article 2 of the Treaty on the European Union concerns the fundamental values of the EU and includes equality between women and men:

> The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article 3 of the Treaty on the European Union further concerns both equality between women and men, combating social exclusion and discrimination, and the promotion of social justice and protection:

> The Union's aim is to promote peace, its values and the well-being of its peoples...
>
> It shall combat social exclusion and discrimination, and shall promote social justice and protection, equality between women and men, solidarity between generations and protection of the rights of the child.

Article 8 of the Treaty on the Functioning of the European Union specifies that both the EU level and the Member State level should not only aim to eliminate inequalities, but also to promote equality. The reference to 'all' the 'activities' of the EU provides the legal basis for the strategy of 'gender mainstreaming' in which gender equality is to be mainstreamed into all areas of EU activities, including policy formation and implementation:

> In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.

There are several EU Directives on gender equality, which are binding on all EU Member States, deriving their legal competence from the Treaty. Early Directives concerned the equal treatment of women and men in pay and employment, extending later into the sale and distribution of goods and services, including provision of social security. More recently, Directives have addressed aspects of gender-based violence, based on the legal competence to achieve the judicial cooperation needed for the European area of justice, freedom and security (Walby 2013). The legal bases for these Directives derive from four Articles of the Treaty on the Functioning of the European Union: Article 157(3) for Directive 2002/73/EC on harassment (in employment); Article 19 for Directive 2004/113/EC on harassment (in access to and distribution of goods and services); Article 82(1)(a) and (d) for Directive 2011/99/EU on protection orders; Article 82(2) for Directive 2011/92/EU on child sex abuse; and Directive 2012/29/EU on victims' rights. This is in addition to the legal basis of the 2011 Anti-Trafficking Directive in Articles 82.2 and 83.1 (as discussed above).

The EU has a Strategy for Equality between Women and Men, 2010-15 (COM(2010) 491 final), which contains thematic priorities on 'equal economic independence for women and men; equal pay for work of equal value; equality in decision-making; dignity, integrity and ending gender-based violence; and promoting gender equality beyond the EU'. In addition to legislation on equal treatment and specific measures for the advancement of women, the EU operates a practice of gender mainstreaming to promote gender equality, in which gender equality expertise developed in specialist sites is used to support policy development throughout the wider policy process. Gender equality policy is coordinated by a Commissioner based in Directorate-General (DG) for Justice and Consumers, supported by a Gender Unit (D.2) within the Equality Directorate (D) in DG Justice and Consumers (2015). There is an agency, the European Institute for Gender Equality (EIGE 2015), which provides technical support, especially in the provision of data concerning gender equality. The European Parliament (2015) has a dedicated committee centred on gender equality, the FEMM, or Women's Rights and Gender Equality Committee.

GENDER DIMENSIONS OF TRAFFICKING IN HUMAN BEINGS

The study identifies the gender dimensions of trafficking in human beings. These are analysed in the report in two ways, in relation to: the five priorities of the EU Anti-Trafficking Strategy (identified above); and the five clusters of gender equality issues (introduced below). The five clusters of gender equality issues draw together the analysis of 15 detailed dimensions, which are discussed in detail in the report.

1. Gender specificity and equal treatment. The identification of the gender-specific aspects of trafficking is necessary in order to identify victims and their needs and the most effective points of intervention to prevent trafficking. This is linked to the legal issue of equal treatment, which can be relevant to the provision of services.

2. Gender expertise and gender balance in decision-making: gender mainstreaming. The process of gender mainstreaming is dependent upon the development of appropriate gender expertise that can be brought to bear upon relevant mainstream policy processes and training of personnel. The implementation of gender-informed policies is more effective where there is gender balance in decision-making.

3. Gendered systems and the theory of prevention. In order to know how to eradicate trafficking in human beings, it is necessary to have a theory of its causation and prevention. It is known that in this field some simple interventions can sometimes lead to displacement of the problem or to unintended and unwanted consequences. This issue is addressed by analysing gendered relations as complex gendered systems.

4. The relationship between prostitution and trafficking. While the precise meaning of 'the exploitation of the prostitution of others' is debated, its reduction is a goal established in law and policy by all EU Member States, following UN protocols. This is a deeply gendered issue. It intersects with the issue of gendered economics, which is a well-established field of EU competence.

5. Gendered policy fields and strategic priorities. Trafficking in human beings is not only a policy field in its own right, but is located at the intersection of several other policy fields, each of which is gendered and differently resourced. In pursuing the goal of policy coherence and coordination, the analysis of the relationship between these fields is relevant.

METHODOLOGY

The approach to this study has been divided into three parts: a review of the literature, which identifies the key issues and state of the art knowledge on these; original in-depth case studies; and high-level gender analysis. The in-depth case studies make original research contributions across the range of strategic priorities; additionally, they jointly contribute to the analysis of prevention (defined in the Directive at Article 18 ([3])).

([3]) 1. Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings.
2. Member States shall take appropriate action, including through the internet, such as information and awareness- raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders, aimed at raising awareness and reducing the risk of people, especially children, becoming victims of trafficking in human beings.
3. Member States shall promote regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings, including front-line police officers, aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings.
4. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.

STRUCTURE OF THE REPORT

Following this introduction, the report has chapters concerning: methodology; a review of the key issues in the literature; each of the in-depth studies; conclusions from the gender analysis; recommendations; references; and annexes. These are:

Chapter 2 Methodology

Chapter 3 Review of the key issues in the literature

Chapter 4 Victim assistance: United Kingdom example

Chapter 5 Measuring trafficking EU-28

Chapter 6 Demand reduction: Germany and the Netherlands

Chapter 7 Demand reduction: Sweden

Chapter 8 Law enforcement: EU Justice and Home Affairs Agencies

Chapter 9 Emerging technology relevant to trafficking

Chapter 10 Conclusions from gender analysis

Chapter 11 Recommendations

Annex: Relevant law and policy instruments.

References

2. Methodology ([4])

There are three parts to the methodology: a review of the literature and policy; in-depth case studies, including of promising practices; and a high-level analysis of the gender dimension that integrates all aspects of the work and leads to recommendations.

REVIEW OF THE LITERATURE

The study collects and critically reviews published literature and other material relevant to the analysis of the gender dimension of policy developments on combating trafficking for purposes of sexual exploitation, including academic and policy reports, surveys, statistics and other literature.

There are many intersecting aspects to this review, including policy and gender. The first aspect is the evaluation of legal and policy interventions, in the context of the EU Directive 2011/36/EU on trafficking and the associated Strategy (COM(2012) 286 final), that seek among others to eradicate trafficking for purposes of sexual exploitation. This includes both detailed evaluations of specific policies and actors and also wider assessments with regard to related matters such as the issues of social organisation pertinent to the generation of vulnerabilities and of criminal exploitation. The detailed evaluations are divided so that they are situated adjacent to the case studies of promising practices. The wider assessment is offered within an examination of the literature on 'regimes' concerning prostitution and gender, within which specific analyses are located. The second aspect addresses the gender dimensions. This builds on the initial specification of 15 gender dimensions. It addresses both the ways in which gender inequalities are produced and entwined with trafficking in human beings; and the range of related interventions (with a focus on the EU context). The literature on the intersection of EU policy on gender equality, rooted in the EU Treaties and articulated in the Directives and other policy instruments, with trafficking in human beings is part of this review.

The reviews included both 'systematic' and 'narrative' approaches as appropriate to the particular sub-project field. Systematic review approaches were used in those areas where the literature was most developed: assistance to victims; and statistics. We have used a number of search engines to access a wide range of international sources drawn from a number of academic disciplines. In other areas, the 'narrative' approach was used, drawing on expert access to specialised and fragmented literatures. None of the sub-fields were appropriate for meta-analysis of existing studies since the study methods were too diverse to enable robust comparison.

The review of the literature is presented in two parts: the first part identifies the key issues that span the field of trafficking in human beings and is located early in the report; the second part engages in detail with the policy developments, divided into the various priorities of the strategy, and is located in several parts adjacent to the relevant in-depth study.

IN-DEPTH CASE STUDIES

We offer in-depth case studies of diverse strategies to reduce trafficking for purposes of sexual exploitation. We use multiple methodologies, combined as appropriate, including an analysis of relevant documentary and internet material together with interviews with key actors, such as: law enforcement officials, civil society representatives (including women's organisations), service providers, labour inspectors, border officials and academics. The case studies presented in chapters 4 to 9 of the report are outlined below:

Addressing vulnerable victims with intersecting disadvantages: This investigates the Poppy project in the United Kingdom which assists vulnerable victims of trafficking who experience intersecting disadvantages.

([4]) Sylvia Walby.

Data: We assess the content and quality of the data that underpin analysis and evaluation of policies and make proposals for their methodological improvement.

Demand reduction in Germany and the Netherlands: We analyse the developing German and Netherlands models that aim to reduce trafficking by regulating sex work so that there is no space for trafficking.

Demand reduction in Sweden: We analyse the Nordic model that aims to reduce demand for trafficking by reducing demand for the prostitution into which women may be trafficked.

Law enforcement and borders: We investigate the EU Home Affairs and Justice Agencies that are relevant to trafficking in relation to their introduction of gender expertise.

Emerging technologies: We review the prospects for improved utilisation of new technologies, including the internet, for reducing rather than facilitating trafficking in human beings.

ANALYSIS OF THE GENDER DIMENSIONS

The final component of the methodology is a high-level analysis of the gender dimensions of trafficking in human beings for purposes of sexual exploitation which integrates the findings from the review of literature and policy and from the case studies.

This analysis informs the recommendations that are made in the final section of the report.

3. Review of key issues in the literature ([5])

INTRODUCTION

Our analysis concerns the gender dimension of trafficking in human beings, with a specific remit to focus on trafficking for purposes of sexual exploitation. The key issues for this analysis lie at the intersection of the five priorities identified in the EU Anti-Trafficking Strategy and five clusters of gender issues identified in our study.

The anti-trafficking priorities are: identifying, protecting and assisting victims of trafficking; stepping up the prevention of trafficking in human beings; increased law enforcement and prosecution of traffickers; enhanced coordination and cooperation among key actors and policy coherence; and increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.

The five clusters of gender issues are: gender specificity and equal treatment; gender expertise, gender balance in decision-making and gender mainstreaming; the relationship between the regulation of prostitution and trafficking; the gendering of EU strategic priorities; and a gendered theory of the systems involved in prevention. These gender questions rest on the legal instruments identified in the preceding chapter. A series of detailed issues were addressed in the study to investigate the application of the principle of gender equality to the real world.

The material in this chapter is drawn from a review of the academic and policy literature. It draws on the detailed reviews of literature that are provided in the six subsequent chapters. This chapter is focused on the identification of the key issues that are common to the study.

The analysis in this chapter leads from the five clusters of gender issues; it sets out the gender questions around which the analysis of the fields of the Anti-Trafficking Strategy is conducted. The next six chapters each have a specific focus on issues associated with the Strategy and combine detailed literature reviews with original research. Chapter 10 offers conclusions to this analysis.

GENDER ISSUES

The five clusters of gender equality issues are as follows:

1. Gender specificity and equal treatment. The identification of the gender-specific aspects of trafficking is necessary in order to identify victims and their needs and the most effective points of intervention to prevent trafficking. This is linked to the legal issue of equal treatment, which can be relevant to the provision of services.

2. Gender expertise and gender balance in decision-making: gender mainstreaming. The process of gender mainstreaming is dependent upon the development of appropriate gender expertise that can be brought to bear upon relevant mainstream policy processes and the training of personnel. The implementation of gender-informed policies is more effective where there is gender balance in decision-making.

3. Gendered systems and the theory of prevention. In order to know how to eradicate trafficking in human beings, it is necessary to have a theory of its causation and prevention. In this field, it is known that some simple interventions can sometimes lead to displacement of the problem or to unintended and unwanted consequences. This issue is addressed by analysing gendered relations as complex gendered systems.

4. The relationship between prostitution and trafficking. While the precise meaning of 'the exploitation of the prostitution of others' is debated, its reduction is a goal established in law and policy by all EU Member

([5]) Sylvia Walby.

States, following UN protocols. This is a deeply gendered issue. It intersects with gendered economic issues, which is a well-established field of EU competence.

5. Gendered policy fields and strategic priorities. Trafficking in human beings is not only a policy field in its own right, but is located at the intersection of several other policy fields, each of which is gendered and differently resourced. In pursuing the goal of policy coherence and coordination, the analysis of the relationship between these fields is relevant.

GENDER SPECIFICITY AND EQUAL TREATMENT

The questions

The starting point is to identify whether, and if so how, the practices, institutions, policies and strategies under consideration are gender specific. Sometimes these practices have been treated as if they were gender neutral, but our analysis finds that many are gender specific. Recognition of this gender specificity is necessary to prevent trafficking. It is relevant for the precise tailoring of services and interventions to needs of victims of trafficking, the prosecution of offenders and also for the effective implementation of EU law and policy on the equal treatment of women and men.

The distinction between gender neutral and gender-specific has implications for the design of best practice in the provision of services and other forms of intervention to assist victims and prevent trafficking in order to ensure that these are carefully designed according to need and relevance. The distinction is also relevant to the implementation of the legal principle of equal treatment because identification of gender specificity is necessary to establish if there is a basis upon which this principle might be applied; it can only be applied if it is possible to compare the treatment of women and men (whether directly or indirectly). The principle of equal treatment is established within EU law only in certain areas, especially employment and the sale and distribution of goods and services, so careful identification of gender-specific practices is required. The significance of gender specificity includes rather than neglects 'trans' forms of gender identity and same sex sexual orientation.

Gender specificity is relevant to the provision of services for victims, law enforcement, demand reduction and other forms of prevention, the development of new technologies, measurement frameworks and their implementation as well as the development of wider strategic priorities.

The ensuing analysis addresses a range of questions to ascertain gender specificity, both aspects which are already addressed and those which are implicit and require attention. Is gender made visible? Are the gendered forms of vulnerability and recruitment into trafficking identified? Do statistics and other data provide gender disaggregated information? Do public services, including victim assistance and law enforcement, adequately recognise the gendered needs of victims of trafficking? Is the gender specificity of the harms from different forms of trafficking, for purposes of labour or sexual exploitation, made visible and addressed? Are services appropriately targeted to meet the gender-specific needs of victims? Is there gender specificity of recruitment, impact, and engagement of agencies addressing different forms of trafficking?

How is the principle of gender equality implemented? Is the principle of 'equal treatment' pertinent under EU law to the area under analysis? If so, is it applied in practice? Is the provision of services, including victim assistance and law enforcement, conducted according to the principle of equal treatment of men and women? Are prostitutes less likely to gain access to services than non-prostitutes; if so, does this constitute indirect gender discrimination? Are there gaps that might be addressed by legal or policy development? What is the vision of gender equality that underlies different anti-trafficking policies? In what way are these wider societal visions of gendered futures articulated in specific policy debates and with what implications?

Gender equality, human rights and fundamental rights are overlapping concepts and strategies; but they are not the same. Are policies anchored in human rights? What difference does it make if gender equality is subsumed to a human rights/fundamental rights strategy rather than being addressed explicitly? Is the concept of human rights or fundamental rights deployed and, if so, how does it articulate with gender equality in service provision, policy practice, and development of strategic priorities?

Are inequalities that intersect with gender addressed? If so, which and how? In what way do inequalities that intersect with gender affect policy and practice? Are practices child-sensitive? How is the adult/minor boundary addressed in practice and how should it be?

Potential applications

Victim assistance

Insofar as there is gender specificity in the harms associated with different forms of trafficking in human beings then gender-specific needs are experienced by the victims. Gender-specific harms are consequent on trafficking for sexual exploitation, which concerns largely women, as compared with trafficking for labour exploitation, which concerns men more often than women. Chapter 4 considers the nature of the harms from trafficking for sexual exploitation. It follows this with an analysis of the extent to which the provision of services to assist victims likewise needs to be gender specific. These gender-specific services are to: reduce harm; provide safe shelter, advice and advocacy; provide access to justice and compensation; prevent re-trafficking and assist re-integration; and provide public education and expert advice to policy-makers to assist wider practices promoting prevention. Mainstream services and information are also necessary.

Measurement

While it is known that trafficking is gendered, discovering the exact extent of trafficking and of its gendering is challenging. The development of gender disaggregated statistics of trafficking and of prostitution are necessary steps in the achievement of the knowledge base to effectively address trafficking in human beings for sexual exploitation.

Demand reduction

Demand reduction concerns changing the wider environment into which people may be trafficked so as to reduce incentives for trafficking. In the case of trafficking for purposes of sexual exploitation, this wider environment is critically shaped by the institution of prostitution. This is a gendered institution in that its majority form concerns men buying the sexual services of women, though there are in addition variants in which men buy other men, or, very occasionally, in which women buy men. The different forms of regulating the gendered institution of prostitution, in particular, the exploitation of the prostitution of others, has implications for trafficking for purposes of sexual exploitation. Chapter 5 considers the challenges in providing quantitative evidence to assist the evaluation of policy and theory. The innovative forms of regulation in Germany, the Netherlands and Sweden are investigated in detail using a range of quantitative and qualitative evidence in Chapters 6 and 7.

Law enforcement

The gender specificity of trafficking means that gender-specific practices in law enforcement procedures are required. Since women are the majority of the victims of trafficking, in particular in trafficking for sexual exploitation, and men are the majority of those in the EU Justice and Home Affairs agencies tasked with addressing trafficking, there is a need to pay particular attention to training to ensure that the practices meet gendered needs. Insofar as the justice component in anti-trafficking law enforcement is understood through a lens of human rights that is interpreted in a gender-neutral manner, then gender issues remain to be fully addressed. Chapter 5 considers the gender dimensions of training materials used by the EU agencies in investigating these issues, identifying which are more gender-specific and gender sensitive than others.

New technology

Trafficking in human beings for purposes of sexual exploitation is increasingly cyber-enabled, in the sense that the communication potential of cyberspace is used to facilitate these transactions. Despite the gender specificity of trafficking, most of the current discussion of justice as it pertains to cyber security privileges other concerns, including gender neutral notions of freedom of expression, surveillance and censorship. The question is how attention to the gender specificity in the development of cyber-tools might enhance the ability of victims to achieve resilience and the capacity of law enforcement to secure convictions.

GENDER MAINSTREAMING, GENDER EXPERTISE AND GENDER BALANCE IN DECISION-MAKING

The questions

The most effective development and implementation of policy will normally require addressing its gender dimension. The principle and practice of gender mainstreaming has been developed, in the EU and elsewhere, to achieve this goal. It requires specific actions and the development of gender expertise together with the attention of all relevant policy actors and widespread application. Gender balance in decision-making is required, not only because it is just, but also to ensure gender balance in the voices, experience and expertise of those contributing to decisions. These principles are embedded in EU policy and law but their implementation is varied. The study investigates the application of these principles in practice.

The implementation of gender equality requires expertise. Is there effort to develop gender expertise and, if so, is this mainstreamed into normal policy practice? Is there a special post or unit where this expertise is located, developed, and from which it is systematically deployed across the organisation? Where is gender equality expertise located, for example, in the field or in the headquarters? What gender expertise is relevant? In what way is gender expertise developed and deployed? Is there a location in which gender expertise is developed and nurtured? If so, is this fulfilled by a person, a unit, a practice and is it internal or external to the organisation? Is there the movement of this gender expertise, via mainstreaming, into the work of the normal actors in policy and practice?

Are the bodies making decisions relevant to trafficking subject to effective policies on gender balance in decision-making? Gender balance in decision-making is a well-established principle and priority in the EU Strategy for Equality between Women and Men. It has been applied to political positions (parliament, public appointments) and is under discussion for economic ones (e.g. discussions on quotas for boards of directors). The presence of women has been considered relevant in other issues of gender-based violence and has been subject to policy intervention. In the security field, the UN Security Council has applied this principle to peace-keeping/negotiating. Is there gender balance in decision-making on policy to prevent trafficking in human beings? What evidence and discussion of the implications of gendered decision-making is there in relation to combating trafficking in human beings? Is this principle applied in law enforcement, service provision to victims, or other areas of relevant policy-making? What are the implications of the involvement of differently gendered political entities in decision-making around trafficking?

Potential applications

Victim assistance

Expertise is required in providing the specialised assistance needed by victims of trafficking to: mitigate harms; access appropriate shelter, advice and advocacy; access justice and compensation; prevent re-trafficking and aid re-integration. This knowledge needs to be mainstreamed such that it is communicated to those responsible for devising policies. Insofar as these forms of assistance are gender specific, then this expertise is also gender specific. In order to facilitate the development of this gender expertise in the entities providing services to victims of trafficking, it is relevant to consider the development of gender balance in decision-making. This may be linked to the inclusion of those who were formerly trafficked in the governance of these institutions. The relevance of gender expertise and gender balance in decision-making for both specialist services and mainstream policy developments is investigated in chapter 4.

Measurement

The quantitative data needed to evaluate policy to eradicate trafficking is currently insufficient. The development of expertise in the gender dimensions of the measurement of trafficking is discussed in chapter 5.

Law enforcement

The development of specialised expertise in the gender dimension of trafficking is necessary to ensure the effective identification of victims by law enforcement bodies. A comparison of how this gendered expertise is developed among the EU Justice and Home Affairs agencies is presented in chapter 8. This chapter also investigates the various ways in which gender expertise could be developed in these agencies, for example, through the use of special officers and outside experts.

New technology

The significance of the development of gender expertise in cyber matters, especially cyber security, is investigated in chapter 9. The conventional assumption that technology expertise is gender neutral is challenged by recognising the need for the co-production of technical knowledge by cyber experts and those who have intimate knowledge of trafficking. The current gender imbalance in decision-making regarding priorities for resources in the field of cyber security is potentially part of the problem.

GENDERED SYSTEMS AND THE THEORY OF 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 in Article 18 ([6]) 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.

The goal is the eradication of trafficking in human beings. The achievement of this goal requires a theory of prevention within which to situate the various potential actions to address specific aspects of trafficking. One conventional approach to prevention has been to identify 'risk factors' as if these were separate and additive and could be individually addressed. However, prevention is better addressed by conceptualising the underlying causes as 'systems' that 'mutually adapt' in order to address the interactions between them.

It is known that policies to address trafficking can sometimes have 'perverse effects' producing the opposite of what was intended. This is an example of the functioning of a complex system, rather than one in which the elements can be treated in a simple additive manner. Sometimes policies to reduce trafficking in one location appear to be successful only for it to emerge or increase elsewhere, which is a phenomenon known as displacement. For these reasons, it is important to understand the wider system, or rather, the complex ecology of mutually adapting systems, within which anti-trafficking policy is operating. The nature of the interaction, or coupling, of systems is necessary to fully understand the implications of policy.

One of the systems within which anti-trafficking policy operates is a gender system, or gender regime. The way the gender regime operates in relation to trafficking has important implications. To what extent are the variously gendered facets of trafficking for purposes of sexual exploitation interconnected? Is the effectiveness of particular policies to reduce trafficking for purposes of sexual exploitation dependent on the nature of the gender regime in which they are located? For example, are different strategies of demand reduction appropriate for different forms of gender regime? Is there likely to be 'displacement' or 'accumulation' as a result of interventions? What underlying model of gender relations is most useful in addressing the issue of trafficking for purposes of sexual exploitation? How are different aspects of gender relations connected?

([6]) 1. Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation related to trafficking in human beings.
2. Member States shall take appropriate action, including through the internet, such as information and awareness- raising campaigns, research and education programmes, where appropriate in cooperation with relevant civil society organisations and other stakeholders, aimed at raising awareness and reducing the risk of people, especially children, becoming victims of trafficking in human beings.
3. Member States shall promote regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings, including front-line police officers, aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings.
4. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.

The concept of gender regime is based on the conceptualisation of gender relations in different aspects of society being interconnected. Each institution is treated as a system (complex system) that adapts to other systems (complex systems). This complex formulation of gender regime means that there is no assumption of simple linear 'impacts' of 'factors' as in some models of prevention (e.g. WHO). There is still a question regarding the impact of changes in gender relations in one area (e.g. the regulation of prostitution) on the gender regime as other gendered institutions adapt to this change: does it lead to changes in the gender regime and gendered institutions which are in the same direction (cumulative change), in the reverse direction (reaction), or does it lead to changes elsewhere (displacement)? This question is partly theoretical and partly empirical. We investigate these issues throughout the project.

THE RELATIONSHIP BETWEEN PROSTITUTION AND TRAFFICKING

Introduction

The forms of exploitation in trafficking in human beings are gendered, especially but not only, because women are much more likely than men to be trafficked for purposes of sexual exploitation. Policies to address the gender dimension of trafficking in human beings must therefore address, in particular, trafficking for purposes of sexual exploitation. Since a major part of sexual exploitation is prostitution, though not the only one, it is important to consider the relationship between prostitution and trafficking. This requires consideration of the implications of different forms of regulation of prostitution for the scale of trafficking for purposes of sexual exploitation. The simple version of this question is whether a particular form of regulation of prostitution decreases or increases trafficking. This in turn requires differentiation of the forms of regulation of prostitution into the most relevant categories. It also, ideally, requires information regarding the extent of prostitution and of trafficking under different forms of regulation. These are challenging requirements.

We start with the definition of prostitution. We note the different terms and concepts used to signify prostitution, though this is not our primary concern. In all EU Member States prostitution is regulated in one way or another. We identify the range of activities concerning prostitution that are regulated before considering whether these might be clustered into different forms of regulation. There are, logically, three main actors that can be regulated: those who sell sex/are sold; those who derive profit (rent or fees) from prostitution; and the clients. The laws deployed in this regulation include both criminal and non-criminal types. We thus use an empirically oriented approach to the identification of different forms of regulation of prostitution rather than the more conventional approach of abstractly conceptualised distinctions between prostitution regimes. We do this so that we can bring empirical evidence to bear on intensely contested debates.

Definition and terminology

An act of prostitution is defined as the provision of sexual services for payment. For example, in England and Wales, the definition in law (Sexual Offences Act 2003, Section 51 (2)) is that: ''prostitute' means a person (A) who, on at least one occasion and whether or not compelled to do so, offers or provides sexual services to another person in return for payment or a promise of payment to A or a third person'. Payment is defined (Sexual Offences Act 2003 Section 51 (3)) as 'any financial advantage, including the discharge of an obligation to pay or the provision of goods or services'. This statement of law, while drawn from the United Kingdom, is typical of EU Member States. Prostitution, however, is an institution rather than just a collection of individual acts. Prostitution is an institution in the sense that it entails repeated, organised social relations, which go beyond those of the individuals concerned in a particular encounter. The concept of sexual service is open to further development. For example, O'Connell Davidson (1998: 3) states: 'Prostitution is an institution that allows clients temporarily to secure certain powers of command over prostitutes'. These are powers of command that are normally only allowed on a basis of mutual exchange. In prostitution these powers of command are exchanged for money or similar payment. This financial exchange identifies the relations of inequality in prostitution. These social relations are usually gendered, with the purchaser a heterosexual man and the seller a woman; but not always, in particular men may purchase sex from a man, while even more rarely a woman may purchase sex, usually from a man. The purchase of sex from a child (under 18 years of age) is illegal across EU Member States.

Threaded through the debates as to the best way to eradicate trafficking in human beings are substantial debates about terminology and definitions. This study prefers to use terminology that is neutral and open in order to attempt to prevent premature foreclosure of discussion by conceptual closure. When it is necessary to choose, our criteria include staying close to: the legal terminology and definitions used at the EU level as articulated in the EU Anti-Trafficking Directive; the legal terminology and definitions used in the Member State when discussing their law and policy; and the terminology and definitions used by specific actors when discussing their actions. These issues are especially pertinent to the discussion of the relationship between prostitution and trafficking.

Prostitution. The consequence of these criteria mean that the report most frequently uses the term 'prostitution' since this is the term used in the EU Anti-Trafficking Directive that is the framework for this study. 'Prostitution' is also the term used by the legislative instruments of our case study countries of Germany and the Netherlands ('Prostitution Law' 2002), as well as in official reports discussing the situation in those countries (e.g. German Federal Ministry 2007). The associated term 'prostitute' is used when someone is selling sex either independently or exploited by a third-party. The term 'prostituted' is used when there is coercion, as is the case in trafficking, so that the sex is sold by the trafficker, not by the person over whose body the right of command is being sold.

Sex worker. In response to the concern that 'prostitute' is a stigmatising term, it has been sometimes argued that the term 'sex worker' is preferable (Global Alliance against Traffic in Women 2007, 2010). This signals the free agency and rights of the person concerned. It is important to stress that the extent of this freedom varies markedly. Further, there is an ambiguity as to whether the term 'worker' entails the concept 'employee' with an 'employer' which is rare since the status of 'self-employed' (i.e. without an employer from whom rights may be claimed) is more common. This term is used when it is deployed in the literature under review and by the respondents who were interviewed for the study.

Selling sex. The term 'selling sex' has the advantage of avoiding the difficulties identified with the positions identified above. Its disadvantage is its use in situations of trafficking when the seller is the trafficker and not the person whose body is being prostituted. Here, it might imply more autonomous agency by the trafficking victim than is actually present. The term is used by Kelly, Coy and Davenport (2009). It is also used in the Swedish government reports (SOU 2010). In these reports, 'selling sex' is used in the discussion of Swedish law and policy. It is used more widely when there is no reason to stay close to specific national, EU, Council of Europe or UN legal terminology.

Actors subject to regulation

The regulation of prostitution is focused on three actors: prostitutes; profit (rent or fee) takers; and the buyers of sex. Attempts to reduce trafficking have led to changes in the forms and focus of regulation of prostitution. These intersect with changes in the regulation of prostitution for other reasons.

Prostitutes have traditionally been a major focus of regulation. Many Member States have criminalised the sellers of sex in the past. Some Member States, for example the United Kingdom, have traditionally not criminalised prostitutes when the transaction was carried out in private, only when selling sex was publicly visible, for example, soliciting on the street. This was part of a wider tradition of tolerance of minority practices, disliked by the majority, if they were carried out in private. Recently, in the EU, there has been a substantial move to de-criminalise 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 (2014) ([7]) and the Council of Europe Parliamentary Assembly Resolution (2014) ([8]). 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 de-criminalisation 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.

Profit-taking, in any form, including rent and fees, has been and remains a major focus of regulation. In most Member States it has been and remains a criminal act. This includes running a brothel, escort services, pimping and living off the earnings of a prostitute (see, for example, in England and Wales the Sexual Offences Act 1956

([7]) Resolution of the European Parliament of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality (2013/2103(INI))
([8]) Resolution 1983 (2014) Prostitution, trafficking and modern slavery in Europe

Sections 33, 34, 35 and 36). In some Member States, including Germany and the Netherlands, limited and highly regulated forms of profit-taking have been allowed since around 2000/2002. There is public debate about the nature of these regulations and there has been a tendency to increase the regulations concerning the way profit extraction is permitted in order to attempt to reduce the associated increase in exploitation, associated criminal activity and public nuisance. We investigate these issues in the case studies.

Buyers of sex have traditionally not been a major focus of regulation in the EU. Recently there have been moves to make buyers of sex as prosecutable as sellers of sex in those instances when prostitution is banned in particular locations, such as streets. For example, England and Wales criminalised the 'kerb crawling' of men in cars seeking to buy sex on the street (creating the offence in the 1985 Sexual Offences Act and becoming an arrestable offence in the 2001 Criminal Justice and Police Act). Further, in some places, including Sweden and Northern Ireland, the purchase of sex in general has been criminalised. It has also been criminalised in some countries in the European Economic Area (Norway and Iceland), and similar proposals have been or are under discussion in Finland, France, Ireland, Latvia, Lithuania ([9]) and Scotland. Such laws have been recommended by the European Parliament (2014) and the Council of Europe Parliamentary Assembly (2014). We investigate this practice in the case study on Sweden.

The distinction between the three main types of actors subject to criminal and other types of law is important and no assumption should be made that the criminalisation or illegality of the action of one of these groups has any necessary link to that of other groups. This means that discussions couched in general terms of 'decriminalisation' are usually too imprecise to be particularly meaningful in an EU context. Further, discussions focused on 'regulation' are often too imprecise unless the specific actors and actions to be regulated are identified.

Exploitation of the prostitution of others

The concept 'exploitation of the prostitution of others' is encoded in international legal instruments including the UN (1949) *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* and Article 6 of the UN *Convention for the Elimination of the Discrimination against Women (CEDAW) (*[10]). The 'exploitation of the prostitution of others' is recognised as one of the major purposes of trafficking in human beings, including in the EU Directive (2011/36/EU) on preventing trafficking. Legally, the crime of trafficking additionally involves actions and means as well as purpose. Nevertheless, logically, the prevention of the exploitation of the prostitution of others has a major place in the prevention of trafficking. Reducing demand for trafficking is legally part of this remit, under Article 18 of the EU Directive.

The criminalisation of the 'exploitation of the prostitution of others' is actualised in the criminalisation of the various forms of profit (rent and fee) extraction. This is included in the criminal law of all EU Member States, in one way or another.

The definition of 'the exploitation of the prostitution of others', however, contains ambiguities; in particular, concerning the concept of 'exploitation', the meaning of which is contested, especially when considered in adjacency to the concept of 'vulnerability'. Although the concepts of 'exploitation' and 'vulnerability' are included in the Directive, their definition is open to interpretation. The variations and ambiguities in legally interpreting the concepts hinge upon their social context (see UNODC 2013, 2015). In one sense, 'exploitation' is always an illegal excess. This is the interpretation in relation to prostitution in the majority of EU Member States. In another sense, some exploitation is considered reasonable when it refers to the proportionate taking of profits and only excessive where it crosses the boundary of acceptability into illegality. This is the interpretation in relation to prostitution in Germany and the Netherlands. In the wider legal environment, the concept of 'exploitation' sits next to the concept of 'vulnerability' and derives important aspects of its meaning from this adjacency since prevention of the exploitation of vulnerability is the goal. If prostitutes are considered as always 'vulnerable' to exploitation, then profit-taking from them cannot be justified. If they are considered 'normal' economic actors, then the situation is different. However, in yet another sense, the taking of profits from the selling of sex may be considered

([9]) The Lithuanian Seimas (2014) passed a Resolution on 16 December 2014 (No XII-1464) that proposed that the Government of the Republic of Lithuania should 'submit amendments to the Criminal Code of the Republic of Lithuania criminalising the purchase of services of prostitution, pornography or other forms of sexual exploitation'.

([10]) CEDAW Article 6 states that parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

unreasonable exploitation per se, in the context of the pursuit of the goal of gender inequality whereby mutuality rather than commercial exchange in intimacy is regarded as an essential part of a system of gender equality.

This category, **'the exploitation of the prostitution of others', is central to all major international legal instruments concerning trafficking for purposes of sexual exploitation. It is identified as one of the purposes of trafficking. Yet it is neglected or left out of focus in many recent texts concerning trafficking in human beings that instead address 'prostitution/sex work/selling sex'. By bringing the category 'the exploitation of the prostitution of others' into focus and into the foreground of debate we can make a significant contribution to the articulation of the gender perspective in the process of policy development.** While the regulation of 'prostitution' is traditionally considered a matter of national competence, in discussions on the UN Protocol, **the regulation of the exploitation of the prostitution of others probably sits on the boundary of EU level and Member State competence since it is named as a purpose of trafficking in the EU Directive.**

Variations in the form of prostitution

Although sometimes prostitution is analysed as a single phenomenon, debates regarding its intersection with trafficking usually deploy nuanced differentiations between forms of prostitution. Some forms are more closely associated with trafficking than others. We address the variations in three ways. First, by using a typology to capture the most important distinctions relevant to the debates about the causal connections between trafficking and prostitution. Second, by listing the categories within which empirical data has often been collected. Third, by consideration of categories pertinent to new forms of regulation. The extent of overlap between these issues is a question to be investigated.

First, we devised a fourfold typology to capture the most relevant differences: independent; legally exploited; illegally exploited; and coerced. Both independent and exploited prostitutes are usually 'self-employed'; rarely are some directly employed ('employees') even in those countries that permit this as a legal form. Exploited has two categories for those Member States that permit legal profit (rent or fee) extraction from prostitution in certain but not all circumstances: legal exploitation and illegal exploitation. Exploited is only 'illegal exploitation' in those Member States that criminalise all profit (rent or fee) extraction from prostitution since there is no 'legal exploitation'. Coercion into prostitution is illegal everywhere in the EU. This category includes but is not confined to those subjected to the control of a pimp. Trafficked prostitutes are a sub-set of 'coerced' prostitutes. The boundary between each of these types of prostitution is subject to both theoretical and empirical debate. There is a challenge in identifying those who have been trafficked within mixed populations of independent, exploited and coerced prostitutes.

Second, we note the existing categories within which empirical data on prostitution has been collected. The most important distinction is between 'street' and 'off-street'. This has been pertinent to the legal regulation of prostitution, with much more attention historically paid to street than to off-street, so data is sometimes collected using this categorisation. There are differences within 'off-street', according to whether it is organised through brothels, flats or escort agencies. There is emerging use of virtual communication to connect buyers and sellers which may lead to further differentiation.

Third, there are additional relevant categories. One concerns age, with distinctions: under 18, 18 to 21, and over 21 years of age. The age at which buying and selling sex is legal has risen to 18 following international legal development, but there is illegal under-age purchase. There are moves to raise the age to 21, for example in legal developments in Germany and the Netherlands and in the Resolution of the European Parliament (2014), on the grounds that those under 21 are too vulnerable to be engaging in prostitution. Another concerns gender, with distinctions as to whether a man is buying the services of a woman or a man; and rarely, whether the purchaser is female.

Empirical investigation of the links between trafficking and prostitution

Those trafficked for sexual exploitation constitute a subset of the larger population involved in commercial sex. While the conceptual distinction may be clear (the first typology is relevant) the empirical identification is less so. In pursuit of the empirical evidence to test the thesis that changes in the regulation of prostitution can reduce trafficking attention has often focused on the empirical categories (the second typology). A complication arises from the issue of 'displacement', in which changes in regulation reduce prostitution in one form/

location only to increase it in another, resulting in no overall decrease in prostitution. There are a series of testable assumptions as to the change in the amount of trafficking for purposes of sexual exploitation and the change in the amount of sub-sets of prostitution.

The general question is whether changes in the form of regulation of prostitution lead to a decrease in those forms of prostitution associated with trafficking for purposes of sexual exploitation. There are several focused claims and associated questions. One mobilises the distinction between street and non-street locations and the implications of reducing street prostitution. Another concerns the distinction between prostitution organised through legal or illegal profit-taking; in particular, whether allowing the former reduces trafficking. A further claim concerns the implications of the criminalisation of the purchase of sex. The more far-reaching question concerns the implication of other forms of intervention and contexts against prostitution and trafficking.

We address these issues in the case studies and in the assessment of the quantitative evidence.

Improving measurement

The data requirements to answer these questions are challenging. It involves the identification of variations in the extent of trafficking and in the different forms of regulation and practice of prostitution. These challenges can potentially be addressed through the use of comparisons between countries and over time if sufficient data of appropriate quality were collected on a comparable basis over time. These challenges are addressed in the measurement chapter.

GENDERED POLICY FIELDS AND STRATEGIC PRIORITIES

Anti-trafficking policy is a component of several overlapping policy fields and strategic priorities. These policy fields and strategic priorities have different resources attached to them. They also vary as to the extent to which gender equality is embedded as a core goal that is systematically implemented. Variation in the positioning of anti-trafficking policy within competing and cooperating policy fields and strategies is likely to make a difference to the resources available for anti-trafficking policy in the context of scarce resources. Further, and of consequence to the analysis here, there is variation in the implementation of EU policies concerning gender equality, which intersect with those concerning anti-trafficking.

Anti-trafficking policy is relevant to many of the EU strategic policy priorities, including: equality between women and men; security; cyber security; migration; and economic growth. In more conventional policy terms, and with greater applicability to policy at the Member State level, it is relevant to crime, economy, welfare, health, equality and violence against women, and external relations.

There is a question as to the location of anti-trafficking policy within this diverse policy ecology. Within which field is the development and implementation of policy on gender and trafficking located? Is it considered primarily as a crime (and located in home affairs) or a gender equality issue? Or is it primarily located in agencies addressing border security or migration? What are the differences in the approach of these policy fields to gender equality? Are some fields and priorities better resourced than others? What are the implications of the location of anti-trafficking policy in one field or strategy for the gender dimension of the policy to reduce trafficking?

Is there tension over the prioritisation of gender equality and human rights principles on the one hand, and immigration policies on the other. If there are such tensions between the principle of gender equality and other policy goals and laws, which takes precedence and why? Does the balance between gender equality and other principles vary, and if so why? What are the effects of locating anti-trafficking policy in one field rather than a relevant adjacent policy field with regard to its resourcing and gender content?

Is trafficking treated as a form of violence against women? Do strategies to reduce violence against women include a component on trafficking? What are the implications of different practices to reduce violence against women and victim-survivor service provision for the reduction of trafficking in human beings? What is the relationship between the fields of ‘gender equality’, ‘violence against women’ and ‘anti-trafficking in human beings for purposes of sexual exploitation’? What impact does this relationship have upon the construction of anti-trafficking policy, knowledge and statistics?

How is trafficking for purposes of sexual exploitation articulated in criminal law? What processes and which people or groups of people are subject to criminal sanctions? Is there evidence of 'displacement' when criminal sanctions are deployed? What is the nature of the intersection of the agendas and practices in law enforcement to prosecute and prevent trafficking for sexual exploitation and security and migration issues? Does the deployment of a strategy that is gender specific, anchored in human rights, child-sensitive and victim-centred ensure that the anti-trafficking agenda is not submerged by the priorities of security and migration agendas? How does anti-trafficking policy articulate with security policy? In what way is the European Agenda on Security gendered? Does anti-trafficking policy and practice follow these principles? In relation to cybersecurity, there are questions as to the ways traffickers use the internet and social media as tools in their recruitment of victims; can the flows in information be captured in a gendered form and used to develop effective interventions? How is the technology used for and against trafficking gendered?

What is the gendered economic dimension to anti-trafficking policy? In what way is trafficking for purposes of sexual exploitation linked to a wider economy; what are the contours and interconnections of this economy; how is this gendered? Is more effective regulation of employment an effective mechanism to reduce trafficking for purposes of sexual exploitation? What is the articulation of prostitution with the EU's economic strategy? Does it add, detract from or is it neutral in relation to the EU 2020 Strategy for Smart, Sustainable and Inclusive Growth? Are there links to EU policy for social inclusion and employment which would implicate the use of the European Structural Fund and European Social Fund?

4. Victim assistance: United Kingdom example ([11])

INTRODUCTION

Victims who have been trafficked for the purposes of sexual exploitation need specialist services through which they can exit exploitation, achieve positive outcomes and rebuild their lives. This academic review systematically examines 15 years of civil society intervention research literature regarding the EU Anti-Trafficking Directive standards (2011/36/EU). It appraises how support for adult victims of trafficking for sexual exploitation can best meet the 'five broad needs of victims' set out in Priority A of the EU Strategy (COM(2012) 286 final: 6), namely, 'respect and recognition, assistance, protection, access to justice and compensation'. The rights under the Directive are summarised for victims, practitioners and Member States in Commission guidance (European Commission 2013).

An analysis of specialist, gender-specific interventions illuminates promising practices with survivors who experience intersecting inequalities to support exit from trafficking for sexual exploitation, reintegration into society as well as prevention initiatives. It illuminates the societal (macro), institution or community (meso) and individual (micro) inequalities and barriers to support and assesses the extent to which the services and interventions deliver the victim-centred, anchored in human rights and gender-specific values of the EU Directive and Strategy.

The empirical case study maps how one gender-specific non-governmental organisation (NGO) operationalises culturally competent support for victims of trafficking for sexual exploitation in line with the standards set out in the EU Directive and Strategy. It explores gaps and barriers to victim rights, for victims, practitioners and Member States (for example, in the provision of assistance, information and support), as set out by the European Union (EU Rights of Trafficking Victims European Commission 2013). The review concludes with evidence-based transferable and gender-specific recommendations to eradicate the significant harms of trafficking in EU Member States.

The 'victim pathway' (Hammond and McGlone 2014), of women and girls trafficked for the purposes of sexual exploitation, is developed logically in this review of promising practices and inequalities in services and interventions: harms and risks for victims; harm reduction; gender-specific safe shelter, advice and advocacy; justice and compensation; prevention and re-integration; public education; mainstream services and information; governance and sustainability of services.

METHODOLOGY

A systematic literature search for the review was conducted following the method suggested by Hart (1998) and used Boolean logic strings to ensure consistency. English language texts from 2000-2015 were identified, including expert reports, academic and 'grey' literature (e.g. material from NGO evaluations). The method is contained in an appendix to this chapter.

The Poppy Project (run by Eaves for Women) was chosen as a promising practice case study; it delivered a range of services across the whole 'victim pathway', has been rigorously evaluated over several years and is used as an indicative case study to demonstrate important, specialist factors in a gender-specific, expert service working with women who are victim-survivors of trafficking for the purposes of sexual exploitation. The Poppy Project also participates in the EU Civil Society Platform against Trafficking in Human Beings (THB), launched by the European Commission ([12]). The case study draws upon semi-structured interviews adapting a method described by Kvale and Brinkmann (2009) and was grounded in a standpoint feminist position (cf. Harding 2007). Workers from the

([11]) Susie Balderston.
This chapter is written 'in memory of Denise' (Denise Marshall, founder of Poppy Project, Chief Executive of Eaves for Women).

([12]) The EU Civil Society Platform against THB was launched by the European Commission on 31 May 2013, as a deliverable of the EU Strategy towards the Eradication of Trafficking in Human Beings. The Civil Society Platform currently meets every 2 years, bringing together over 100 civil society organisations working in the field of THB in the Member States and in four neighbouring priority countries (Albania, Morocco, Turkey and Ukraine).

Poppy Project were interviewed and transcripts from the recording were supplemented with a review of existing evidence. On 30 September 2015, Eaves for Women closed, due to a lack of sustainable funding. The Poppy Project is being established independently to continue the work supporting victim-survivors of trafficking for the purposes of sexual exploitation.

Finally, based on the gender dimensions identified from the literature and case study, the chapter proposes several grounded gender dimensions and recommendations for future policy and practice.

FINDINGS

The harms of trafficking for the purposes of sexual exploitation

Trafficking for sexual exploitation is a particularly gendered, severe and sustained form of violence against women (Akidwa 2010) with physical (Payne 2007; Williamson et al. 2010; Imhoff et al. 2012; Ehrenpreis 2012), reproductive (Silverman et al. 2011; Samandari et al. 2011; McGuinness and Newby 2012; Ehrenpreis 2012), mental health impacts (McCabe 2008; Roe-Sepowitz et al. 2012) and secondary victimisation harms (Andrijasevic 2010; Akwida 2010, Mishra 2013), often different and more severe than those after domestic violence (Roe-Sepowitz et al. 2014a). In addition to these harms, most women fleeing from trafficking usually have no economic means of survival (Reid 2012). Thus, effective intervention requires a wide range of gender-specific specialist services for victim-survivors. The European Union (2011/36/EU) recognises that victims of trafficking for the purposes of sexual exploitation have no real or acceptable alternative but to submit to the abuse involved (European Commission 2013, *The EU Rights of Victims of Trafficking in Human Beings*) and therefore cannot consent to the activities into which they are coerced and through which they are exploited. McDonald (2014: 136), in discussing the value of anti-trafficking programmes in the EU and United States, helpfully directs the focus to be: 'thought of in terms of the numbers of victims freed from oppressive, degrading circumstances'.

Women trafficked into street prostitution are much more likely to be murdered than other women or trafficked people. Estimates range from women in street prostitution being 12 to 18 times more likely to be murdered than women of the same age in the United Kingdom (Salfati 2009; Järvinen et al. 2008). Internationally, researchers provide a homicide mortality rate for presumed-active prostitutes of 229 deaths per 100 000 including data from the United Kingdom, United States, Nigeria and Kenya. In the United States, this means that 3.7 % of murder victims (aged 16-44) were women in prostitution. Workplace homicides (204 per 100 000) estimated in the study are many times higher than the second highest risk group (29 per 100 000 deaths) of the homicide rate for male taxicab drivers in the United States since the 1980s (Potterat et al. 2004). However, the authors assess their figures of murders and deaths (from HIV and drug use) are still under-estimates, because they were unable to include those who died in a foreign country (which is likely to include women trafficked for sexual exploitation) or women who were murdered but their bodies not found.

Women trafficked for the purposes of sexual exploitation also faced greater violence, including sexual violence (Akidwa 2010), than either non-trafficked sex workers (Sarkar et al. 2008) or women after domestic violence (Roe-Sepowitz et al. 2014a). They are also at greater risk of sustained, multiple and forcible rape by men outside their primary sexual relationship (Roe-Sepowitz et al. 2014a) than women experiencing domestic violence.

Women and girl victims of trafficking for sexual exploitation experience sexual brutality (Akidwa 2010) and increased HIV exposure from the first experience of being prostituted and regularly within the first month of being sex trafficked (Silverman et al. 2011). The sexual violence may be hyper-violent, causing vaginal injuries and significant blood loss, which in turn leads to high rates of sexually transmitted infections (Silverman et al. 2011) and greater risk of contracting HIV. Higher HIV and other sexually transmitted infection rates are increased by victim inability to use condoms in forced sex and frequent alcohol use — used by perpetrators (men who buy sex, pimps and gang rape by traffickers) to 'initiate' women into prostitution or to reduce autonomy and resistance to rape (Andrijasevic 2010; Silverman et al. 2011). In the medium term, sex trafficked women continue to experience greater risk exposure to sexual violence and HIV-infection and have high rates of HIV positive status (Zimmerman et al. 2003; Williamson et al. 2010; Silverman et al. 2011; Ostrovschi et al. 2011) than is usually seen after domestic violence. The longer term harms are then multiplied by lower access to, or compliance with, anti-retro-viral treatment therapies (Silverman et al. 2011). Whilst it may not be possible to generalise from Silverman et al.'s (2011)

research from South Asia, similar patterns of sexually transmitted infection and HIV status are reported consistently amongst sex trafficked women in other source and destination countries (Zimmerman et al. 2008; McCauley et al. 2010; Mishra 2013; Walby et al. 2013).

Specifically, gendered harms also include spontaneous or multiple pregnancies and unsafe (illegal) abortions which lead to long-term chronic vaginal and pelvic pain (McGuinness and Newby 2012) and infertility (Silverman et al. 2011). Other health harms experienced by sex trafficked women include neck and mouth injury from forced oral sex, hepatitis C infection, severe diarrhoea (Ehrenpreis 2012), extreme dehydration, fatigue and malnutrition (McGuinness and Newby 2012). Further gendered health harms reported after rape, relevant to women trafficked for sexual exploitation, include women conceiving and being more likely to be at-risk of violent death during pregnancy (Samandari et al. 2011) and severe pelvic floor injury (Imhoff et al. 2012). Victims also have more lifetime surgeries for gastrointestinal or vaginal disease including fistulas and damaged colons from anal rape or fisting (Delacroix 2011; Ehrenpreis 2012).

The effects of rape are also psychological; research has reported over four times the rate of Post-Traumatic Stress Disorder (PTSD) (Resnick et al. 1993), twice the lifetime level of depression and ten times the level of eating disorders (Chen et al. 2010), higher rates of attempted suicide (Ilgen et al. 2010) and completed suicide (Heke et al. 2009) amongst women who have been raped compared to other crime victims. The mental health harms caused by the grooming, coercion, threats, isolation, normalised daily violence, substance use and the trauma of being trafficked for the purposes of sexual exploitation are severe and enduring. Such harms are also found in cases of family exploitation, where disabled women are groomed and trafficked for forced marriage (Shah et al. 2015) or where women and girls are trafficked to other family members for domestic slavery, in which they are also raped or sexually exploited in ritual abuse. Women trafficked for labour are similarly unable to withdraw their consent, for example, au pairs being coerced to sleep with their employers (McCabe 2008) or when images of victim-survivors are sold or distributed as pornography (Kotrla 2010).

Traffickers and pimps perpetrate sex crimes against their victims through abuses of power such as abduction, transportation, debt-bondage deception, withholding travel documents or money, fraud, coercion, threats, deprivation of liberty, violence and harassment (United Nations 2000; Council of Europe 2005; Kelly and Regan 2000). Victims are often given false identities and threatened such that revealing their real identities to anyone becomes highly unlikely (Hammond and McGlone 2014). The effects of sustained coercion, trauma and violence include PTSD (Hossain et al. 2010; Hammond and McGlone 2012), anxiety, panic attacks and depression (McGuiness and Newby 2012), obsessive-compulsive disorder (Hossain et al. 2010), attachment disorder, self-harm, suicide and dis-associative Identity Disorder (DID) (Dahlenberg et al. 2012).

Like other forms of violence against women, the harms of trafficking for sexual exploitation are exacerbated when women attempt to exit. Women who do not command a high price for sexual exploitation, due to their age, disability, drug use or injuries, may be coerced into 'hustling' (stealing money from men who buy sex), sham or forced marriages (Hughes 2004), begging and other illegal activity (Williamson and Baker 2009) which may lead to physical violence, imprisonment by perpetrators or arrest (McCabe 2008). Pimps and traffickers use drugs and alcohol to control, rape and prostitute women (Oselin 2014). Substance use further inhibits victim safety. Moreover, victims of drug or alcohol facilitated rape are even less likely to seek support because they often do not acknowledge that the incident was a rape (Walsh et al. 2015). Drug and alcohol substance use is common (McCabe 2008) and there is a bi-directional correlation between alcohol use and violence against women found in longitudinal studies (World Health Organisation 2013).

In addition to the physical and mental health harms, women often live in fear of repercussions from traffickers or pimps (McCabe 2008). These women are often working to repay debt bondage for their transport to a destination country (Andrijasevic 2010), living in over-crowded, unclean areas including sleeping in beds in which they are forced to have sex (Agustín 2007) and may be homeless (Rayburn et al. 2004). Most live with the stigma of being trafficked and sold for sex, living in shame of disclosure of their sex work or substance use to others (Kootstra and Commandeur 2004, Hammond and McGlone 2014), as well as being stigmatised by wider society (Bishop et al. 2013). Some women have been so pervasively groomed and coerced that they may believe the trafficker loves them (Altink 1995). These barriers to safety and justice compound mental distress and social isolation (Fagan et al. 2006) and can limit victim ability to seek help. Victim-survivors who do exit are at significant risk of re-trafficking if they return to the source country (Andrijasevic 2010) or criminalisation for prostitution or illegal migration

in their destination country (National Crime Agency 2014: 5). Many victims also go missing (Fagan et al. 2006) or lose their lives.

Secondary victimisation of women survivors who have exited is common in statutory services. Despite the short, medium and long-term severe physical and mental health harms, women trafficked for the purposes of sexual exploitation are simultaneously more likely to be stigmatised (e.g. for being HIV positive) and less likely to be assisted by State services (Mishra 2013) than women who have experienced domestic violence (Roe-Sepowitz et al. 2014a). Services vary across the EU and beyond according to the particular barriers and social contexts of different source, transit and destination countries (cf. Fagan et al. 2006, Oude Breuil et al. 2011, Mishra 2013). Thus, women with first language difficulties and victims of multiple perpetrator rape are slightly more likely to use culturally competent and accessible civil society interventions than statutory services (Robinson and Hudson 2011).

Harm reduction for women after trafficking for sexual exploitation

Harm reduction refers to non-judgemental health, safety and welfare interventions to support victim survival and minimise harm wherever possible. Gender-specific harm reduction initiatives are often targeted at areas and venues (e.g. brothels, strip clubs and massage parlours) known for prostitution and sex work (often in urbanised locations) even in Member States where such activities are illegal (Stapleton 2015).

Women who have been trafficked for the purposes of sexual exploitation often fear and mistrust official services (Andrijasevic 2010; Akwida 2010) due to concerns over being criminalised, detained and/or deported (Somerset 2004). This fear can be compounded if women have been prostituted in States where selling sex is illegal or where there is corruption (Central and Eastern European Harm Reduction Network 2005; Ditmore 2013); traffickers may capitalise on this fear by using it to further control their victims. The multiple barriers of shame, stigma and coercion and threats by traffickers and pimps therefore compound to reduce the chances of women victims of sexual exploitation seeking assistance directly from State agencies to exit prostitution.

In this context, gender-specific harm reduction and outreach projects firstly build trust with trafficked and prostituted women (Roe-Sepowitz et al. 2014a). They then reduce the health risks faced by women, for example, by providing condoms (Geddie and LeVoy 2012), medical treatments and hygiene advice (Central and Eastern European Harm Reduction Network 2005). Examples of harm reduction projects in Europe are provided in the case study in this section. Outreach harm reduction projects are confidential and provide services at night when women are prostituted and mainstream health services are usually closed (Central and Eastern European Harm Reduction Network 2005).

Needle exchange programmes may also be provided in conjunction with other drug rehabilitation initiatives to minimise contamination and transmission of infections between drug users, signpost to drug rehabilitation and safer alternative substances, which can reduce exposure to unsafe supply (Bowser et al. 2008). These health prevention activities not only protect the women themselves but also the wider community (particularly the intimate partners of men who buy sex and their subsequent partners) (Ditmore 2013).

In addition to providing sexual health and safety advice, sex work harm reduction projects also provide anti-violence interventions to prostituted women and sex workers. For example, the Armistead Sex Work Support Project in Liverpool delivers self-defence training, information about attacks in the area by 'ugly mugs' (clients who violently attack sex workers) and peer safety strategies, such as noting which cars women enter and limiting the situational risks in places where they have sex (Ditmore 2013). Armistead and some other similar harm reduction projects also provide anonymous third-party reporting of hate crime or hostility related attacks to police and licensing authorities; this intelligence can help profile and apprehend a perpetrator before violent rapes escalate into murders.

Whilst harm reduction approaches in sex work (Cusick 2006) are also contested by sex worker unions who maintain that sex work is not inherently harmful (cf. Ahmed and Seshu 2012), harm reduction and health outreach work may be particularly important for women victims of trafficking in human beings who have been coerced into prostitution. The higher rates of HIV, sexually transmitted infections and high levels of brutal sexual violence in sex trafficked women lead Silverman et al. (2011: 229) to 'call into question harm reduction approaches to HIV prevention that rely primarily on [female sex worker] autonomy' thus inferring that successful health prevention and harm-reduction services may need expert, gender-specific outreach provision.

The independence and discretion of harm reduction activities in these gender-specific organisations is also in distinct contrast to the 'Protestant condemnation of prostitution and a quest for social purity' (Brysk 2012: 82). Reportedly, most faith-based organisations in the field object to harm reduction work, despite their remit and funding to support victims of trafficking for the purposes of sexual exploitation. Several religious providers have theological or moral objections (cf. O'Brien et al. 2013) to condoms (which can prevent trafficked, prostituted women from contracting sexually transmitted infections and provide reproductive freedom for gender equality) or abortion (Zimmerman 2013), which women victims of trafficking may want or need when they exit. Church-governed providers in Italy (Zheng 2010), Portugal (das Neves 2011) and elsewhere morally require exit from the sex industry before they will assist a woman (Bowser et al. 2008; Andrijasevic 2010; Zimmerman 2013) but this policy may not be as helpful as pragmatic harm reduction support and outreach which can build trust and lead to an exit for prostituted women.

Gender-specific support is essential for women who have been trafficked for the purposes of sexual exploitation, in order to build trust to provide advocacy, advice and support towards the safety and exit of women. Successful harm reduction programmes take a pragmatic approach, which is particularly helpful for trafficked, prostituted women, who often make several attempts before finally exiting abusive relationships and situations (Hammond and McGlone 2014; Roe-Sepowitz et al. 2014a). The independent, voluntary sector status of specialist harm reduction projects are importantly free from a judgemental (Mishra 2013; Stapleton 2015) and punitive culture (Zimmerman 2013) which can further stigmatise and castigate women who have been prostituted; service provider gender-specificity and independent status can therefore be crucial to maintaining trust and confidentiality with trafficked victims who need assistance (Tzvetkova 2002).

Gender-specific safe shelter, advice and advocacy

Gender-specific safe shelter after trafficking for sexual exploitation is usually best provided in women-only refuges for women and their children. Article 11 of the EU Directive (2011/36/EU) requires Member States to 'take the necessary measures to ensure that assistance and support are provided for victims', albeit time limited. These measures 'shall include at least standards of living capable of ensuring victims' subsistence through measures such as the provision of appropriate and safe accommodation and material assistance' and attend to 'special needs' including those that derive from the 'psychological, physical or sexual violence they have suffered'. Paragraph 3 of the Preamble to the Directive recognises the 'gender-specific phenomenon of trafficking' which means that 'assistance and support measures should also be gender-specific where appropriate.'

The confidentiality and safety of gender-specific, civil society accommodation is reported as crucial; refuges do not advertise their location. The physical safety of women away from traffickers and pimps is assured by the closely guarded security of the address of the refuge and entry being restricted by intercom and target-hardening of the premises (cameras, alarms, etc.); this is not usually the case with non-gender specific accommodation, for example in migrant dispersal site social housing, where target-hardening technology can advertise the vulnerability of the occupant to perpetrators. In communal gender-specific refuges, proportionate security precautions are necessary to prevent victims being identified in the community and coerced with drugs or alcohol (McCabe 2008), prostituted again to pay for debt bondage or being violently attacked to discourage further escape attempts or being a witness in proceedings, being trafficked to another destination or otherwise being disappeared (Rosenberg 2006). This security also protects other residents of the refuge from perpetrators (Kelly and Dubois 2008) such as traffickers, pimps or violent ex-partners.

Without free refuges, women victims of trafficking report they turn to street prostitution, theft, selling clothes or drugs (McCabe 2008) or are coerced into trafficking other women to survive (Wenzel et al. 2001). If women are convicted of subsequent offences, they may not be granted leave to remain or residency in the country to which they were trafficked (National Rapporteur on Trafficking in Human Beings [Netherlands] 2010). It is therefore crucial that access to third sector women's refuges and specialist services remain free at the point of need, particularly for women trafficked for the purposes of sexual exploitation.

The co-location of information, advice and advocacy services within gender-specific organisations is key in relation to sustaining exit (cf. Hodge 2014) from trafficking and being prostituted. Research literature demonstrates that these specialist organisations offer immediate shelter, food and safety, as well as timely advocacy to navigate the complex legal, residency and welfare rights systems in destination countries. Independent refuges can

also prevent the criminalisation, detention or deportation of victims, as set out in the Directive (2011/36/EU) Article 8 and Article 26.

Unfortunately, the treatment of women victims of trafficking for sexual exploitation in line with EU Anti-Trafficking Directive requirements is still not certain once they approach statutory services. Justice may not be equitably available across Europe since it is contingent upon the criminal justice systems in Member States and is implemented on a case by case basis (Carter 2013). The barriers and complexities in contact with official channels can mean that without gender-specific shelter, advocacy and coordination, the options for trafficked, prostituted women to escape their situations to alternative accommodation (Kulu-Glasgow et al. 2012) away from the trafficker or pimp are limited (Sen and Kelly 2008). Conversely, sustained exit and survival after women are trafficked into prostitution is more likely when services collaborate and are community-based (Roe-Sepowitz et al. 2014b). Women's refuges and specialist anti-trafficking projects also therefore fulfil important multi-agency coordination roles for access to complex medical, social care, welfare, immigration, housing, compensation and family law systems in destination countries (Lam and Skrivankova 2008; Stapleton 2015), as recommended by Harper and Scott (2005). Routes to volunteering, vocational skills or employment that address poverty, marginalisation and support reintegration with home families, can also be safely accessed in women-only, appropriate settings.

Member State guidance (cf. United Kingdom Border Agency 2013), research (Dejanova and Raghavan 2013; Roe-Sepowitz et al. 2014b) and human rights law demonstrate explicitly why trafficked women should not be held in detention centres yet even Government inspections find there is not always protection from violence or detention when trafficked women come into contact with authorities (HM Chief Inspector of Prisons 2013: 16). If women do enter State detention centres or contracted commercially-run institutions, the lack of privacy (Andrijasevic 2010, Akwida 2010) and surveillance can be inappropriate (Stapleton 2015). This can lead traumatised women to be identified as trafficked victims in detention (risking revictimisation and stigma), result in them declining assistance (Brunovskis and Surtees 2007) and deprive them of their human rights (Surtees 2008; Gallagher and Pearson 2010). Violence in these institutions is also well documented (cf. Gallagher et al. 2010; Aspinall and Watters 2010; Geddie and LeVoy 2012; Kalt et al. 2013). In Italy, accounts report that Catholic institutions require trafficked women to scrub floors and do heavy and ceaseless unpaid chores (above those needed for communal living and recovery) by the Catholic clergy; the women sometimes flee these 'homes' and would rather survive in street prostitution (Andrijasevic 2010). Research also includes trafficked women who have previously been sexually abused by priests (das Neves 2011) and are repressed sexually by the religion which prevents them from recognising abusive relationships. A link between institutional problems of sexual abuse in churches and the problems of trafficking as a human rights abuse that evades justice is also suggested (Kerodal et al. 2015).

Where women victims of trafficking for sexual exploitation are in dispersal sites or social housing rather than refuges then target-hardening or environmental crime technology measures (e.g. cameras, extra locks and other security technology) may not be helpful; such measures can reinforce negative feelings and anxiety, reduce responsibility for preventing harm and encourage unhelpful checking behaviours (Salkovskis 1996) and may not necessarily be suitable for women who are victim-survivors of sexual violence (Hope 2008). Feminist criminologists are suspicious of the marketisation of new technology being applied to tackling violence against women (Radford & Gill, 2006) which does not reduce fear of crime and may actually increase fear of crime for victims (Marzbali et al. 2012: 79). More research is needed into the effects of security technology and specifically with victim-survivors of sexual violence against women.

Despite the secondary victimisation problems with state, religious institutions or secure mainstream housing for women victims of trafficking for sexual exploitation, and the significant harms experienced by victim-survivors, there is still too little gender-specific, specialist refuge provision sustainably provided for women who have been trafficked for sexual exploitation across Europe. Many gender-specific services (including Eaves for Women, the case study in this chapter) have closed or reduced capacity since the recession and public spending cuts (Kelly and Dubois 2008; All Party Parliamentary Group on Domestic and Sexual Violence 2015).

Participatory peer group support with other survivors is provided through civil society, gender-specific refuges; these provide positive role models and help victims of sexual abuse to resist stigmatisation (Hickle and Roe-Sepowitz 2014) as well as support changes in the perceptions of themselves and others (Avinger and Jones 2007). This can strengthen the resistance of victims (Bjerkan and Dyrlid 2006) and prevent re-trafficking or the return to sex work. Feminist group work to research and tackle violence against women (including trafficking for the purposes of sexual exploitation), led by or involving victim-survivors (Balderston 2013; Berry et al. 2014) allows women to be

heard, take action simultaneously (Mason and Clemans 2008) and rebuilds social capital (Priebe et al. 2013). For example, Pukaar runs women-only groups with Asian survivors in London which include group therapy and confidence building activities (Government Office for London 2009) to build positive social networks. Such networks are crucial in tackling the isolation caused by poverty in the source country, traffickers and pimps (McCabe 2008) and secondary victimisation (Reid 2012) in destination countries. Collective work and safe relationships are in contrast to the isolating control of the traffickers and the individualistic nature of statutory psychiatric processes.

Gender-specific advocacy, advice and information services have also developed through refuges for domestic violence and rape victims since the 1970s (cf. Dobash and Dobash 1992, Kelly 1988) to meet the emerging local needs of sex trafficked women (Lam and Skrivankova 2008: 13). This refuge and support is provided by independent organisations and networks. Such services vary from emergency care and basic needs provision to family tracing, legal assistance, vocational skills development and psycho-social support.

These specific services for trafficked women are necessary in addition to the minimum standards for specialist women's support services after sexual violence, which include: 'listening; advice; advocacy; shelter; self-help; counselling, protection and prosecution; and access to activism' (Kelly and Dubois 2008:10). In Wales, for instance, the Diogel project for trafficked women delivers flexible and person-centred support and information (for example, about housing and medical services), befriending, peer support, recreation, practical assistance including finance, action planning, education and training (Berry et al. 2014).

Feminists working with victims of rape and trafficking seek to tackle the social problems of patriarchy which sexual violence against women upholds. This includes creating safe spaces in which women trafficked for sexual exploitation can demonstrate their own agency rather than simply being passive service users. In particular, organisations which are 'designed, managed and staffed by survivors' (Wilson et al. 2015: 74) can effectively facilitate interventions which are timely and non-judgemental, providing harm-reduction (Ahmed and Seshu 2012), services for exit from sexual exploitation (Anderson 2009) as well as peer support and trust-building with victim-survivors. O'Brien et al. (2013) also propose that involvement of survivors themselves in services will be beneficial.

Anderson (2009: 72) explains that, in heavily gendered policy and power contexts, anti-trafficking organisations 'cannot be comprised of trafficked people — for they are the "othered" or "bad" victims'. Situating victims in this way is common in heavily gendered regimes of church and state which can mirror the coercive and exploitative power of traffickers. For example, in Italy (cf. Caneppele and Mancuso 2013) Catholic agencies have been criticised as a rescuing industry (Agustín 2007) and several States protect only those rescued who are deemed 'good' passive and innocent victims agreeing to exit sex work (Zheng 2010: 6) or deport women who do not desist (Andrijasevic 2003). This patriarchal 'rescuing' (Ahmed and Seshu 2012) denies women victims of trafficking citizenship (Anderson 2009) and Wilson et al. (2015) find that, without the inclusion of peer support by survivors themselves in services, there are barriers to human rights and justice in policy as well as successful reintegration in practice. As Brysk (2012: 83) asserts: 'The problem is power, not prostitution… we must disable the mechanisms of subjugation by gender — multiplied by race, class and caste — that enable exploitation'. The American Psychological Association Task Force on Trafficking (2014: 7) also recommends that the faith 'rescue' approach should be guarded against in policy-making, programmes, and individual treatment because such 'paternalistic attitudes… sideline expertise and silence essential voices'.

Given the gender-specificity of trafficking for sexual exploitation (perpetrated by men who traffic and sexually exploit victims who are mostly women and girls), safe accommodation which is also gender-specific is the most appropriate shelter. When women have experienced sexual violence, single gender accommodation can promote a feeling of safety and prevent re-traumatisation as well as reduce the possibility of further sexual violence by men and the pressure of heteronormative encounters or maintaining sexualised learned behaviours for recovering women. The co-location of advocacy and independent advice with the refuge is crucial to help women navigate complex systems and prevent re-trafficking. The gender-specific, independent, safe, confidential peer support offered in specialist women's NGO women's refuges leads Kelly and Dubois (2008: 34) to recommend that, internationally, 'Services provided by specialist NGOs are consistently the most responsive to women who have suffered violence…[and] should be core service providers, and key partners in the development of more effective interventions by state agencies'.

Access to justice and compensation

Reparation of the harms experienced by women trafficked for the purposes of sexual exploitation are set out in the EU Strategy towards the eradication of trafficking, specifically 'access to justice and compensation' (COM(2012) 286 final: 6), recognised by Member States which accordingly aim to provide financial restitution to victims and prosecution of perpetrators. Gender-specific, civil society support in this area is crucial to provide support to navigate complex legal aid systems, gain compensation and secure convictions of perpetrators (Lam and Skrivankova 2008; Robinson and Hudson 2011; van Dijk and Klerx-van Mierlo 2014). In cases of cross-border trafficking for sexual exploitation, many victims from third countries are also likely to experience language barriers in the destination country (Tzvetkova 2002) and have insecure immigration status and falsified papers or a lack of documents, which the traffickers or pimps may keep or destroy to retain control over the prostituted woman (McCabe 2008; Andrijasevic 2010).

NGOs improve not only information (European Commission 2013) and access to services, trust and confidence in the system by survivors, but also support and advocate the gaining of legal advice. Successful prosecutions can improve trust and confidence in criminal justice agencies amongst wider society. Robinson and Hudson (2011: 521) demonstrate that in 5 525 cases of rape in the United Kingdom, voluntary sector providers secured a higher conviction rate (10 %) as a proportion of cases reported to police than Sexual Assault Referral Centres (2 %), even though the latter brought more cases to the attention of police services. Another notable difference was that voluntary sector projects (including gender-specific specialist services after violence) had twice the level of self-referrals compared to SARCs (25 % compared to 11 %) (Robinson and Hudson 2011: 561). Whilst these figures may not be generalisable and do not disaggregate victims of trafficking, the results do indicate the success of civil society women's organisations in securing compensation and convictions for women after rape. The case study of a gender-specific NGO in this report further illuminates the benefits of advocacy to assist justice through prosecution and compensation for sex trafficked victims.

Through ensuring safety and justice for victim-survivors, States can also build alliances and confidence so that survivors become active agents in other prosecutions (by encouraging other victims to trust the system and disclose evidence) and prevent re-trafficking for other victims as well as themselves.

Identification and protection of victims of trafficking remains a challenge for mainstream services in Member States. Criticisms of the complexity of the procedures include the lack of right to an appeal and arbitrary time limits placed on applications (Anti-Trafficking Monitoring Group 2010). There are low numbers of registered trafficked victims recorded through National Referral Mechanisms; contemporary data demonstrates there may be particular problems in registering victims who have been identified in National Referral Mechanism protections in Germany, Spain, France and the United Kingdom (Eurostat 2014). These Member States have higher estimates of victims identified than are reflected in the National Referral Mechanism numbers, but other Member States may experience similar barriers to ensuring victims are identified and provided with support in line with the EU Directive (2011/36/EU).

Re-trafficking prevention and victim re-integration

Victims are at-risk of being trafficked to other parts of the Member States for further sexual exploitation or being re-trafficked from the source country if they return home. Therefore, further intervention than simply immediate rescue is required to prevent re-trafficking and meet the provisions of Article 18 of the Directive (2011/36/EU). Services to enable victims to settle permanently also need to address the inequalities which led women to be trafficked in the first place; interventions to improve housing, education and employment opportunities are central to ensuring freedom and human rights for victims. Thus, longer term peer support (cf. Kelly et al. 2013) provided for women victims of trafficking by NGOs, work with victims to rebuild their lives (Roe-Sepowitz et al. 2014b) and projects to reintegrate (Surtees and de Kerchove 2014) victims of trafficking for sexual exploitation in society are essential. In addition to safe shelter and advocacy, gender-specific organisations support women to survive and tackle the high rates of re-victimisation (Robinson and Tregidga 2007).

Compellingly, research suggests that meeting the medium and longer term needs (Aron et al. 2006) of women victims of trafficking to rebuild their lives, beyond the minimum 30-day reflection period as specified in Article 13 of the Council of Europe (2005) Convention on Action against Trafficking in Human Beings, is as important as

compensation and initial housing. It is the peer support and practical skills building, provided in the context of these safe settings with organisations women trust, which are important in terms of women eventually leaving the perpetrators, surviving sexual violence and reintegrating into society.

Interaction in group activities (such as painting, sculpture and writing) with other survivors after violence has been shown in randomised control group research to improve victims' psychological well-being, self-esteem and assertiveness (Feder et al. 2011). Practical courses for life skills development, parenting or group therapy with other survivors may also be delivered in refuges (Grossman and Lundy 2011). In addition, reintegration group work, such as vocational skills training, benefits advice and budgeting classes (Berry et al. 2014; Surtees and de Kerchove 2014) can assist women in tackling the roots of socioeconomic deprivation and poverty which often underpin sexual exploitation and trafficking (Surtees and Somach 2008). Researchers further report that collective peer support has been successfully mobilised to prevent HIV transmission in India with women in the sex industry and in their economic reintegration and independence afterwards (Wilson et al. 2015).

Volunteering, training and employment activity, helps victimisation resistance and allows for safe spaces where women can 'support each other to learn to trust other people and gain strength to make positive choices in their lives' (Marecek 1999: 171). Alongside the new skills a woman learns for reintegration, one of the most important characteristics of these group support opportunities with other survivors is when a woman can see the 'connections between her story and those of the women living in the refuge' (Kelly 2011: xvii). As the stigma experienced by sex trafficked women is socially constructed, social interventions may be best placed to tackle stigma (Bosson et al. 2011), isolation (Surtees and Somach 2008; Vijeyarasa et al. 2010; Priebe et al. 2013) and resulting mental distress and trauma (Abas 2013). Bonding and solidarity between survivors through NGOs (Tzvetkova 2002) is shown to be transformative after violence (Bantjes et al. 2012), with asylum seekers (Darling 2011) and in recovery from drug addiction (Hari 2015); with survivors of trafficking for sexual exploitation, it helps women additionally rebuild their self-worth which has been damaged by perpetrators, men who prostitute them, violent partners or state injustice.

Without social, peer support, victims can be pathologised and diagnosed individually as needing medication and therapy, a process neatly termed by Gavey as 'psychologisation' (1999: 76) which does not offer societal change to tackle or prevent the problem (Otis 2013). Instead, feminists have successfully conceptualised rape and sexual exploitation by men against women as social problems which uphold patriarchy and power (Kelly 1988; Walby 1990). In contrast, medicalising the effects of violence (Stein et al. 2006) can lead to the further systemic exploitation and objectification of women as victims and customers not only of traffickers, pimps and men who buy sex and drug dealers, but of profitable pharmaceutical industries.

Young women, children and families

Daughters of sex trafficked women themselves require reintegration and civil society intervention services, not least to prevent their trafficking into a sex industry with demand for younger victims; in addition, girls displaced from their families are, in their own right, 'at elevated risk for victimisation by human traffickers' (American Psychological Association 2014: 28). In Wales, the Diogel project, run by Bawso, supports trafficked women and helps women with children to access legal and practical support, including to keep the family together and apply for asylum. In 2012, it supported 23 service users and 12 children (Berry et al. 2014). A gender-specific specialist service in London also has a reunification worker who supports families to stay together, often through challenging and complex immigration appeals (Lam and Skrivankova 2008). Both of these projects demonstrate promising practice, but the needs of women trafficked for sexual exploitation who are also mothers has only emerged relatively recently in intervention research in the field (cf. Peled and Parker 2013).

Young women and children under 18 are also victim-survivors of trafficking for sexual exploitation on their own. Sometimes they are sourced from orphanages, for example in Lithuania (Department of State 2012: 225) and disaster zones; whilst authors urge caution with regard to sensationalised media coverage of these risks and vulnerabilities, they do acknowledge that communities need to be resourced to keep their own children safe and allow the voices of children to be heard (Montgomery 2011). Nevertheless, services for children and young women are still required in destination countries. In human rights and outcome terms, State detention is wholly unsuitable for these children (Creegan et al. 2005) who may have been targeted for trafficking because they were easier to control than adults (McCabe 2008) and specialist civil society interventions therefore have a major role to play in prevention (Montgomery 2011; Rafferty 2014) and rehabilitation.

NGO activity-based group work is reported in the literature to be valuable and effective for adolescent girls after sexual exploitation (Hickle and Roe-Sepowitz 2014). For example, art groups with volunteers and workers who are survivors themselves and experienced in working in art and with sexually abused young people provide for engagement with self-disclosure, reduce isolation (Killian and Brackarsh 2004) and break taboos for victims. The peer support and reduction of sexual trauma which is demonstrated in studies is particularly important for young sexually abused people who may self-harm, distrust adults (Killian and Brackarsh 2004) and experience barriers to safe decision-making or attachment (Hickle and Roe-Sepowitz 2014). Authors recommend this intervention as suitable for young people who have been trafficked for sexual exploitation (Hickle and Roe-Sepowitz 2014) as well as being effective with young survivors of other types of sexual abuse. The role of the civil society services is central to the success of these interventions; Boyle (2009: 7) found in her research with 133 children and young people who were trafficked or vulnerable in shelters in Cambodia 'that shelter staff were the children's focal confidants (35 %), ahead of other children (21 %), teachers (10 %) and parents (6 %)'. Further, the shelter in Khmer helped the children and young people who were stigmatised by their Vietnamese ethnic origin (2009) as well as overcoming the stigma associated with their experiences of being sexual exploited or trafficked (Boyle 2009). Workers who work with young people after sexual exploitation provide important group engagement in play, art and sport, as well as reintegration training and education (Chenda 2006) whilst at the same time acknowledging and tackling the sexual abuse the children and young people have experienced or witnessed. For example, Maria Ungdomsenhet is a youth unit for people under 20 years old in Stockholm which helps young victims of trafficking by working with welfare officers and providing education and group activities (Carlenfors et al. 2011). Civil society interventions thus appear to play a central role in rebuilding the life chances of these young survivors of trafficking.

Public education and societal prevention of trafficking

Women and girls are not often trafficked for sexual exploitation from areas fulfilling structural conditions of equality and justice; policy and research consistently recognises that trafficking thrives in areas of high poverty, violence against women (COM(2012) 286 final: 3), unemployment (Morokvašić, 2010) and lower educational achievement (Fagan et al. 2006). Victims are then trafficked within or from source countries through highly profitable forms of organised crime serving exploitative demand (European Commission 2014: 8). Once trafficked from these conditions, there are often further disproportionate harms for women and girl victims. Thus, in addition to direct work with victims, some civil society organisations also work to meet the wider aims of the EU Directive, to eliminate trafficking for the purposes of sexual exploitation by tackling the conditions in which trafficking in human beings operates (Brysk 2012; Planitzer 2014) in source countries, and prevent the re-trafficking of victims and deliver public education, anchored in human rights. The European Commission recognises the need for the involvement of women and girls at-risk of trafficking, and survivors themselves in decision-making and civil society in source countries (JOIN(2015)). Civil society interventions for women at-risk of trafficking for sexual exploitation can be more effectively developed when they recognise the socioeconomic context (Kaldor et al. 2003) and boost the role of excluded communities in delivering democracy and human rights (JOIN(2015)) in source, transit and destination countries. The Commission recognises that, 'Citizens' loyalty towards their state and their reliance on peaceful means depend on whether they feel that they are protected against arbitrary decisions and that their views can influence political decision-making' (JOIN(2015)).

This work to increase 'women's incomes, educations and reproductive freedoms' (Brysk 2012: 84) and their involvement in developing human rights and democracy in European neighbourhood countries (JOIN(2015)) is wider but crucial work to prevent and eradicate trafficking; public education with partners in source and destination countries can create social change to eradicate trafficking and assist in demand reduction (Miller and Wasileski 2011).

Further to their direct work with survivors, gender-specific organisations and women's refuges engage in political work and campaigning to tackle and end the systemic sexual exploitation and 'cultural devaluing of women in which sex-trafficking… flourishes' (McCabe and Manian 2010: 82), as provided for in Article 18 of the Directive (2011/36/EU). It is perhaps the autonomy of these organisations and the public education and prevention work which makes gender-specific organisations that support survivors so important and distinct from other 'support services' available, such as rape suites in hospitals, individual psychological therapy or housing services run by arms-length state providers, private companies or well-resourced religious service providers.

Specialist services and women's refuges often work together, promoting a social ecological model in which survivors and services work together to prevent and tackle human trafficking for sexual exploitation at all levels. Some

services have also developed bystander interventions to promote civil society and community safety (Berry et al. 2014); this is a promising practice, but as yet has not been subject to formal evaluation. Robust research, on the other hand, already demonstrates that the autonomous mobilisation and collective organisation of feminists over 40 years has been the essential factor in tackling violence against women (Htun and Weldon 2012; Stone 2013). This model should now include women who have been trafficked for sexual exploitation more centrally in working for policy change.

Evaluators have also been critical of States and projects which do not deliver or capture the human rights value of their work (Hames et al. 2010); it is here that civil society organisations connect supporting victims to self-determine and claim their rights with promoting improvement in State processes and wider equality. Campaigning specifically against anti-trafficking, including through networks which support refugee claims (Conahan and Kyere 2010) and survivors after trafficking for sexual exploitation, means that civil society organisations play a central role in working to transform the social conditions in which trafficking operates through their work towards gender equality, social justice and safety from violence for women at a local, national and international level. This campaigning role developed in the 1970s against wife battering, domestic violence and rape (cf. Pizzey 1975; Kelly 1988; Srinivasan and Davis 1991) and can resist women being located as victims (Brysk 2012), instead promoting social justice. It is this civil society activism, which has a long history in exposing and tackling the operation of male violence against women (cf. Kelly and Radford 1998) and promoting women's equality (alongside work with individuals and groups of survivors) which has not only saved lives but transformed state provisions for survivors, improved justice and societal provisions (Flaherty 2012).

In recent years, Doras Luimní in Ireland has developed training for local community groups, schools, and service providers to promote better understanding and improved responses to address human trafficking for sexual exploitation (Stapleton 2015: 11). In projects such as this, gender-specific and specialist organisations work to deliver the gender mainstreaming goals of the European Union, not only in having women as volunteers, leaders and workers in their organisations, as well as in their direct assistance for victims, but also in promoting societal gender equality throughout their work to prevent and eradicate trafficking.

Researchers have criticised state criminalisation of victim-survivors, for example for selling sex, or entering the country unlawfully, which often 'takes precedence over resolving socioeconomic conditions which are often at the root cause of trafficking' (Kaneti 2011: 345) and which can ostracise women who need reintegration options. It is problematic to assess the monetary or direct impact value of preventative campaigns (Davy 2013), but a systematic review of approaches to combat crime found that 'advice and education did not prevent crime, unless it resulted in the adoption of a strong prevention measure' (Grove et al. 2012: 38).

Gender-specific survivor group collective organising and campaigning tackles gender inequality at the micro level of communities rather than just within the inherently unequal criminal justice systems; the latter may not be as effective in tackling the harms of trafficking (Kaneti 2011) and crime (Grove 2012). Gender-specific organisations are perfectly placed to deliver societal gender mainstreaming in their anti-trafficking work at the grassroots level in source and destination countries in ways that mainstream providers, religious organisations and private contract providers cannot. The feminist approach to prevention not only aims to restore the individual economic and family life chances of survivors, but can radically develop peace-building for the whole society, as demonstrated by women's groups emancipatory action (including with choirs) and organising across and between diverse groups, for example in peace and restoration in Ukraine (Flaherty 2012). This is an inherent and unique value of gender-specific organisations which may be challenging to maintain in a context of under-funding and a reliance on State-funded contracts through which they can be appropriated. The governance and representation of survivor-led organisations and projects ensures gender balance in decision-making and representation, which is valuable in prevention in both source and destination countries. This is a stronger approach than well-meaning, non-gender specific approaches to preventing trafficking for sexual exploitation, which may not be culturally appropriate for a target audience of women in poverty.

Mainstream services and information

Statutory provision is important in protecting and restoring the life chances of victims; these include but are not limited to health, social care, policing and housing services. Whilst civil society interventions can provide information and advocacy with women to navigate these complex services, mainstream provision also needs to become

culturally competent and accessible to serve the needs of diverse and vulnerable victims. Multi-disciplinary coordination between social work, health and education with specialist services in the voluntary sector has been recommended (Creegan et al. 2005: 68; Harper and Scott 2005).

Particular barriers to safety or justice and intersectional inequalities also cross categories and these victim-survivors may face the most exclusion, discrimination and stigma; there are young minority ethnic women living in poverty (Pierce 2012) and young disabled people who are orphaned (Department of State 2013) and then targeted for sexual exploitation (Shah et al. 2015) and trafficking in Europe. This review is concerned not with individual vulnerabilities, but with civil society interventions to address inequalities and barriers to equal service provision; hence this section specifically considers particular disabling barriers that sex trafficked women with impairments (who are not a homogenous group) experience in seeking their rights and access to services.

Disabling barriers

The EU Anti-Trafficking Directive is aligned to the Charter of Fundamental Rights of the European Union (2000), in requiring that diverse victims do not experience discrimination in receiving information or services. This review thus far has considered the extent to which these standards are met in civil society interventions to assist victims of trafficking for the purposes of sexual exploitation.

With regard to disabled or Deaf women who are trafficked for sexual exploitation, the literature shows few services where the intersectionality of the victims of trafficking is sufficiently provided for in the provision of information. There is room for improvement with the extent to which information is accessible (Shah et al. 2015) and culturally competent for survivors at the intersection of ethnicity, disability and poverty who are trafficked, including deaf people (Brice et al. 2012), women with learning disabilities (National Research Council 2013) and people with mental health service needs (Zimmerman et al. 2008). These standards can be assessed against global academic and best practice in the field of disabled people's organisations, as well as those set out in the European Union Directive (2011/36/EU), but are likely to need adapting to meet the needs of disabled women who experience intersectional barriers after rape (Balderston 2013) and trafficking for sexual exploitation.

Statutory services often rely on interpreters for therapy (Government Office for London 2009) and the Convention states that interpretation and translation services should be provided for victim-survivors. Whilst using a neutral interpreter is preferable from a human rights perspective than using the children of victim-survivors (Macy and Graham 2012), or the person coming with them to the hospital who may be a perpetrator, it is not best practice. Research shows that counselling people through an interpreter may be ineffectual (Rose et al. 1999) or can even be damaging (Ubido et al. 2002; Hindley & Kitson 2000; Steinberg et al. 1998). At best, placing an interpreter into a therapeutic setting is ineffective and can be particularly problematic if the interpretation is relied upon in criminal justice settings (Vernon and Miller 2001). Lack of cultural competence to work with deaf people's values (Glickman and Black 2006) also leads to a failure to deliver an equitable service and may be ineffective in terms of even preventing a deaf person from taking their own life (Turner et al. 2007). Mainstream organisations therefore need to develop their cultural competence and accessibility to safely reach and assist the most marginalised and excluded victims of trafficking for sexual exploitation.

BAME victim-survivors

The EU recognises that gender-specific harms and risks to the human rights and safety of victims trafficked for sexual exploitation, as well as the consequences of being victimised, are compounded at the sites of intersectional discrimination (cf. Crenshaw 1991) and inequality, for example for black, Asian or minority ethnic women, disabled women or young women. The work of critical race theorists (sometimes called 'third wave' feminisms) emerged from an identification of barriers and discrimination facing black women, women from minority ethnic communities and women of colour after violence; that class, gender and ethnicity intersect and create multiple oppressions and inter-group differences which cannot be ignored without compounding these oppressions (Crenshaw 1991). Whilst trafficking does not require cross-border movement, most women are trafficked from countries with high levels of poverty (Andrijasevic 2010) and do not share ethnicity with the dominant group in the destination country to which they have been trafficked; this means that they face significant language, cultural and legal barriers (Mishra 2013).

To address this concern, the preamble to the Directive states that:

> ...victims of crime should be recognised and treated in a respectful, sensitive and professional manner without discrimination of any kind based on any ground such as race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, gender, gender expression, gender identity, sexual orientation, residence status or health. (2011/36/EU: s.9)

EU gender-based violence and anti-trafficking policies and programmes should also take account of intersectional risks, barriers to safety and justice or intersectional harms (Lombardo and Agustín 2012). Reid's (2012) framework of Informal Social Control applied to vulnerability in trafficking for sexual exploitation may be useful to connect intersectional risk factors in contextually diverse settings across the EU. Some State and contracted interventions can (often unintentionally) cause harm to victims (Boermans 2009), for example by refusing them visas to travel, or holding them in police cells or detention centres away from their children or other women who are surviving sexual violence in the community. Interventions therefore require particular cultural competencies (Dominelli 1996) as well as first language access (Tzvetkova 2002: 64) which link surviving personal experiences to tackling social inequalities, through barrier-free (Shah et al. 2015) responsive services; in short, one size does not fit all.

There appears to be too few culturally competent civil society organisations which are led, managed by and support survivors of sexual violence from black, Asian and minority ethnic (BAME) communities in Europe. Some of these organisations which are culturally competent or experienced in providing first language and culturally accessible services (Jakkula 2013) for women facing additional immigration and stigmatising barriers include Shakti in Edinburgh (Bradbury-Jones et al. 2014) Southall Black Sisters, Forward (Itzin 2006: 50) and Pukaar in London (Government Office for London 2009). These specialist organisations are essential while discrimination and barriers to equity for diverse women remain persistent in mainstream statutory services (Bhui et al. 2015). The cultural competence of these organisations, not only in working with BAME women, but in being experts in negotiating local systems and working in partnership with health professionals, is crucial. For example, Bhui et al. (2003) reviewed 38 studies and found that black men and women have more complex pathways into mental health services, seeing at least three professionals before a specialist and being less likely to get referred to mental health services by GPs. Other minority ethnic groups experience health inequalities differently, for example, Asian women under 35 were found to be at least twice as likely to self-harm as white women (Husain et al. 2006; Newham Asian Women's Project 2007). Violence, including forced marriage, has been identified as a major factor in 49 % of suicide attempts made by minority ethnic women compared to 22 % of suicide attempts by white women (Newham Asian Women's Project 2007). Whilst forced marriage does not only occur in BAME communities, researchers comment that this is a pattern because women, culturally, can internalise shame if they are stigmatised for not upholding family honour (Bhardwaj 2001; Mishra 2013). This can be compounded when South Asian women are at-risk of even worse discrimination or violence if they are perceived by the service provider to be of a lower caste (Mrudula et al. 2013, Paktar 2013), treated as Bedni (Mishra 2013: 8) or Dalit (Jaoul 2013). Not only is this important in terms of women being able to communicate in the country to which they have been trafficked, but is important for women who are refugees from societies where men have been the spokespeople for communities and women have been illiterate so do not have a history of advocating for their own needs (Burnett and Fassil 2002). For trafficked Roma women, who are already stigmatised and isolated (ERRC 2011; Poucki and Bryan 2014), interpreters in destination countries can create further barriers to healthcare or enable equal services, dependent on their level of training and experience (Roman et al. 2013). From a robust, systematic review of the effectiveness of psychiatry with regard to black and minority ethnic service users, Bhui et al. (2015) recommend bi-lingual mental health professionals with both linguistic and cultural competencies in order to reduce fear and improve the success of interventions.

Many statutory and health interventions for women after sexual violence construct minoritised women as 'vulnerable' individuals or groups and respond, for example, by promoting information in several languages on their websites (cf. St Mary's Sexual Assault Referral Centre, in Walby et al. 2013: 145). But there may be significant barriers for women victims of trafficking to find online information (Elliott and McCartan 2013), either through lack of access to technology, control of pimps, language barriers, literacy or poverty. In addition, patterns of trafficking from source countries change and traffickers move women around frequently, meaning that mainstream language translation may quickly become unrepresentative of the shifting needs of victim-survivors.

Governance and sustainability of specialist, gender-specific services

The literature reviewed consistently demonstrates that lack of sufficient and sustainable funding is a barrier to provision for women trafficked for the purposes of sexual exploitation. On 30 September 2015, Eaves for Women and the Poppy Project were forced to close, in part due to a GBP 700 000 deficit and a lack of sustainable funding for the service from Government. The lack of financial stability experienced by specialist providers specifically prevents 'capacity-building to address… increased demand for services' (Itzin 2006: 77). Further, lack of sustainable funding prevents qualified NGOs (Lam and Skrivankova 2008), as well as shelters and refuges (Kulkarni et al. 2012; the All Party Parliamentary Group on Domestic and Sexual Violence 2015) from providing enough support services to address need.

Gender-specific, specialist organisations and projects tackling trafficking often have structures which require gender-specific representation in decision-making and governance; survivors lead, run and work in services as volunteers and staff. This is not the case for patriarchal charities such as some church groups, where women cannot or do not have equal representation in decision-making based on the tenets of faith or belief. This may be compounded by the construction of 'good' victims as passive victims, which is in direct conflict to the centrality of lived experience and evidence-led survivor representation in women's groups which build active agency and privilege the experiences of survivors.

Recommendations are made later in this report through which the EU may support Member States to address the barriers to sustainability and robust governance experienced by civil society intervention providers. In order to practically demonstrate how the requirements and standards from the literature are operationalised, an empirical case study of best practice by a gender-specific specialist NGO is presented below.

CASE STUDY OF BEST PRACTICE: EAVES, LONDON — THE POPPY PROJECT

The concept of 'best practice' is invoked for services that are innovative, are proven to have made a difference, and are models for development elsewhere (Walby et al. 2014: 130). The Poppy Project has been selected here as a best practice case study because it is 'victim-centred' and 'gender specific' in line with European Union Directive (2011/36/EU) requirements. Although Eaves for Women has closed as an organisation in 2015, the Poppy Project is continuing its work with victim-survivors of trafficking for the purposes of sexual exploitation as a newly constituted charity in its own right.

The case study below is ordered to follow the 'victim service pathway', identified in the literature review above, through its steps of: harm reduction; gender-specific safe shelter, advice and advocacy; justice and compensation; prevention and re-integration; public education; mainstream services and information; and governance and sustainability. Not all of the victim-survivors supported by the Poppy Project use all of the services below and women do not necessarily access the service in the order of the pathway shown as each survivor has a person-centred plan and accesses the services they need in a timely way.

The Poppy Project

Eaves Housing for Women was a civil society voluntary sector provider (NGO) (registered charity number 275048) which had grown from a refuge and domestic violence support service for women and children. The Poppy Project is a specialist service which began as a project of Eaves to support women victim-survivors of trafficking. Governance and support for the Poppy Project was provided by the service manager, the Chief Executive of Eaves and the Board of Trustees.

The Poppy Project provides high-quality, gender-specific support, advocacy and accommodation to women who have been trafficked into England or Wales. Most of the women who use Poppy services have been trafficked for the purposes of sexual exploitation but the service also assists women who have been trafficked for other purposes, including labour exploitation, domestic servitude, cannabis-related crime or organ harvesting. The Poppy Project coordinates holistic services for the women in the project, which are flexible and based on the support plan needs of the individual women and their children.

The Poppy Project was the first expert project for victims of trafficking founded in the United Kingdom. It was developed as a result of need; several victim-survivors accessing the Eaves housing and advocacy services had been trafficked and so the project was founded to meet their needs. More than 700 victim-survivors over the age of 16 have received help since the Poppy Project was founded in 2003. Between March 2003 and March 2011, Poppy received 1869 referrals, housed and supported 334 women and provided outreach to 449 further women who had been trafficked into the United Kingdom from EU and non-EU States. From December 2012 to May 2013, the most common countries of origin for these women were Nigeria, Albania, Uganda, Romania, Vietnam, Gambia, Thailand, China, Kenya and Lithuania but women from other states including Poland and Ghana were also supported.

Eaves provides supported accommodation for women trafficked into the United Kingdom and a drop-in centre for women affected by the criminal justice system. Eaves was funded through grants, contracts, charitable fund-raising and donations. Many of the Trustees, workers and volunteers in Eaves have survived violence against women themselves. Eaves had 33 employees and 40 volunteers in 2014-15. Eaves provided governance, capacity and charitable funds which supported the Poppy Project to deliver necessary provisions above the statutory minimum, peer support with local women who have also experienced violence, and person-centred support for women to access diverse services for re-integration.

Objectives of Eaves

- To provide the relief of poverty and the preservation and protection of the good health of persons, in particular women, who have been physically, sexually, emotionally or psychologically abused or experienced homelessness, mental/physical health or substance misuse problems through the provision of supported housing and outreach services.
- To relieve the physical and mental distress of any children affected by violence in their home.
- To undertake, promote and publish research on issues of violence against women.
- To support and advise other agencies working in the voluntary and statutory sector on issues affecting women.
- As well as directing service provisions for victim-survivors and their children, Eaves also campaigns to improve legislation and end violence against women.

Harm reduction

The Poppy Project provides advice, advocacy and sign-posting for women aged 18+ wishing to exit prostitution. Through its experience in providing gender-specific, independent support, Poppy recognises that exiting prostitution is unlikely to be an immediate and permanent act; women may make many attempts to escape the control of traffickers, pimps and clients before building a new life. Therefore, the Poppy Project works in partnership with another former Eaves project, the LEA (London Exiting Advocacy) outreach van (which remains as a service after the closure of Eaves through a partner organisation). The LEA service supports women engaged in on-street prostitution in known 'working' areas.

The LEA service has developed a flexible five-stage model to support and encourage women to address the barriers to safety they face; this is one innovative way that women trafficked for the purposes of sexual exploitation are assisted directly to gain services, information and/or exit prostitution. The LEA outreach van works in partnership with other organisations across the Thames region to provide gender-specific, independent outreach services to sex workers and women trafficked into prostitution, who can then be signposted into the Poppy Project. It operates at night, with female outreach and support workers (the gender-specificity of the role is protected under the provisions of the Equality Act (2010) Schedule 9, part 1, which allows an occupational requirement for female only staff). The service may begin with meeting a woman on the street or in a café; it provides non-judgemental understanding to build trust, provide condoms and sexual health information, housing and welfare benefits advocacy, social care signposting and advice with regard to criminal justice rights. It also ensures women on the street have information about violent attacks on women in prostitution and safety advice to help avoid the severest risks of violence in sex work. It can arrange for anonymous, third-party reporting of hate crimes or violent attacks to the police which helps build intelligence against perpetrators whilst maintaining the confidentiality of the woman

involved. When a woman is ready to exit prostitution, the LEA project works with the Beth Centre (for trafficked women) and the Poppy Project to provide refuge and accommodation, benefits and a support plan for each woman.

Eaves was also part of the Targeted Rapid Intervention Outreach (TRIO) which refers into and out of Poppy Project services. The TRIO partnership was designed to provide preventative and specialist support to those who are homeless or at-risk of homelessness via advice and advocacy to individuals, counselling, workshops and rapid intervention to address and close 'hotspots' in local boroughs as well as find long-term solutions for individuals who are rough sleeping. Many women are homeless due to domestic or sexual violence or through attempting to escape traffickers so the TRIO project provides specialist support for them with Thames Reach, Addaction and the local councils in London, to offer specialist refuge and person-centred support, including needle exchange services, rehabilitation, signposting to hostels and housing and advocacy with regard to welfare, residency, family and criminal justice matters.

Other harm reduction projects exist in major cities elsewhere in Europe. For example, the 'Lotus Bus' has provided undocumented migrant sex workers (including Chinese women) in Paris with information and advocacy and Ámbit Prevenció in Barcelona has supported many Nigerian trafficked women since 2004; both projects have been independently identified as instances of promising practice (Geddie and LeVoy 2012). In Ireland, Doras Luimní and Gender Orientation Sexual Health & HIV (GOSHH) work jointly to deliver a street worker outreach and sexual health project (Stapleton 2015). Germany has 85 harm reduction centres (Kelly et al. 2014) which may be the highest provision of any EU Member State.

Gender-specific safe shelter

The Poppy Project has a minimum of nine accommodation spaces (in a shared safe house in London) reserved for trafficked women. In 2014-15 it had 15 bed spaces and supports up to 54 women victims of trafficking at any one time. Referrals are received from other projects, refuges and partner organisations in London, including through social care, policing, and housing and health services.

The safe accommodation is at an undisclosed location to minimise the chance of women being re-victimised by traffickers or pimps.

This gender-specific shelter is more than simply a hostel or bed in a dormitory as is frequently the case in shelters provided by religious organisations. It has space in its rooms for women to store their belongings, cook for their children or each other and begin to rebuild their lives.

Women in the shelter also receive financial support; this is regardless of whether or not they have recourse to public funds.

The work of volunteers, employees and peer support, as well as women-only safe accommodation in the Poppy Project combine to reduce the isolation that women have experienced through being trafficked and subjected to physical, mental and sexual violence. This work allows the women to develop aspirations, move on and rebuild their lives. For a list of NGOs providing services to victims across the EU, please visit the EU Anti-Trafficking website: http://ec.europa.eu/anti-trafficking/

Advice and advocacy

The Poppy Project assists women to access health services, specialist counselling, education, legal advice (regarding criminal charges, immigration-related matters and family law), education, training, employment and parenting support. Support workers work with women to create individual support plans. The Council of Europe Convention (2005) requires victims of trafficking for the purposes of sexual exploitation to receive 30 days of support. The National Referral Mechanism (National Crime Agency 2015) in the United Kingdom grants a minimum 45-day reflection and recovery period for victims of trafficking for the purposes of sexual exploitation. The average length of treatment and service use at the charity, which can support 128 women, is between 3 and 8 months. During this period, it provides intensive support to address the women's myriad of complex emotional, psychological and practical needs.

Women trafficked for sexual exploitation can access the Poppy Project regardless of whether or not they need accommodation. All of the Poppy support and outreach workers are experts in supporting trafficked women and the project also has specialist workers:

- a Young Women's worker, who specialises in supporting trafficked women between 16 and 24 years old;
- a Family Reunification worker, who specialises in working with trafficked women who have children;
- a Detention Centres and Prisons worker, who can provide advocacy and support to women in those hard-to-reach situations.

Life skills is a one-to-one advice and advocacy service that supports women aged 18+ who are homeless or at-risk of homelessness and who have experienced or are at-risk of experiencing violence. The service supports women across London. It assists women with learning to budget and cook and supports them in confidently parenting their children, skills which are often under-developed when a woman has been under the control of a perpetrator of violence. Courses, workshops and skills development include assistance with self-esteem and confidence building, budgeting, healthy relationships, advice about renting in the private sector, and yoga and massage (to promote positive touch, good mental health and stress reduction).

Education, Training and Employment services prepares women aged 18+ (mostly in Lambeth) who have been victims of violence so that they can enter or re-enter the workplace. This preparation includes assistance with job applications and support with interview processes and volunteering or work placements.

In addition, the Poppy Project developed and delivers accredited training for other providers to promote more effective understanding and better meet the needs of women trafficked for the purposes of sexual exploitation.

An Independent Sexual Violence Advocate (ISVA) service is also delivered to support women in the Poppy Project and those who used other Eaves services. ISVAs are multi-agency workers who provide support, risk assessments and safety planning with women who are victims of sexual violence. The Eaves ISVA service helps women to access statutory and voluntary sector services (such as health services) and supports them through crises after violence by helping them to make clear decisions and prevent re-victimisation. It also empowers victims or witnesses by, for instance, keeping them informed of the progression of cases against the perpetrator of violence through the criminal justice system where criminal action has been taken. ISVAs can therefore help to decrease the number of victims attacked by a perpetrator, improve justice for offenders and increase victim satisfaction with the criminal justice system. The ISVA can accompany women through the achieving best evidence (ABE) interview with the police.

Justice and Compensation

The Poppy Project works with a range of funders (including the EU), statutory, voluntary sector and private sector partners to support women through the National Referral Mechanism, family law, justice and immigration proceedings, gaining compensation and giving evidence against traffickers and men who prostitute and sexually exploit trafficked women.

The Poppy Project (and Lovell's pro bono unit) brought the first two successful Criminal Injuries Compensation Scheme applications by women trafficked into the United Kingdom for sexual exploitation. The Romanian women had been trafficked in 2002 and 2004 at the ages of 16 and 13, respectively; they were raped, prostituted, physically abused and threatened. They were given refuge at the Poppy Project and supported to be witnesses in the conviction of their rapist and pimp, who later received a 21-year prison sentence. The victim-survivors received Criminal Injuries Compensation for sexual abuse and lost earnings and opportunity (Lam and Skrivankova, 2008:15).

In most EU Member States, victims and witnesses have the right to representation during a trial, but this is not the case for victims in Hungary and the United Kingdom or witnesses in Romania, Finland and the United Kingdom (FRA, 2014c). A recommendation to extend this cover, particularly in cases of trafficking for the purposes of sexual exploitation given the extra harms evident in this form of gendered violence, is made later in this report.

Re-trafficking prevention and re-integration

Asylum protection for women who have been trafficked for sexual exploitation is often difficult to gain, with Government officials incorrectly focusing on evidence of risk of return to a source country or not believing women's accounts of their journey or escape. Poppy Project advocacy has been successful in preventing the re-trafficking of victim-survivors and negotiating complex systems to ensure women receive justice and recognition. 87 % of the women supported by the Poppy Project regularise their stay in the United Kingdom; usually because they have been seen by the courts to be vulnerable. Most have been granted asylum with the help of the Poppy Project and the specialist legal services with whom they work. The Poppy Project and ISVAs work in partnership with the Police, Crown Prosecution Service, NHS Health Trusts, Social Care Services in local authorities, Witness Care, Witness Service and other voluntary sector services in order to support victim-survivors.

Peer support assists the women who use the Poppy Project to plan their future lives; it crucially provides role models, non-judgemental understanding and first language support for women by women who have experienced similar barriers in exiting trafficking and prostitution and in gaining access to justice.

Eaves for Women was independent of any religious or profit-related conflict of interest or motivation. This independence and gender-specific expertise ensured it could work to improve legislation, enhance the rights of and provision for victim-survivors and work towards the prevention of violence against women and trafficking in wider society, as well as delivering direct services. For example, the Poppy Project was one of the groups which lobbied successfully for the reflection and recovery period for victims of trafficking to be increased from 30 to 45 days in the United Kingdom. This policy influence and public education is as important as direct service provision since it affords women the opportunity to altruistically and collectively fight to end trafficking and violence against women and improve outcomes for future victims as well as serving to contribute towards their own rehabilitation and self-esteem building. Engaging in public education activities to prevent sexual violence against women and working to support other victims with similar lived experiences can be transformative when survivors have a role in improving their life chances, outcomes and those of other women. This has been demonstrated in research, particularly with minoritised women after sexual violence, who otherwise can be constructed negatively as passive and vulnerable victims (Balderston, 2013).

The EU Civil Society Platform Against Trafficking in Human Beings offers a valuable network through which projects in source, transit and destination countries can share best practice for re-integration and work in a coordinated way to tackle emerging trends in re-trafficking, also developing democracy and human rights (JOIN(2015)) for women in source countries, who are at-risk of trafficking. However, there is still work to be done in Member States themselves; for example, Austria and Romania are reported as not having standardised operational guidelines or adequate risk assessments for the return of children to their source country (Planitzer 2014).

Governance and sustainability

States do not always commission services in ways that are culturally competent, gender-specific, independent or handled expertly with regard to victim-survivor needs. Many large, male-led, private or religious organisations win contracts for provision at the state level which they may then sub-contract to specialist, gender-specific providers. However, service delivery for victim-survivors of trafficking for sexual exploitation is a demanding and important area of gender-specific provision, requiring the trust and confidence of the victim-survivors and expert knowledge of legal rights, welfare provision, risks and barriers to safety, reintegration services and advocacy. This can lead small, expert services to be under-resourced and reliant on short-term sub-contracts; a particular problem given the scale of victim service needs outlined in chapter 8 of this report.

In 2010, the Poppy Project in London lost the Ministry of Justice funding on which it relied when the Salvation Army (a Christian, uniformed, non-gender-specific organisation) won the national contract for provision for victims of trafficking. Losing the contract meant a 75 % reduction in the funding the Poppy Project had available for each victim. The late Denise Marshall, the Chief Executive of Eaves at the time, handed back to the Prime Minister the OBE she had been awarded in 2007 for her service to disadvantaged women as an act of protest against the cuts. When the Salvation Army were awarded the contract they top-sliced a monitoring and coordination fee from the funds and, over a year later, sub-contracted the Poppy Project to provide nine beds

(compared to the 56 beds it had before the contract was lost). Eaves supported the project in the interim by using private charitable donations, but closed in 2015 with a GBP 700 000 deficit.

The sub-contract from the Salvation Army only provides financial support for the 45-day reflection period allowed by the United Kingdom whereas the Poppy Project supports trafficked women for an average of 128 days and up to 164 days in accommodation and advocacy services. In the absence of charitable funding received from the Salvation Army, Eaves actually used its own funds to make up the shortfall in order to support women for the length of time needed. This situation constituted a disproportionate burden for a specialist sub-contractor to bear; Eaves had a GBP 1.4 million annual income and closed with a deficit of GBP 700 000, compared to the Salvation Army Social Work Trust income of GBP 104.5m and the Salvation Army income of GBP 192 million in 2013-2014.

In addition, the monitoring statistics for the Salvation Army United Kingdom contract showed that since July 2011, from a total of 2 419 referrals, 381 did not enter the service because they had been incorrectly identified as victims of trafficking and 193 declined help, with some preferring to approach another provider (Salvation Army 2015). This may indicate that sustainable expert, gender-specific and independent services are required for supporting women who have been trafficked and that such services cannot be delivered effectively by a male-led, religious organisation.

The EU ISEC Fund awarded funding to Poppy Outreach (HOME/2013/ISEC/AG/THB/4000005919) from 2014-2016 to address three prevalent United Kingdom human trafficking issues that have relevance across Europe. The funding provides for culturally accessible and comprehensive assistance for the rehabilitation and re-integration of victims. It also addresses the failure of governments and judiciary to adequately protect victims (addressed through informed legal action for protection of victims and action to regularise their immigration status). In addition, the funding provides for a system of shared learning between Eaves and those diaspora communities affected by human trafficking; it allows Poppy to increase opportunities for protection and prevention, including increased cooperation within Europe and between third countries, to address trafficking in human beings.

Aside from this EU funding, Poppy relied on charitable donations and a patchwork of small contracts from local health services and local authorities. Many of these statutory service tendered contracts are often short-term and bring additional administration in terms of bidding and monitoring. Breaks between contracts are often unavoidable and such circumstances pose a threat to the longer term sustainability and economic viability of gender-specific, specialist victim service organisations. In contrast, the EU funding is valuable and sufficiently significant to develop as well as sustain excellent prevention, reintegration and justice services for victim-survivors after trafficking for sexual exploitation.

CONCLUSION

Targeted legislation, improved policies, information (European Commission 2013) and support for sustainable best practice can support survivors of trafficking for the purposes of sexual exploitation to claim their rights, as well as preventing future cases and eradicating harmful practice, as demonstrated in this review. Evidence-based recommendations grounded in the literature and empirical case study, demonstrate how pragmatic, expert and gender-specific victim-centred provision, in accordance with the EU Strategy (COM(2012) 286 final), can be delivered by Member States and source countries to successfully eradicate trafficking for the purposes of sexual exploitation.

Gender-dimensions

There are severe, brutal and long-term gender-specific physical (cf. Silverman 2011), gynaecological and mental health harms (cf. McGuiness and Newby 2012), risks to life and traumas from trafficking for the purposes of sexual exploitation (Roe-Sepowitz et al. 2014a). Victims often have few successful means of safe exit from violence without expert civil society interventions to reduce harm and build trust with survivors who usually have no economic means when they exit (Reid 2012). The barriers, harms and vulnerabilities experienced by women and girls trafficked for the purposes of sexual exploitation are intersectional (Bhui 2015), gendered and inextricably correlated with poverty (cf. Fagan et al. 2006; McCabe 2008) as well as extreme violence.

Gender-specific non-governmental organisations (NGOs) are key providers of practical and independent services for victim-survivors in ‘every Member State in Europe’ (Dottridge 2009:9) and in source countries (Kootstra et al.

2004; Aron et al. 2006; Zimmerman et al. 2008). These expert, civil society specialist projects are crucial providers of successful and coordinated harm reduction (cf. Ditmore 2013), which is important for women in sex-trafficking in terms of building trust as trafficked, prostituted women often make several attempts before finally exiting abusive relationships and situations (Hammond and McGlone 2014; Roe-Sepowitz et al. 2014a). They provide women-only safe shelter for victims and their children (Kelly and Dubois 2008; Lam and Skrivankova 2008), advocacy and advice (Geddie and LeVoy 2012; Hammond and McGlone 2014), and reintegration (Bjerkan and Dyrlid 2006; Surtees and Somach 2008; Boyle 2009). In addition, they provide advocacy for access to justice (Robinson and Hudson 2011; Kulu-Glasgow et al. 2012; van Dijk and Klerx-van Mierlo 2014; Stapleton 2015) and prevention activities (Keygnaert et al. 2008; Carlenfors et al. 2011; Rafferty 2014) for presumed and/or identified trafficked persons as well as wider society (COM(2012) 286 final). Gender-specific, expert services also avoid many of the secondary victimisation and violent harms of state (Boermans 2009) or religious group-led services (Andrijasevic 2010; das Neves 2011; Zimmerman 2013). However, as the closure of Eaves demonstrates, gender specific services experience problems of sustainability and a lack of funding to address the particular and sustained harms experienced by victim-survivors after violence.

Civil society, women only and independent organisations are crucial to maintaining trust and confidentiality with trafficked victims who need assistance (Tzvetkova 2002). Expert NGO projects have also been shown to be effective in gaining justice for victims (Lam and Skrivankova 2008) compared to statutory services (Robinson and Hudson 2011). The group and peer support elements of these services are crucial to address trauma and attachment harms and assist reintegration (Chenda 2006; Carlenfors et al. 2011), particularly with young people who have been trafficked for sexual exploitation in both source and destination countries (Boyle 2009; Hickle and Roe-Sepowitz 2014).

Gender-specific survivor groups collectively tackle and prevent gender inequality and violence against women (including trafficking for the purposes of sexual exploitation), to promote peace, gender balance and prevent poverty and inequality for the whole society in source and destination countries (cf. Flaherty 2012). The governance and representation of survivor-led organisations and projects ensures gender balance in decision-making and representation, which needs to be developed and shared, so that the voices of survivors are central to training, information, research and activity in statutory services (such as border control work and policy-making) as well as within civil society organisations.

Gender balance in decision-making

Given the gendered harms and gender specificity of victim-survivors trafficked for the purposes of sexual exploitation, the organisations seeking to serve trafficked women and girls should reflect the gender specificity of their client group in the staffing, leadership and decision-making of the organisation itself. The integrity and suitability of services to deliver work with victim-survivors of trafficking for sexual exploitation should be assessed in part by the gender balance in decision-making in the organisation; gender balance should be a criterion in assessing the award of contracts or funding to service providers to work with this group. The extent to which these organisations are led, controlled and staffed by survivors should be assessed by awarding bodies in Europe or Member States. Opportunities thus afforded to the client group, as members of boards, staff and volunteer teams, can assist to improve the very social conditions from which trafficking profits.

The value of gender-specific, specialist organisations is not always recognised in the commissioning of services in Member States, where low cost and size of tenderer may be privileged in public contracts. However, the European Parliament and Council Directive on public procurement (2014/24/EU) offers a proven model through which gender-specific, specialist provision could be supported by Member States. The Directive allows organisations to reserve public contracts for supported businesses and sheltered employers of disabled people, to promote social good and equality of opportunity in Member States. This encourages procurement from disabled people's own user-led organisations, improving the social conditions of the area and supporting sustainable employment of an under-represented group which experiences barriers to independent living and employment. The Directive is supported by the European Union of Supported Employment network and public bodies can simply invite supported businesses to bid for contracts under a specified amount (e.g. EUR 144 000) or for larger contracts simply state they are reserved for supported employment businesses in the EU advert. This model could be adapted for gender-specific services which employ and are representative of women who have been trafficked for the purposes of sexual exploitation. The Directive also allows for questioning about sub-contract arrangements in the award

of public contracts, which might be beneficial to transparency with regard to delivery of services to women trafficked for the purposes of sexual exploitation provided by religious and private contractors. Similar procurement provisions should be made at the EU level, to support Member States to fund and commission sustainable, gender-specific expert services to support the victims of trafficking for the purposes of sexual exploitation.

There is also a key role for women and girls at-risk of trafficking for sexual exploitation and trafficking survivors in source, transit and destination Member States and non-EU countries, to be centrally involved as actors in education of potential victims, in political decision-making and civil society, to ensure human rights and democracy (JOIN(2015)) for the prevention of trafficking.

Recommendation: In order to improve the gender balance in decision-making and improve the democracy, human rights and social conditions of excluded communities in Member States and European neighbourhood countries, ensure procurement and funding for anti-trafficking prevention and interventions prioritises the involvement of survivors and women at-risk. Delivery of education, prevention and alternatives to trafficking should be gender-specific, involving user-led groups and organisations, organised by and with victim-survivors of trafficking and sexual violence.

Governance and Sustainability

The **lack of sustainable funding is a barrier for essential gender-specific, specialist organisations in destination and source countries providing services and prevention in relation to women victims of trafficking for the purposes of sexual exploitation, as the closure of Eaves for Women demonstrates**. Culturally competent, accessible gender-specific services are valuable (Bradbury-Jones et al. 2014; Lam and Skrivankova 2008; Mishra 2013) but scant and under-resourced (Itzin 2006; Kelly and Dubois 2008; Kulkarni et al. 2012; Surtees and de Kerchove 2014). Without sufficient free refuges and gender-specific services, trafficked women report they turn to street prostitution, theft, selling clothes or drugs (cf. McCabe 2008) or are re-trafficked.

Recommendation: Ensure adequate and sustainable funding for independent NGO, gender-specific refuges to adequately meet need at all points of the victim pathway in destination countries and to work preventatively in relevant source, transit and destination countries.

The voices of survivors of trafficking are essential for effective, culturally competent community organising and policy-making for security and justice in the EU Member States and source countries. Involving target communities in addressing the social determinants of health inequalities (e.g. action to reduce HIV risk or becoming disabled through violence) and being involved in prevention can increase the likelihood of policies and interventions being effective and appropriate (Popay et al. 2008).

Currently, survivors have important status in many gender-specific self-organised groups, NGOs and civil society (e.g. through the EU Civil Society Platform against Trafficking in Human Beings); representation in leading, designing, delivering and evaluating services and policy must be mainstreamed throughout funded projects. This can provide improved culturally competent and accessible services and culture change, to prevent and eradicate trafficking and reduce well-meaning but ineffective interventions. Service user involvement (cf. Beresford 2007) and citizen participation in healthcare (Serapioni and Duxbury 2014) offer useful and transferable models and lessons from Europe, where survivors and expert NGOs co-produce policy, training and inspection of statutory services to improve safety and justice. Procurement and funding should recognise the need for sustainability of these organisations and the central role of victim-survivors in decision-making, leading and running services themselves.

Recommendation: Provide core, sustainable funding for self-organised groups of trafficked women and ensure they are included at all levels in anti-trafficking policy-making and intervention delivery.

Legislative and policy recommendations

There are gaps and barriers in access to justice and safety highlighted by the evidence base provided in this review. These can be addressed with particular provisions in EU strategy or in individual Member States to tackle and eradicate trafficking for the purposes of sexual exploitation, as well as in reducing gendered harms for victim-survivors:

Recommendation: Ensure intersectional barriers to safety and justice, risks and harms are recognised in all EU gender-based violence and anti-trafficking policies and programmes.

Victim-survivors face multiple (not only additive) and compounded risks and harms on the grounds of gender intersecting with age, ethnicity, sexual orientation, impairment, class, caste, religion or belief, migration status, sexual violence and poverty. In order to be culturally competent and accessible with the most at-risk and marginalised victim-survivors and their families, all EU policies and funded programmes should explicitly take account of how they will serve these individuals who experience intersectional risks, harms and barriers to safety and justice.

Recommendation: Extend exit provision and protection for young victims trafficked for sexual exploitation up to the age of 21 to minimise harms, and prevent re-trafficking and secondary victimisation.

Improved protection is currently and importantly afforded to children, which recognises the human rights abuse, harms and risks to life chances of young victims of trafficking for the purposes of sexual exploitation. This protection should be extended until the age of 21 for women and girls who have been trafficked for the purposes of sexual exploitation, given problems in ascertaining the correct age of victims and the particular risks faced by young women who are prostituted and trafficked. Current legislation to protect prostituted women and sex workers in the Netherlands and Sweden already provides for this protection up to 21 years of age and this should be extended to prevent harms of secondary victimisation in detention, allow young people to stay with their parents after trafficking, and to prevent re-trafficking of young women and girls.

Recommendation: Member States should extend independent legal provision to victims and witnesses of trafficking for the purposes of sexual exploitation (and other forms of violence against women) so that they are provided with representation in Court processes. This is provided for in the Directive (2011/36/EU) but not yet evident in all Member States (cf. Lovett and Kelly, 2009; FRA, 2014c).

Independent legal representation (ILR) is particularly required in Hungary, Romania and the United Kingdom and has been recommended for victim-survivors of sexual violence, to improve the safety of the justice process given the stigma experienced by the victims of trafficking for sexual exploitation, to improve confidence in the process and address low conviction rates in rape trials. In Germany, the *nebenkläger* status is that of a secondary prosecutor for the victim's lawyer, with the same rights of participation in a trial, which is a model which could be adapted elsewhere in Member States (FRA, 2014c).

Recommendation: Right to appeal and complain against decisions in Member State mechanisms and detention.

An Independent Complaints mechanism and right of appeal with regard to National Referral Mechanism decisions and state detention of asylum seekers (many of whom may have been trafficked) is urgently required in all Member States (cf. HM Chief Inspector of Prisons 2013; Office of the Ombudsman 2014).

Recommendation: Extend the minimum 30-day recovery and reflection period (set by the Council of Europe in the 2005 Convention), for women trafficked for the purposes of sexual exploitation, given the significant and sustained harms of this form of violence against women.

An extension of the reflection period (it is currently 45 days minimum in the United Kingdom) will assist expert organisations to tackle the particular and sustained harms and trauma experienced by women trafficked for the purposes of sexual exploitation, as well as affording more timely, sustainable and effective access to justice in Member States.

APPENDIX: LITERATURE REVIEW METHODOLOGY

The search was based on the EU Directive (2011/36/EU) framework for support to victims of trafficking and the Strategy (COM(2012) 286 final) as well as being informed by research into sexual violence and rape services (Kelly and Dubois 2008) from which key words were identified. These were transposed into Boolean logic strings for consistency of search across different databases and to 'Exclude irrelevant search results' (Terre Blanche et al., 2006: 28). For example, a pilot search for <victim services> AND <traffick*> <women> produced an array of

search results about transport, so including the Boolean logic of NOTroad NOTtransport, usefully excluded over 14 000 irrelevant sources. From the pilot searches and expert judgement, the search term list narrowed to:

- trafficking, sexual violence, rape, commercial sexual exploitation, violence, discrimination, barriers;
- NGO, aid, social, civil society, support, refuge, helpline, crisis, intervention, residence rights education, training, coordination, safety, shelter, counselling, financial aid, resilience, survival, recovery, justice, advocacy, social work, feminist;
- Europe;
- 2000-2015.

In order to explore how services may differ with regard to the intersectional barriers women face after trafficking, the search term lists were then searched with a number of operators developed from the EU protected equality grounds. These were:

victim, survivor, gender, women, adult migrant, black, ethnicity, nationality, disability, age, faith, religion, belief, sexual orientation, lesbian, disability, impairment, condition, mothers, caste, social exclusion, poverty, class.

The terms employed truncations using the Boolean wild card operator *, which allows multiple characters to be replaced in the search, so disab* identifies disability, disablism, disabled and disabilities by the search engines (without having to run each search term manually and separately). Similarly, the search operator % in wom %n allows the search to include woman and women.

Table 4.1 Boolean search strings and references

Search strings	Numbers of references sourced from search after filters
+traffick*ORcrim*ANDsex*ORviolenceORrapeORcommercialANDsexualANDexploitationORdiscriminat* ORbarriersNOTroadNOTtransport+	52 100
<feministORngoORaidORsocialOR[civilANDsociety] ORsupportORrefugeORhelplineORcrisisORinterventionOR[residenceANDrightsANDeducation] ORtrainingOR[coANDordination]ORsafetyORshelterORadvocacyORcounsel*OR[financialANDaid]+resilien*ORsurviv*ORrecover*ORjusticeOR[socialANDwork]>	18 700
+<[raceORethnic*ORblackORnational*ORmigrantORRoma] OR[ageORyoungORolder]OR[disab*ORhandicapORcripORpsychORimpairmentOR condition]OR[pregnan*]OR[religionORfaithORbeliefORJewORIslamORsectarian] OR[lesbianORqueerORtransORgayORsameANDsexORsexualANDorientationORbisexualORhomophobic] OR[caste]OR[socialANDexclusion]OR[poverty+class]OR[child*ORmother]>	16 400
+<[adultANDwom %nORgender]+[victimORsurvivor]>	10 025
+Europe+2000-2015	309

The final Boolean search strings utilised in this literature search were then run using EBSCO, ISI Web of Knowledge (including the Social Science Citation Index), Lexis Library, Bailli, ASSIA (Applied Social Science Index and Abstracts), National Criminal Justice Reference Service, JSTOR, Ovid, SpringerLink, Social Policy and Practice and Google Scholar (excluding patents) databases, with the strings and results noted in Table 4.1 above.

Literature inclusion and exclusion

Goodman et al. (2011:3) note that 'Victims of sex trafficking may experience systems such as law enforcement, social services, foster care, or welfare not as sources of care and assistance, but of neglect or punishment'. This review is thus concerned with promising practices in civil society, not statutory interventions, which are provided by States with varying degrees of success (Potocky 2010). Exclusions to this review are statutory legal representation, formal safeguarding and social work which are often so inaccessible they have been referred to as 'planets'

(Hester 2011). The prosecution of traffickers and demand reduction activity with men who buy sex are addressed elsewhere in this project and in the literature (cf. Gallagher and Pearson 2010; Wilson et al. 2015).

From the database search and exclusions above, the remaining long list of 309 titles and authors was then sifted for duplicates and for relevance to the research question (for example, magazine accounts of support by friends of trafficked women, articles on interventions with children, psychiatric drug trial reports and studies about trafficking within Myanmar, Korea and other non-EU countries were all excluded).

The selected items from the literature search were then sifted by abstract, with preference given to peer-reviewed sources, multiple authorship in the field and sources with citations. Key texts identified by the project and classic texts on sexual violence against women were added back into the list, eventually leaving a shortlist of 67 journal articles, books and chapters from edited collections to be retrieved, with primary sources and recent literature being selected wherever possible.

Comparison of the methodological integrity and value of literature reviewed

The 67 sources of literature were sorted into manageable groups in order that each in turn may be 'subject to a critical appraisal, ideally to lead to a new or interesting perspective' (Holbrook et al. 2007: 348) in relation to the themes of the study, analysed in the 'findings' section and mapped logically to adapt the 'victim pathway' (Hammond and McGlone 2014) of women trafficked for sexual exploitation, as follows:

> *harms and risks for victims; harm reduction; gender-specific safe shelter, advice and advocacy; justice and compensation; prevention and re-integration; public education; mainstream services and information; governance and sustainability of services.*

The value of the literature reviewed varies in relation to the above themes of the study. Several robust analyses of studies or interventions mentioned sexual violence or exploitation but many sample sizes do not disaggregate data to demonstrate distinct harms, risks or interventions regarding women trafficked for the purposes of sexual exploitation (cf. Dartnall & Jewkes 2013; Wilson et al. 2015). Other valuable studies evidence mental health interventions for street sex workers and asylum seekers/refugees (e.g. Priebe et al. 2012; Keygnaert et al. 2008) but do not unpack the effects of sexual violence when connected to either trafficking or sex work and irregular migration together; women at the intersection of poverty, undocumented migration and sexual exploitation do not fall into neat categories for large scale research. The most reliable health research specifically in this field was perhaps produced by Zimmerman et al. (2003; 2008). Some research reviewed usefully explores the legal and policy provisions for protection of women victims of trafficking for sexual exploitation (c.f. Anderson 2009, Gallagher and Pearson 2010) and develops a critique about the social construction of the immoral or vulnerable victim (c.f. Kaneti 2011; Roe-Sepowitz et al. 2014a).

Other literature includes case studies and evaluations of services for women victims of trafficking for sexual exploitation (cf. Lam and Skrivankova 2008; Carlenfors et al. 2011; Roe-Sepowitz et al. 2014b). However, much of this work is not robust, independent or academically peer-reviewed; these are often called 'grey' literature sources (cf. International Organization for Migration 2013). Only two robust comparative evaluations that include the EU were found for this review (Kootstra et al. 2004; Zimmerman et al. 2008) and only one other is included which discusses source and destination countries outside Europe (Aron et al. 2006). More recent comparative evaluations in source and destination countries would be valuable. This is particularly the case as flows and patterns of trafficking and sexual exploitation change quickly in line with emerging demand in new markets for different women and girls and according to shifting policy and service implementations to address trafficking. Some of the most valuable empirical studies in the field reviewed for this study mobilise narrative methods to include the voices of women victims of trafficking for sexual exploitation themselves (Agustín 2007; Andrijasevic 2010; das Neves 2011; Mishra 2013) or provide expert analysis in the field which is informed by several years of research experience (c.f. Zimmerman 2013; Roe-Sepowitz 2014a).

5. Measuring trafficking EU-28 ([13])

Statistics can support the evaluation of practices to combat and reduce trafficking by evidencing change over time and between different regimes. As stated above, the particular aim of the study is to examine specifically the gender dimension of trafficking for the purpose of sexual exploitation. In order to do so, robust and comparable measures of trafficking in human beings, for the purpose of sexual exploitation and prostitution, are needed. The Commission and Europol both recognised strong links between trafficking, organised crime and the prostitution of others.

This chapter examines sources of data, data collection, and estimation methodologies for measuring the scale of trafficking and then for measuring prostitution. We draw out the current most promising practices and suggest ways in which data collection could be improved to enable better estimates of the scale of trafficking and of prostitution. We offer two examples: one on the measurement of trafficking, the second on the measurement of prostitution, covering: Germany, the Netherlands, Sweden and the United Kingdom for trafficking; and Germany, the Netherlands and Sweden for prostitution. These countries offer contrasting forms of regulation of trafficking and prostitution. In addition, the United Kingdom is the Member State with arguably some of the most advanced data capture and data analysis in regard to the extent of trafficking in human beings.

Four of the main types of data are reviewed: administrative; nationally representative surveys; studies; and expert judgement. There is not yet a body of reliable and comparable quantitative data and statistics publically available ([14]) on the gendered dimensions of trafficking in human beings and for the purposes of sexual exploitation. Data protection is an important issue, and the European Data Protection Supervisor has published comments on the EU 2012-2016 trafficking strategy ([15]), which identifies the need for a strong data protection strategy to build trust. Data protection is identified here as a potential barrier to data collection and analysis in the EU-28. In a section reviewing relevant laws we find this need not be the case if legislation is properly understood and carefully applied. The chapter concludes by identifying ways to improve the measurement of trafficking in human beings and of prostitution. These are summarised in the final chapter on recommendations.

Administrative data is registered by authorities and other organisations (referred to collectively as 'administrative bodies') including: the criminal justice system (police, court services, prosecution services, and prisons); the health sector; local authorities and regional councils; social services; victim support; border guards; immigration authorities; reception centres; labour inspectors; other quasi-governmental organisations; and non-governmental organisations (NGOs).

Surveys collect data about, and directly from, individuals; usually through the use of a questionnaire. Large-scale surveys collect data from a sample of a population in a way which typically enables the findings to be extrapolated to a larger population of whom they are representative. This allows statistical inferences to be made about this wider population.

Studies constitute work undertaken on a systematic basis to increase knowledge. They are used to establish or confirm facts, replicate the results of previous work, solve new or existing problems, and support theorems or develop new theories. Studies can also be used to develop or test new methodologies in a field.

Expert judgement is often relied upon in making some form of evaluation when data from other sources is not available or where a field has not yet developed formal sources of data. Such evaluation may be based on the experience of experts working in the field, including in administrative bodies and other organisations and in academia, or it can be based on informal internal record keeping.

([13]) Jude Towers, Brian Francis and Sylvia Walby.

([14]) There may be comparable and robust data available which is not (yet) in the public domain. We are aware that there are organisations working on the issue of trafficking in human beings but whose primary data is not necessarily in the public domain, for example international or Pan-European intelligence or criminal justice agencies such as Europol: http://greenmediabox.eu/archive/2014/01/29/human-trafficking-in-the-eu/

([15]) European Data Protection Supervisor (2012) EDPS comments on the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions — 'The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016'. http://ec.europa.eu/dgs/home-affairs/pdf/edps_en.pdf

The chapter is organised into three main sections and a number of subsections. The first section on measuring trafficking in human beings is sub-divided into: an introduction; a review of the literature on the measurement of trafficking in human beings; victims — administrative data; trafficking in human beings in the EU-28 by gender: registered victims; beyond the EU-28 — administrative data; victims — large-scale surveys; victims — studies; victims — expert judgement; traffickers — administrative data; whether trafficking across the EU-28 is gendered: registered offenders and suspects; beyond the EU-28; and detailed trafficking data series on specific EU-28 countries.

The measuring prostitution section is sub-divided into: an introduction; sources of data and data collection methodologies — administrative; large-scale surveys; studies; expert judgement; and estimating the scale of prostitution in specific EU countries.

There then follows a section on data protection and the collection of data on trafficking and prostitution. The chapter concludes by identifying ways to improve the measurement of trafficking in human beings and of prostitution.

MEASURING TRAFFICKING IN HUMAN BEINGS

Introduction

Reliable and comparable data is important for identifying the scale ([16]), trends and patterns in the gendered specificities of trafficking so the relationship between different forms of trafficking can be identified, the gendered dimensions of trafficking can be mapped and so that the impact of different interventions can be evaluated. Such data would provide an evidence base to support the further development of policy and practice and to identify effective interventions.

The need for such data on trafficking in human beings has been widely acknowledged (Eurostat, 2015; European Commission 2012; European Commission 2011; De Cock, 2007). The process of improving data collection on trafficking has been included in legislation. For example, Article 19 of the Directive 2011/36/EU specifies establishment of a data collection system:

> Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting.

Current methodologies for both data collection and for estimating the scale, trends, and patterns of the gendered specificities of trafficking could be more fully developed (Eurostat, 2015; UNODC, 2014). There are a number of European and global initiatives which seek to improve the methodology for collecting data (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, [Netherlands] 2012).

This section evaluates current methodologies for data collection and estimation methodologies and pays close attention to their gendered dimensions. It begins with a systematic review of the literature on the measurement of trafficking in human beings and specifically for the purposes of sexual exploitation. This exposes the necessity for further development in data collection and estimation methodologies before reliable and comparable data can be produced.

After reviewing the findings from the systematic review, we evaluate administrative data, presenting and evaluating the best statistics on the gendered specificity of different forms of trafficking in the EU-28. Going beyond our focus on the EU-28, we examine other efforts to measure trafficking in human beings, including surveys, studies and expert judgement. We end this section by offering an example in the form of a case study which assesses whether time series data can be compiled from administrative sources for four Member States: Germany, the Netherlands, Sweden and the United Kingdom.

([16]) The scale of human trafficking most often uses the number of victims, but has also used the number of traffickers.

Review of the literature on the measurement of trafficking in human beings

A systematic review of the literature on trafficking in human beings and for the purposes of sexual exploitation was undertaken. This was principally designed to identify literature which had estimated the scale of trafficking including: raw data; total counts of specific known populations; and estimates of known and unknown populations. The search was designed to identify all forms of trafficking, including forced labour and modern slavery, and was global. Data which could be disaggregated by form of trafficking, especially for sexual exploitation, which was gendered and which was related to the EU-28 was identified as particularly relevant. Details of the search can be found in an annex to this chapter.

The review found that underlying the many published articles were only a very small number of sources of primary data. This meant that it was inappropriate to conduct a meta-review or a meta-analysis. Instead we focused on an analysis of the primary data from the EU (Eurostat), international organisations (i.e. the United Nations Office for Drugs and Crime, the International Labour Organisation and the International Office for Migration), governmental authorities (such as the US State Department); and independent projects. There are critiques of these current data collection methodologies (Scullion, 2015; Gould, 2010; Gallagher, 2014; Engle Merry, 2015; Weitzer, 2014) which find that find there is not yet a reliable or robust estimate of the scale of trafficking in human beings. The National Rapporteur of the Netherlands, for example, states 'Many of the estimates of the scale of human trafficking have been based on false or unfounded assumptions and are consequently unreliable…existing estimates are not useful for designing anti-trafficking policies' (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, 2014: 2; 5). We then move on to examine work which has attempted to improve the methodologies of trafficking data collection. In the conclusion to the chapter we build on these to offer insights into future developments.

Victims: administrative data

The definition of victims of trafficking in human beings is taken from the 2011/36/EU Directive. There are two categories of victims: identified and presumed, which collectively are known as 'registered'. Identified victims are those who have been formally identified by the relevant authorities as a victim of trafficking according to the Directive definition. Presumed victims are those who have met the criteria of the Directive but have not been formally identified by the relevant authorities or who have declined to be formally or legally identified as a trafficking victim (Eurostat, 2015: 21), although, in practice, not all Member States are using these harmonised definitions yet. A number of Member States have established National Referral Mechanisms (NRM) for the formal identification of victims of trafficking. These meet some of their obligations under the Council of Europe Convention on Action against Trafficking in Human Beings 2005 (Article 5: Prevention of trafficking; Article 6: Measures to discourage demand; Article 10: Identification of victims; Article 12: Assistance to victims). In addition, Priority A (Identifying, protecting and assisting victims of trafficking) Action 1 (establishment of national and transnational referral mechanisms) of the European Commission Strategy (2012) states that 'Member States should ensure that formal, functional national referral mechanisms are established. These mechanisms should describe procedures to better identify, refer, protect and assist victims and include all relevant public authorities and civil society' (European Commission 2012: 6).). Thus NRMs constitute a framework for identifying victims of trafficking and seek to ensure they receive appropriate protection and support. Administrative bodies within Member States who have identified presumed victims refer them into the NRM (sometimes via a Competent Authority) for formal identification. NRM are a source of data on victims of trafficking identified within Member States.

EU-28 Member States are moving towards the definition set forth in the Directive 2011/36/EU, but this process of harmonisation is not yet complete. Multiple forms of trafficking are identified within the Eurostat definition: street prostitution; window prostitution and brothels; strip clubs/bars; the pornography industry; escort services and modelling agencies; massage parlours; agriculture; construction; the textile industry; 'horeca' (hotel/restaurant/catering); care; fisheries; domestic servitude; forced begging/use for begging; criminal activities; removal of organs; benefit fraud; and others. These are grouped by Eurostat into three: sexual exploitation; labour exploitation and other forms of exploitation (domestic servitude; forced begging/use for begging; criminal activities; removal of organs; and benefit fraud) (Eurostat, 2015: 29).

Victims are registered by administrative bodies and other organisations when they come into contact with them and are formally or informally recognised as (potential) victims. Individuals may be registered by one or by multiple bodies and their status may change as they move between them.

Gender specific data: best available for EU-28

The only (and therefore best available) source of gender specific data identified for the EU-28 was Eurostat. The most up-to-date published statistics are for 2012 (Eurostat, 2015). Some, but not all, Member States provide data which can be disaggregated by exploitation type, gender and age of the victim. For example, data from 22 of the 28 Member States can be disaggregated by type of exploitation, gender and age; 17 by exploitation type and gender, but not age; four by exploitation type, but not gender or age; and the data from two Member States cannot be disaggregated (Eurostat, 2015: tables A3 and A4).

As the level of disaggregation increases, the number of countries in the data set gets smaller. In addition, the level of missing data also differs by criteria, for example, in 2012 sexual exploitation by gender and age; victim gender was missing in 3.5 % of cases, but victim age was missing in 52 % of cases.

Further, not all Member States provide data on registered victims as a combined category of identified and presumed. For example, Germany and Sweden only report 'identified' victims and Ireland uses a different classification, reporting 'alleged' victims (Eurostat, 2015).

Data collection method

Data is collected using a questionnaire sent by Eurostat to the National Statistical Office of each EU-28 Member State (plus EU Candidate and Potential Candidate countries and to EFTA/EEA ([17]) countries). The questionnaire includes relevant tables, a list of common indicators ([18]), definitions and guidelines for compiling the data as well as country codes and a template for meta-data. Eurostat conducts validity checks on the data it receives, seeking clarification from individual countries as required.

Eurostat is not the primary collector of data: it collects, then aggregates, data from the national level to produce EU-28-level statistics. Sources of primary data on trafficking within Member States vary, but include: police; prosecution services; court services; prisons; NGOs; immigration authorities; border guards; labour inspectors; victim support services; social services; local authorities and regional councils; reception centres; and the International Organisation for Migration (Eurostat, 2015: 10).

Some Member States report registered victim data from multiple sources, while others report from a single source. For example, the United Kingdom reports data from seven different administrative bodies ([19]), Denmark and Sweden from two ([20]), and Belgium and Germany from a single source ([21]).

This Eurostat 'Trafficking in Human Beings' initiative was set up in response to the European Commission's 5-year plan to develop a 'comprehensive and coherent strategy to measure crime and criminal justice' (European Commission, 2006). The Directorate-General for Migration and Home Affairs Expert Group on Policy Needs for Data on Crime and Criminal Justice launched a programme for the collection of data on human trafficking with Eurostat. The initial work was to produce statistics for each Member State for 2008-2010; a second round produced statistics for 2011 and 2012 (reported below).

Trafficking in human beings by gender in the EU-28: Registered victims

Trafficking in human beings across the EU-28 is gender specific. 75 % of registered victims in 2012 were female. Over 60 % of all registered victims in 2012 were trafficked for the purposes of sexual exploitation. Trafficking for the purpose of sexual exploitation is a gendered crime; 96 % of registered victims in 2012 were female. This is a stable trend: data for the EU-28 for 2010 and 2011 show the same pattern of gendering as the 2012 data for registered victims of trafficking.

([17]) European Free Trade Association / European Economic Association).
([18]) The four common indicators were: Information on victims by age and gender; police data on suspected traffickers by age and gender; data on prosecuted traffickers by age and gender; court data on judgements of traffickers by age and gender (Eurostat, 2015: 17).
([19]) United Kingdom: immigration and border guards; police; prosecutors and justice system; prisons; NGOs; Health services; and Local Authorities.
([20]) Denmark: immigration and border guards; and other. Sweden: police; and prosecutors and justice services.
([21]) Germany: police. Belgium: immigration and border guards.

Table 5.1 Gendered nature of registered victims of trafficking across the EU-28: 2010-2012

Form of trafficking in human beings	Percentage (%) of female victims		
	2010	2011	2012
All forms of THB	82.7	74.6	75.4
THB for sexual exploitation	95.1	95.4	97.4
THB for labour exploitation	29.1	26.8	26.4
THB for other forms of exploitation	65.6	61.0	51.7
N (number of countries supplying data)	19	19	21

Percentages calculated from data given in Eurostat (2015) tables A3, A4 and A5. Excludes data where the sex of the victim is 'unknown'. Percentages are calculated on a sub-set of data from EU Member States which provide data that can be disaggregated by form of exploitation and victim gender.

Table 5.2 Forms of exploitation in trafficking in human beings across the EU-28: 2012 registered victims

Form of trafficking in human beings	Percentage (%) of total
THB for sexual exploitation	62.2
THB for labour exploitation	18.3
THB for other forms of exploitation	19.5
Total THB	100.0 (N=10.098)

Percentages calculated from data given in Eurostat (2015) tables A3, A4 and A5. Excludes data where the sex of the victim is 'unknown'. 2012 is the latest data available at the time of writing. Percentages are calculated on a sub-set of data from 24 EU Member States which provide data that can be disaggregated by form of exploitation.

The majority of victims of trafficking in human beings are adult women, being at least one-third (labour), or up to 85 % (sexual), of registered victims, depending on the form of exploitation.

Females under the age of 18 years are approximately 10 % of recorded victims across the different forms of exploitation, except labour. Less than 5 % of registered victims of any form of trafficking are males under the age of 18 years.

Two-thirds of registered victims of labour exploitation are adult men. Adult male victims are concentrated in this form of exploitation, being less than 20 % of registered victims in any other form of exploitation.

Table 5.3 Gender and age dimensions of trafficking in human beings across the EU-28: 2012 registered victims

Form of trafficking in human beings	Percentage (%) Females		Percentage (%) Males		Total
	Adults	Children 17 or under	Adults	Children 17 or under	
All forms of THB	68.1	11.4	16.2	4.3	4 706
THB for sexual exploitation	85.4	10.7	2.2	1.7	2 995
THB for labour exploitation	31.3	1.5	65.9	1.3	818
THB for other forms of exploitation	68.1	11.4	16.2	4.3	1 983

Percentages calculated from data given in Eurostat (2015) tables A3, A4 and A5. Excludes data where the form of trafficking, sex and/or the age of the victim is 'unknown'; thus percentages do not always sum to 100 %. 2012 is the latest data available as time of writing. Percentages are calculated on a sub-set of data from EU Member States (22 for female sexual exploitation; 36 for male sexual exploitation; 33 for female labour exploitation; 35 for male labour exploitation; 35 for female other exploitation; 36 for male other exploitation) which provide data that can be disaggregated by form of exploitation and victim gender and victim age.

Evaluation

There are a number of limitations to the Eurostat statistics:

First, not all EU-28 Member States use the harmonised definition of identified and presumed victims. This means that the raw data on which the statistics are based is not in alignment and thus not fully comparable.

Second, Eurostat approaches the National Statistical Office for data: this is not necessarily the main collection point for trafficking data in a Member State and therefore not all bodies or organisations with data may be in contact with this office. For example, the disparity between the United Kingdom submitting data aggregated from seven administrative bodies compared to Germany submitting data from a single source warrants further investigation.

Third, not all Member States are able to provide raw data disaggregated by form of exploitation, gender and age of the victim or by identified and presumed victims. The disaggregated statistics presented by Eurostat are based on a sub-set of data.

Fourth, Eurostat produces a full count of a specific population, not an estimate of the total population of registered and unknown (hidden) victims. This is likely to be a significant underestimation of the 'true' scale of trafficking. Any victim who has not (yet) come into contact with an administrative body is missing (the 'dark figure'). Estimation procedures can attempt to make an informed guess about the size of this unknown population in certain cases, but the statistics reported in the 'Trafficking in Human Beings' reports do not: '... aspire to measure the full extent of the phenomenon of trafficking in human beings and it does not include estimates' (Eurostat, 2015: 15).

Fifth, the relationship between registered and 'hidden' victims is not known. This would need to be theorised to produce robust estimates of the total population. If the characteristics of the unknown population are significantly different to those of the registered population this needs to be accounted for in the estimation technique. Failure to do so would result in biased estimates.

Sixth, there is a complicated relationship between the on-going development of administrative bodies, the data they register, and use of data to evaluate changes in the scale of trafficking. Changes in data could be related to changes in the measurement mechanism, changes in the bodies of prioritisation and resourcing for victims of trafficking, real changes in the rate of trafficking or (more likely) some combination of all three. This means changes in the rate of trafficking in statistics from administrative data cannot be assumed to represent change in the 'real' rate of trafficking.

Beyond the EU-28: Administrative data

Beyond the EU-28 there have been other efforts to both produce statistics on the scale of trafficking in human beings using administrative data and to improve data collection and estimation methodologies. These include: the International Organization for Migration, 2012; United Nations Office on Drugs and Crime, 2014 ([22]); the US State Department 2014 ([23]); the International Labour Organization in conjunction with the European Commission project to develop harmonised definitions and associated indicators for EU Member States; the United Kingdom Home Office's work on capture-recapture estimation; and the Netherlands Crime Projection Analysis of sexual

([22]) Note that some of these organisations have published previous attempts to measure the scale of trafficking in human beings. We have taken the latest attempts, which include the most developed methodologies, for review in this chapter.

([23]) 2014 is the latest version of the 'Trafficking in Persons' report at the time of compiling this report.

exploitation; as well as independent projects ([24]) such as Intervict's 'TrafStat'; the 'Trafficking in Human Beings, Data Collection and Harmonised Information Management System' (DCIM-EU) project; the Montrasec initiative.

The International Organization for Migration (IOM) measures trafficking using the number of victims registered with their global services who meet the definition set out in the United Nations Convention against Transnational Crime (2000) and Article 3 of its associated Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children (known as the Palermo Protocol). This is very similar to the definition in the EU Directive except that there is a slightly shorter list of examples of purposes of trafficking.

The IOM uses only data from its own services. The number of registered victims is recorded in the IOM's Migrant Management Operational System Application (MiMOSA) global database and by the 'sister' core variable approach. MiMOSA captures biographic and demographic information for those individuals who come into contact with IOM victim services. Data is collected directly from the individual using a screening interview form and an assistant interview form at first contact: these are used to assess whether or not the individual has been trafficked.

The 'sister' core variable approach is a list of standard questions and answers which are derived from the translation of core concepts into variables and indicators to be used where the screener forms are not utilised. The screening interview form was, at the time, not statutory for use across all IOM victim services, thus the sister core variable approach captures additional cases of trafficking victimisation where the screening interview may not be in use. The internal consistency of the application of the Palermo Protocol through a structured data collection mechanism means this 'Counter Trafficking Module' may be the most comparable collection of transnational primary data on human trafficking in the world (Merry Engle, 2015: 30). The data published by the IOM is gender specific and trafficking for the purposes of sexual exploitation can be disaggregated (IOM, 2012).

The United Nations Office for Drugs and Crime (UNODC, 2012) proactively searches for multiple sources of administrative data from which it constructs a global measure of trafficking victimisation based on the Palermo Protocol 2000 definition. UNODC was given the mandate and duty by the United Nations General Assembly in 2010, following the adoption of the 'Global Plan of Action to Combat Trafficking in Persons', to collect data and report biennially on trafficking in persons patterns and flows at the national, regional and international levels ([25]) (UNODC, 2014: 16).

The multiple sources of data on which the UNODC measure is constructed come from administrative bodies ('official' data (UNODC, 2014: 17)) whose data is available in the public domain. The UNODC team works with national governments to ensure the validity of the data found by their country searches. Data is also collected via a short dedicated questionnaire distributed to governments. The UNODC methodology used for the 2014 report builds on the original methodology which produced their first count of the global scale of trafficking in 2006 (UNODC, 2006).

The 'Trafficking in Persons' (TiP) report produced by the United States Department of State is one of the most frequently cited sources on human trafficking (Gould, 2010; Weiner and Hala, 2008). All branches of the United States Government depend on the Department's estimate and it has also been used in documents produced by the International Organization for Migration, the Polaris Project and Free the Slaves, amongst others. Trafficking in persons and human trafficking are defined in the TiP reports by the US Trafficking Victims Protection Act (TVPA) of 2000 and the Palermo Protocol 2000 (US Department of State, 2014). The statistics refer to the number of people in 'severe forms of trafficking'. This is defined as: sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age; or the recruitment, harbouring, transportation, provision, or obtaining of a person for labour or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

This definition is narrower than that of the UN and EU in that the 'means' exclude the less severe forms such as deception.

([24]) Note that funding by the European Commission does not mean a representation of the European Commission or that the European Commission endorses the views and opinions set forth by the projects.

([25]) Note the mandate was not to produce *estimates* of the global scale in trafficking in persons.

The TiP reports provide relatively limited information on the methodology used to produce the statistics on severe forms of trafficking. Since 2001, 186 embassies throughout the world have assisted in the creation of the statistics by providing data on human trafficking. There are interviews with host governments, immigration officials, police, NGOs, victims and journalists and a document search, including NGO reports, press releases and government documents. Documents from regional bureaus, the intelligence community, the Department of State's Bureau of International Narcotics and Law Enforcement Affairs, the Bureau of Democracy, Human Rights and Labour, the Office of the Legal Advisor, Unicef, Human Rights Watch, Amnesty International, the Protection Project, the media, the United Nations High Commissioner for Refugees, and the International Organization for Migration also influence the statistics (US State Department, 2014; Gould, 2010).

The International Labour Organisation (ILO), in conjunction with the European Commission, used expert knowledge to produce a set of indicators of trafficking in human beings developed using the Delphi method. In line with the European Commission's decision to set up an expert group on the policy needs for data on crime and criminal justice, an expert sub-group on 'trafficking in human beings' was established with the objective to 'develop harmonised definitions and associated indicators that will facilitate greater comparability of data across EU Member States…' (ILO, 2009: 2). This joint ILO and European Commission project was to reach consensus on the indicators for characterising elements of the definition of trafficking for data collection purposes. The Delphi method aims to arrive at an outcome-based consensus within a large group of experts from different disciplines. Experts for this project were drawn from: the EU-27; police, government, academic and research institutions; NGOs; international organisations; labour inspectorates; trade unions; and judiciaries.

The outcome of the project was four sets of indicators on: adult victims trafficked for labour exploitation; child victims trafficked for labour exploitation; adult victims trafficked for sexual exploitation; and child victims trafficked for sexual exploitation.

Each set of indicators is a structured list relevant to elements of the definition of trafficking: deceptive recruitment; coercive recruitment; recruitment by abuse of vulnerability; exploitative conditions of work; coercion at destination; and abuse of vulnerability at destination.

Each indicator is either 'strong', 'medium' or 'weak'. For example, in the case of trafficking of adults for sexual exploitation, strong indicators of coercive recruitment include forced marriage and violence and medium indicators include threats of denunciation to the authorities and threats of / or violence against family (ILO, 2009).

A form of capture-recapture estimation methodology is being applied to administrative data in order to make estimates of the scale of trafficking by the United Kingdom Home Office. Victimisation data from a number of different administrative bodies underpin the technique. These bodies include: Local Authorities; police forces; Non-Governmental Organisations; Government organisations; the National Crime Agency; and the general public through various channels.

A single victim can be registered by one or multiple bodies. For each combination the number of victims is counted along with the overlap between the different administrative bodies. A statistical procedure (Multiple Systems Estimation (MSE) — a form of capture-recapture modelling) is used to provide an estimate of the total population size; this estimate includes both registered and unknown ('hidden') victims (Silverman, 2014; Bales, 2015).

In the example given, the registered victim count is 2 744: the estimated scale of trafficking in the United Kingdom after the application of the MSE procedure is 11 313, with a standard error of 818 and a 95 % confidence interval of [9 918, 13 046] (Silverman, 2014; Bales, 2015). This is a multiplier effect of around four, i.e. the estimated size of the 'real' victim population is four times greater than that of the registered victim population. Disaggregated data has not (yet) been used, so the current estimate of scale is for all forms of trafficking, is non-gendered, and adults and children are not separated.

The Netherlands Crime Projection Analysis (CBA) of sexual exploitation, in 2012, produced an estimate of the total number of victims (registered plus unknown) of human trafficking for the purposes of sexual exploitation in the Netherlands (National Rapporteur on Human Trafficking and Sexual Violence against Children, 2012). The project identified the number of notifications of trafficking made to CoMensha (the body responsible for registering possible victims for the purposes of the National Rapporteur's mandate) by the police in a given year. The CBA estimated that police referrals represent 5 % of the total trafficked population: there is no reference for the use of

'5 %' (National Rapporteur on Human Trafficking and Sexual Violence against Children, 2012). The police reported 69 % of the total number of notifications in 2010: using the total number of cases, this percentage is used to calculate the number of cases reported by the police as 549. If this 549 cases represents 5 % of the number of victims, the total population was estimated to be ((549/5)*100) 10 980.

The 'Trafficking in Human Beings, Data Collection and Harmonised Information Management System' (DCIM-EU) was a multi-phase project aiming to improve the quality and reliability of trafficking data in south-eastern Europe, funded under the EU grant 'Prevention of and Fight against Crime'. The first two phases agreed on a harmonised list of indicators and developed standardised reports and related data analysis, including software upgrading. A handbook was produced to outline data collection from methodological and legal perspectives and included the set of indicators agreed on by all countries to be the minimum required on victims and traffickers. The DCIM-EU builds on previous efforts, including: the EU funded 'Headway — Improving Social Interventions Systems for Victims of Trafficking'; 'Data Collection and Information Management'; and the 'Guidelines for the Collection of Data on Trafficking in Human Beings, including Comparable Indicators/Variables' projects (ICMPD, 2010; ICMPD, 2009; IOM and Federal Ministry of the Interior, Austria, 2009).

Intervict (the International Victimology Institute, Tilburg University) ran a project called 'Tools for the Validation and Utilisation of EU Statistics on Human Trafficking' (TrafStat), co-financed by a funding programme of the European Commission ([26]). The initiative aims to apply the methodology of the European Sourcebook of Crime and Criminal Justice Statistics (European Sourcebook) to the EU trafficking statistics collected under the 2010-2015 Action Plan on Crime and Criminal Justice Statistics. This methodology uses a system of peer review to validate national statistical data because national definitions are not in alignment (i.e. the experts work on the statistics and not the collection of raw data). This differs from, for example, the Eurostat methodology which is based on data delivered by national sources who are asked to follow standard definitions (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, [Netherlands] 2012). In the second stage, the research group designed quantitative indicators based on the EU trafficking statistics which can be used to monitor national and EU-wide anti-trafficking policies. Both composite indices of anti-trafficking policies and specific performance indicators were developed, for example the percentage of victims receiving assistance; the ratio between total numbers of identified and assumed victims, and the total numbers of prosecutions/convictions. Proposals were also formulated about the use of statistics as early warning signals, for example to identify new forms of trafficking, new markets for victims, or new victim groups (Tilburg University, 2014; van Dijk, 2014).

Montrasec is a study awarded by the European Commission, to the Institute for International Research and Criminal Policy (Ghent University), the Transcrime Research Centre (University of Trento), and Sacred Heart University (Milan). It builds on the Siamsect (Statistical Information and Analysis on Missing and Sexually Exploited Children and Trafficking in Human Beings) study and focuses on data collection capacity and the identification of key indicators of trafficking victims and missing and sexually exploited children, under the European Commission funded Daphne II. The study aims to create a framework to allow for the collection and analysis of standardised and integrated statistical information across the European Union. It plans to develop and deliver a 'ready-to-use' IT platform with templates for trafficking in human beings, sexually exploited children and missing children. (Montrasec; ICMPD, 2010).

Non-EU-28 administrative data, data collection and estimation methodologies: an improvement on Eurostat's 'Trafficking in Human Beings' reports?

The International Organisation for Migration's (IOM) use of a single source for victimisation data (generated when victims come into contact with IOM services) falls short of the Eurostat methodology which, at least for some Member States, enables data from multiple sources to be collected. The IOM recognises the limitations of this: '...the data are only reflective of IOM assisted cases; read in isolation, it cannot therefore provide an accurate picture of trafficking in a particular country or region; in addition, who comes into assistance is an open question...' (IOM, 2012: 5). Moreover, whilst the data collection method generated data which is likely to be significantly more comparable, IOM services are not evenly distributed globally. Data is collected from around 85 countries but the distribution of these services is concentrated more in some geographical regions compared to others which could result in bias.

([26]) Note that funding by the European Commission does not mean a representation of the European Commission or that the European Commission endorses the views and opinions set forth by the projects.

The UNODC data collection methodology surpasses that of Eurostat in the sense that it actively seeks administrative data directly from multiple sources in each country. By contrast, Eurostat goes to a single source in each Member State (although the National Statistical Office may have collected data from multiple sources). Both UNODC and Eurostat data collection methodologies are focused on administrative data, mainly that of the Criminal Justice System (UNODC, 2015; Eurostat, 2015). Thus, the UNODC data sources are subject to the same critique as Eurostat's: administrative data is a total count of a specialist population and cannot represent the unknown population. The UNODC, like Eurostat, does not make an estimate of the 'real' population: thus the count is likely to be a significant underestimate of the scale of trafficking and may be biased in ways as yet unknown, for example, in its gender composition.

There are a number of projects which are working to improve the collection of administrative data, particularly in the development of standard indicators to improve the comparability of data on registered victims. Eurostat, for instance, recognises that one of the major limitations with its current gender specific statistics is the lack of comparability between Member States (Eurostat, 2015). The implementation of the outputs from some of these projects, which have arrived at a consensus on definitions and indicators, has potential to significantly improve future administrative data.

The efforts to generate an estimate of the 'real' scale of trafficking may be considered an improved methodology compared to the count of a specific known population because they include both registered and unknown populations. Nevertheless, the relationship between the registered and unknown populations of victims is not yet known. Thus estimates extrapolated only from registered victim data cannot take into account the dynamics of this relationship and so the estimates they produce are likely to be biased.

Victims: Large-scale surveys

There have been a relatively small number of efforts to estimate the scale of trafficking victimisation in Europe generated by or using survey data from source countries. The Pennington et al. (2009) population survey of eastern European source countries is one of the most often cited.

Pennington et al. (2009) produced estimates of trafficking for five eastern European countries using survey data. They were given permission to develop and add specific questions on trafficking in human beings to an established large-scale household cluster sample survey conducted by a professional survey research organisation that operates in a number of European countries using native interviewers and with over 1 000 respondents per country. The trafficking victimisation questions were run in Belarus, Bulgaria, Moldova, Romania and Ukraine. These countries were identified by the funding organisation (IOM) as having a large number of citizens who had been trafficked abroad, based on the numbers of returned victims asking for help.

Households were randomly selected according to the sample design. When a randomly selected household agreed to participate the household member aged over 15 years with the most recent birthday was selected as the respondent. If that person was unavailable, at least two return visits were conducted before another household was selected. The survey was administered using a face-to-face interviewer-recorded questionnaire which covered a large number of topics dealing with working abroad. The question: ''of those [in your household], how many have been trafficked abroad (for the purposes of domestic or nursing; enterprise or construction; or the sex industry ([27]))?'' was asked towards the end of the interview and after a series of 'nonthreatening' questions on human trafficking, perceived reasons why people are trafficked, and awareness of anyone among friends or acquaintances, as well as family, who had been trafficked. This is a well-recognised technique in survey design in order to allow time for rapport building to minimise socially desirable responses. Experiences of trafficking were not delimited by time. Survey data was used to produce estimates of the total number of living people that had ever been trafficked abroad ([28]) for each country.

The ILO has also conducted large-scale surveys which encompass trafficking victimisation. The ILO piloted surveys to measure forced labour in Armenia, Bangladesh, Bolivia, Georgia, Guatemala, Côte d'Ivoire, Mali, the Republic of

([27]) The three categories were based on expert knowledge of the ways in which the majority of trafficked citizens were lured abroad.
([28]) The counts of trafficked people corresponding to the three different trafficking types were combined.

Moldova, Nepal and Niger. The results of these pilot surveys were used to develop a set of methodological guidelines for surveying national populations for forced labour victimisation (ILO, 2012b).

Random sample surveys of the general population have potential to provide data on the total population of trafficking victims which is more accurate and comparable than administrative data. The most significant limitation for producing survey data for the EU-28 is a technical issue of sample size. In order to capture trafficking victimisation in numbers adequate to enable robust extrapolation for national estimates, the sample sizes needed to capture this relatively rare crime (in terms of proportion of the population affected, not absolute numbers) would have to be so large as to be currently unfeasible to resource. For example, for the EU-28 the prevalence rate percentages reported by Datta and Bales (2013) of 0.013 % in many European countries suggest that a sample size of 40 000 would only find around five victims.

Victims: Studies

There have been a small number of studies conducted which use multiple sources of data, including survey, small-scale study and administrative in order to estimate the scale of trafficking, including: The Walk Free Foundation (2014); the International Labour Organisation (2012); Datta and Bales (2013); and FairWork Foundation.

The International Labour Organisation (ILO) works with a definition of forced labour which encompasses, but is wider than, trafficking in human beings. [Note that 'forced labour' is one of the forms of exploitation included in the definition of Trafficking Human Beings in the European Commission (2011) Directive]. Forced labour is defined by the ILO Forced Labour Convention, 1930 (No 29), Article 2.1, as 'all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (ILO, 2012: 19-20). The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has interpreted forced labour ([29]) as encompassing trafficking in persons for the purpose of exploitation as defined by the Palermo Protocol 2000.

The ILO has produced a number of estimates of the global scale of forced labour; the latest being in 2012 (ILO, 2012). The methodology for this study used a capture-recapture method to identify literature from which data on cases of forced labour could be extracted. This included: media reports; local, national, regional, international or thematic NGOs; government documents from the Ministry of Justice, Labour, Social Affairs, Migration, Foreign Affairs and Interior or from special police or other units dedicated to combating trafficking and forced labour; other international organisations; ILO reports; trade union reports and other employers' organisation reports (ILO, 2012: 29). The review method used the internet, telephone, email, visits to libraries and face-to-face interviews (ILO, 2012: 29). Systematic searches of the literature were performed by two separate teams of researchers. The cases of forced labour found by each team and those found by both teams were marked, and capture-recapture estimation was employed to estimate from these the number of documents not found and then to estimate the total number of cases. One major concern with the methodology is how well double counting is controlled for (where different teams or even different members of the same team identify the same estimate within different sources).

These efforts to estimate the scale of trafficking or related phenomena such as modern slavery and forced labour have been individually and robustly critiqued (Scullion, 2015; Gould, 2010; Gallagher, 2014; Engle Merry, 2015; Weitzer, 2014).

Nevertheless, there are emerging methodologies in the field of trafficking and relatively well developed methodologies in adjacent fields (e.g. crime victimisation, drug use, violence against women and prostitution) which have begun to develop more robust measurement methodologies using studies. For example, The United Nations Office for Drugs and Crime (UNODC) brought together an expert group in 2013 which recommended the development of a series of small scale field studies designed to better understand trafficking in particular locations, of particular populations, and of particular forms. They recommended these studies develop and use: tightly defined indicators of trafficking specific to particular circumstances; modular questionnaires specific for different populations; and specialist sample designs (UNODC 2014; UNODC 2015b).

([29]) As defined by the ILO Forced Labour Convention, 1930 (No 29), Article 2.1

Victims: expert judgement

Expert judgement is relied on for evaluation when other sources of data are not available, for example, if a field has not yet developed formal sources of data collection. This can be the based on the experience of experts working in the field or it can be based on informal internal record keeping.

There are a number of locations of expert judgement on trafficking in the EU-28, including: police; prosecution services; court services; prisons; NGOs; immigration authorities; border guards; labour inspectors; victim support services; social services; local authorities and regional councils; and reception centre staff.

Expert judgement can provide essential insights into a developing field such as the most likely locations for trafficked prostitutes. However, disagreements between expert judgements are difficult to adjudicate without more social-scientific sources of data (e.g. the proportion of prostitution which is trafficked). Expert judgement therefore needs to be supported by other forms of data in the longer term.

Nevertheless, experts play a key role in the transition from judgement to other data sources; their expertise is necessary to highlight knowledge gaps for research and the most appropriate data collection methodologies to ensure robust representation of the field.

Traffickers: administrative data

There is significantly less data available on traffickers than on victims.

Traffickers of human beings are predominately registered by the Criminal Justice system as suspected, prosecuted or convicted.

Data, data collection and estimation methods: Best available for the EU-28

The only sources identified for the EU-28 were the Eurostat reports (2013, 2014 and 2015) and thus these represent the best available data on the scale of the gender specificity of trafficking across the EU-28. The most up-to-date published statistics are based on data from 2012 (Eurostat, 2015). The data collection and data estimation methods for trafficking offenders are the same as those detailed above for trafficking victims in the Eurostat report series 'Trafficking in Human Beings'.

Is trafficking in human beings across the EU-28 gendered: registered offenders and suspects?

Around three-quarters of traffickers found at three different stages of the Criminal Justice System across the EU-28 are male. Over two-thirds of offenders were suspected or prosecuted for trafficking for the purposes of sexual exploitation.

Trafficking in human beings is therefore also gendered in its offender profiles: offenders are predominately male.

Table 5.4 Traffickers of human beings by form of trafficking and gender: EU-28 2012

Form of trafficking in human beings	Percentage (%) of total	
	Suspected	prosecuted
THB for sexual exploitation	66.0	70.0
THB for labour exploitation	27.0	18.0
THB for other forms of exploitation	7.0	12.0
	Percentage (%) of MALE traffickers	
All forms of THB	73.2	75.0

Percentages calculated from data given in Eurostat (2015) tables A17 and A20. 2012 is the latest data available at the time of writing. Percentages are calculated on a sub-set of data from EU Member States which provide data that can be disaggregated by form of exploitation.

Removing the search parameter limit to the EU-28

Removing the EU-28 restriction in the systematic search led to the identification of one other major attempt at measuring trafficking in human beings using administrative data on offenders: that of the United Nations Office on Drugs and Crime, 2014 ([30]). The UNODC methodology for measuring offenders is the same as that for measuring victims (as detailed in the Victims section above).

Detailed trafficking data series on specific EU-28 countries

The systematic review and the detailed case studies contained within this report on the changing demand for trafficked prostitutes identifies a number of sources of primary data on trafficking for Germany, the Netherlands, Sweden and the United Kingdom. This administrative data is primarily, but not exclusively, from police and other criminal justice agencies. The data was examined to evaluate whether a time series could be constructed which would enable: robust comparisons over time within a Member State; and/or robust comparison between Member States.

Germany, the Netherlands, Sweden and the United Kingdom all have different policies in place which are designed to combat and reduce trafficking in human beings. This is especially the case for combating and reducing trafficking for the purposes of sexual exploitation where there is a complex interaction between this and the sex industry into which victims are trafficked. The implementation of specific legislation on prostitution is theorised to have an impact on demand for trafficked prostitutes in particular ways (see the case study chapters in this report). Comparable data over time from the same country could be used to support evaluation of the impact of these policies. Comparable data across different Member States could be used to support the evaluation of the impact of different policy regimes on demand reduction.

It was possible to produce a time series for all four of these Member States. The time series are extensive for three, with German data starting in 1994, the Netherlands and Sweden in 2000, and running through until 2014. The United Kingdom has a shorter series which starts in 2009 and runs to 2014. The data measures the year by year changes in registered (or known) victims. However, registered victims do not yet provide a suitable unit of measurement for assessing policy, either within a country or across Member States; there are several reasons for this:

First, the number of registered victims will depend not only on the overall scale of trafficking in a specific country but the amount of resources available to administrative bodies to detect trafficking and to register victims. The effect of the Directive 2011/36/EU on data collection over the period 2010 to 2014 may mean that more effort was channelled into identifying and registering victims than was previously the case and this process has not yet stabilised. For example, it is unlikely that the quadrupling of the number of cases in the United Kingdom between 2010 and 2011 represents a real change of this size in trafficking victimisation. When examining change over time within a country we could only identify registered data on victims from the police and criminal justice agencies in two countries (Germany and Sweden). However, victims are likely to be registered by other bodies such as victim services and these individuals may or may not be the same as those registered by the police and other criminal justice agencies.

Second, rates of trafficking victimisation are not yet comparable across different EU Member States as they currently use different recording mechanisms.

The finding that current data is not yet sufficiently robust or comparable to support policy evaluation should not, however, be taken as meaning such data collection should cease; it instead demonstrates that there is a base from which current data collection methodologies can be productively developed (see conclusions to this chapter).

Below follows a description of the primary data identified in each of the four EU-28 Member States: Germany, the Netherlands, Sweden, and the United Kingdom:

([30]) Note that some of these organisations have published previous attempts to measure the scale of trafficking in human beings. We have selected the latest attempts which include the most developed methodologies for review in this chapter.

Germany

Overall recorded crime in Germany has been slowly decreasing.

Annual data reports from the German Bundeskriminalamt (BKA) (Federal criminal office) were used to compile a long data series of police statistics on trafficking victims and suspected traffickers for the period 1994 to 2013.

Data prior to 2005 could not be disaggregated by form of trafficking: we have taken data recorded before 2005 as representing all trafficking. The introduction of a new criminal code in 2005 meant that data after this point was collected by form of trafficking. There is no data available for 2005 on 'all trafficking' as the 37th Criminal Law Amendment Act which set up sections 232, 233 and 233a of the Criminal Code on trafficking in human beings for the purpose of sexual exploitation (§232) and for the purpose of labour exploitation (§233) was made law in February of that year and data for the whole of 2005 was not recorded.

Table 5.5 suggests that the number of new identified victims of all forms of trafficking recorded by the police follows a generally declining trend from 1994 to 2013. There is considerable variability across the yearly figures although this reduces after 2005. There is a declining trend after 2009 in the number of identified victims trafficked for sexual exploitation.

The data also suggests a decline in the trend of the number of all suspected traffickers but at a slower rate. The trend in the number of suspects involved in trafficking for sexual exploitation is less clear.

The fall in the number of victims can be variously interpreted as constituting: one element of the general reduction in crime recorded in Police Statistics in Germany; evidence of a 'real' reduction in trafficking; evidence of changing patterns of police activity; or as evidence of changes in the recording mechanism. The difference in trends for all trafficking and for trafficking for sexual exploitation may indicate that: trafficking for the purposes of sexual exploitation has a different 'real' trajectory; has been differentially targeted by the police; that its victims and suspected traffickers are identified by the recording mechanism in a way that is different to other forms of trafficking; or, more likely, a complex combination of all of these factors. It is not possible to disentangle from the data whether one, several or indeed other factors underpin the declining trend.

Table 5.5 Recorded victims and suspects of trafficking in Germany 1994-2013

Year	All trafficking victims	Victims of trafficking for sexual exploitation	All trafficking suspects	Suspects of trafficking for sexual exploitation
1994	1 045		904	
1995	1 521		1 149	
1996	1 326		1 154	
1997	1 201		1 106	
1998	840		751	
1999	801		805	
2000	926		837	
2001	987		747	
2002	811		821	
2003	1 235		1 110	
2004	972		777	
2005	missing	642	Missing	683
2006	858	775	765	664
2007	790	689	815	714
2008	772	676	799	785
2009	734	710	809	777
2010	653	610	767	730
2011	672	640	778	753
2012	626	612	783	769
2013	603	542	648	625

Source: BKA annual reports Lagebild Menschenhandel

The Netherlands

Overall crime in the Netherlands increased from 2000 to 2007 and then began to decline from 2009.

Data from the Netherlands is sourced from CoMensha (the body responsible for registering possible victims for the purposes of the National Rapporteur's mandate) and three other sources: the nine reports from the Dutch Rapporteur (2014 data comes from a recent press release and will eventually form part of the 10th report of the Dutch Rapporteur); yearly country reports of the 'Trafficking in Persons' (TiP) series published by the US State Department; and Eurostat (data from 2010 to 2012). Some years have data from more than one source: where this is the case there is consistency and agreement across sources.

Registered victims of trafficking from 2000 to 2006 were all trafficked for sexual exploitation, as exploitation in sectors other than the sex industry was not criminal prior to 2005 (up until 2008 CoMensha was known as the 'Foundation against Trafficking in Women' (STV)). Data collected up to and including 2005 only included women. From 2007, registered victims of other forms of trafficking were also recorded.

The Ninth Report of the Dutch Rapporteur published in 2014 differs from earlier reports in that it contains little quantitative information: thus figures for 2013 are missing.

Table 5.6 Identified and presumed victims of trafficking in the Netherlands

Year	Trafficking (total)	Trafficking for sexual services	Trafficking for other purposes
2000	341	341	Not recorded
2001	284	284	Not recorded
2002	343	343	Not recorded
2003	257	257	Not recorded
2004	405	405	Not recorded
2005	424	424	Not recorded
2006	579	579	Not recorded
2007	716	338	378
2008	826	475	351
2009	909	423	486
2010	993	749	244
2011	1 222	781	441
2012	1 711	1 216	495
2013	1 437	missing	missing
2014	1 561	1 030	531

Sources: 2000-2009 BDNR (2010) Human Trafficking — ten years of independent monitoring. Eighth report of the Dutch National Rapporteur on Trafficking in Human Beings. The Hague: BDNR: 2010 Eurostat (2013), 2011-2013 Eurostat (2015) 2014. New figures on identification and protection of victims of human trafficking and prosecution of traffickers. Press release from BDNR. Online at http://www.dutchrapporteur.nl/current/news/archief/new-figures-on-identification-and-protection-of-victims-of-human-trafficking-and-prosecution-of-traffickers.aspx

Sweden

Reported crime in Sweden has remained relatively stable since 1990, with around 13 500 to 15 000 crimes reported per 100 000 of the population each year. Unlike some other EU-28 countries, Swedish data does not suggest a 'crime drop' ([31]) over the past 25 years.

There are two sources of Swedish data capable of providing a long time series on human trafficking: police situation reports on trafficking which date back to 2003, although some of the early reports have little quantitative information; and information provided by Brottsförebyggande rådet (or Brå) which is the Swedish National Council for Crime Prevention, an agency under the Ministry of Justice for research and development of the Criminal Justice system.

We extracted the number of reported crimes for offences which could include victims of trafficking especially for purposes of sexual exploitation (table 5.6). The first two columns are specific crimes of trafficking, for sexual exploitation and for other forms respectively. A case can be made that purchase of a sexual act from a child (included in the EU definition of trafficking) and procuring (including aggravated procuring) could also include victims of trafficking for the purposes of sexual exploitation so they are included here. The purchase of sexual services is a criminal offence in Sweden: the data is included for comparative context.

The number of identified trafficking victims for sexual exploitation has shown a gradual increase over a 12-year period. By comparison, trafficking for purposes other than sexual exploitation has shown a greater increase over the period.

Table 5.7 Police reported crimes in Sweden

Year	Trafficking for sexual services	Trafficking for other services	Purchase of a sexual act from a child	Procuring and aggravated procuring	(Purchase of sexual services)
2003	21				
2004	29				
2005	399				
2006	26	11		58	162
2007	15	8		65	189
2008	15	35		51	167
2009	34	26	145	88	350
2010	32	52	231	120	1 251
2011	35	63	131	86	765
2012	21	48	97	95	549
2013	40	43	150	108	544
2014	33	60	144	120	615

Sources: 2003-2013 Police Sweden Situation reports 6-15. 2014: Brå processed offences 2014. Note that: the 2005 figure of 399 for trafficking for sexual services appears to be substantially different to the other data values for this crime and thus may be incorrectly recorded or there may be a significant difference in the recording mechanism in that year.

([31]) 'crime drop' refers to the major declines in crime experienced in most developed countries since the mid-1990s (Farrell, 2013).

United Kingdom

Overall crime has been declining in all parts of the United Kingdom since 2005, although the decline in Northern Ireland has been less steep than that for Scotland, England, and Wales.

Our systematic search identifies a shortage of publically available data in the United Kingdom on trafficking victims before 2009. Figures for victims of trafficking are mentioned in the US State Department 'Trafficking in Persons' (TiP) country reports before 2009 but this data is inconsistent and is only available for a few non-sequential years. For example, in 2009 the TiP report gives a figure of 527 victims for 9 months of the year (April to December) who were processed through the United Kingdom National Referral Mechanism. This contrasts with the Eurostat estimate of 311 registered victims. In table 5.7 we present the Eurostat figures rather than the TiP figures.

Data from 2009 to 2013 is taken from the Eurostat reports combined with data from the United Kingdom National Crime Agency Strategic Assessment for 2013 (NCA, 2014).

Table 5.8 Identified and presumed victims of trafficking in the United Kingdom 2009-2013

Year	Trafficking (total)	Trafficking for sexual exploitation	Trafficking for labour	Trafficking for other purposes
2009	331	151	166	14
2010	427	170	228	29
2011	1 998	604	501	893
2012	2 135	746	500	899
2013	2 744	1 128	743	873

MEASURING PROSTITUTION

Introduction

This section examines the measurement of the scale of prostitution. Quantitative data on the proportion of prostitution which is trafficked and whether this is increasing, decreasing or stable would assist the evaluation of legal and policy regimes. The European Commission and Europol have recognised strong links between trafficking, organised crime and the prostitution of others. The terms of reference for this study call for the critical review, from a gender perspective, of policy practices aimed at assisting victims of trafficking for sexual exploitation and preventing trafficking for sexual exploitation. Prostitution is the end destination for a significant proportion of those trafficked for sexual exploitation (overwhelmingly women and girls), thus being able to measure the different sectors within prostitution is essential in order to effectively monitor trafficking for sexual exploitation and to evaluate policies and practices designed to reduce demand for trafficked persons.

There are four main sources of data on prostitution: administrative bodies and other organisations; large-scale surveys; studies; and expert judgement. This section describes these data sources and the methodologies used to collect them, evaluating their potential to measure prostitution, drawing out the most promising practices, and offering recommendations for the further development of these. We also offer a case study measuring cross-national prostitution for three EU-28 Member States: Germany, the Netherlands and Sweden.

Prostitution is internally differentiated. We use a fourfold typology: independent; legally exploited; illegally exploited; and coerced. Trafficking for sexual exploitation is one form of coerced prostitution. Further differences can be identified between on-street and off-street; and in those countries which allow profit-taking, between sites of legal and illegal profit-taking.

The unit of measurement includes number of: prostitutes, transactions, clients, third-party exploiters or profit takers. Most common is the number of prostitutes (prevalence).

Sources of data and data collection methodologies

Administrative data and other organisations

Administrative bodies which collect data on prostitution include: the Criminal Justice system (predominately the police); local authorities; and social services. Other organisations such as Non-Governmental Organisations (NGOs) are a source of non-formally registered data.

Police register prostitution as recorded crime where the selling and/or buying and/or exploitation/profit-taking from prostitution is illegal. Police recorded crime: is collected over time; has crime categories that are relatively precisely defined; has separate offences for different forms of illegal prostitution; enables some offences to be disaggregated by gender, although this is not routine; and some offences to be disaggregated by age (adult or minor), but this is not routine. However, police recorded crime only registers a proportion of prostitution — that which is illegal and that which is identified and recorded. This means that police recorded crime is only a sub-set of both total prostitution and of illegal prostitution. It therefore cannot be used as a measure of total prostitution.

Not all EU-28 Member States criminalise prostitution in the same way (Kelly, 2014) thus comparability between countries is restricted to common offences. The prioritisation of illegal prostitution as a crime category will differ between countries and over time, influencing the comparability of the registered data.

Local authorities or the equivalent register data on prostitutes in areas where the selling of sexual services is legal and licensed (see the case study on the licensing regimes in Germany and the Netherlands in this report). Comprehensive licensing in a system which removes all other forms of prostitution (theoretically) has the potential to provide a measure of total prostitution however such a system does not (yet) exist. Thus licensed prostitution is currently only a proportion of all prostitution. The system of licensing is resisted within those countries attempting to implement it, making accurate data collection problematic. There are few countries operating formal licensing systems so cross-national comparability of this measure is limited.

Social services in some Member States collect data on prostitution. For example, in Sweden the social services prostitution groups in Stockholm, Gothenburg and Malmö record the number of prostitutes selling sex in their respective areas. There is less systematic collection of data by social services across the EU-28 compared to other administrative bodies.

Other organisations like NGOs register details of prostitutes using their services (see, for example, the case study on the United Kingdom Poppy project in this report). NGOs typically: collect records over time, including demographic and socioeconomic data; and will often differentiate between trafficked and non-trafficked prostitutes because trafficking victims will be entitled to different forms of service provision. However, the data is limited to those prostitutes the NGO has contact with.

Data from administrative bodies and other organisations cannot estimate the total scale of prostitution; it can only count prostitution which has been registered in some way, i.e. a sub-set of total prostitution. It thus cannot show whether the scale of prostitution is increasing, decreasing or remaining stable over time (even without taking account of other caveats such as internal changes in the prioritisation of prostitution, changing definitions or categories for registration, or changes to recording mechanisms).

Administrative data can be used to monitor progress of administrative bodies, for example whether licensing systems are registering increasing numbers of prostitutes. What is unknown is whether registered prostitution is directly related to unregistered; for example, does unlicensed prostitution decrease in direct relation to increased licensing of prostitution?

Large-scale surveys

There are a growing number of large-scale surveys on prostitution across the EU-28 and internationally. These have collected data on the buying and selling of sexual services by individuals. There have been surveys in: the United States (Weitzer, 2009; GSS Codebook, 2006); Australia; America; Europe (Weitzer, 2009); the United Kingdom (Natsal); Norway (Vanwesenbeeck, 2001); and Sweden (Länsstyrelsen Stockholm, 2014). A special module or question set is included as part of a wider survey or the survey is topic specific.

These surveys typically have complex sampling methodologies to ensure the sample is representative of a larger un-observed population. This enables formal statistical estimation techniques to be applied in order to extrapolate the findings to the un-observed population. The wording of the questions, their positioning within the survey and the particular method used to deliver the survey (or relevant module) have been subject to significant development work in order to ensure the most accurate disclosures from respondents, in both this and adjacent fields (violence against women, crime victimisation, drug use, health). Some surveys are repeated over multiple sweeps. The core set of questions or modules which are repeated must be kept as similar as possible in order to make comparisons over time.

For example, the British (England, Wales and Scotland) Sexual Attitudes and Lifestyles Survey is a population-based probability survey of 15 000 women and men aged 16 to 74 residing in Britain. The Primary Sampling Unit (PSU) is households selected by postcode, with one eligible individual in each household randomly selected to answer the questionnaire. The PSUs are stratified by: geographic region; population density; proportion of the population under 60 years of age; and the proportion of households where the household head is in a non-manual occupation. The survey is designed to ensure that young people are properly represented so the number of 16 to 34 year olds was boosted in the latest sweep. The fieldwork was carried out by Britain's largest professional social research organisation. There have been three sweeps of the survey: not all have been identical but they have included a specific module on 'paying for sex'. (Natsal)

The survey is conducted in people's homes and includes a number of different modules, including one on demographics which records the respondent's gender and age. The methodology for the different modules is either face-to-face or CASI: 'paying for sex' is surveyed using CASI. In computer assisted self-interviewing (CASI) the laptop is handed to the respondent to read the questions and directly enter their answer into the computer; the interviewer does not see the response. This enables a considerably greater degree of confidentiality and privacy and has been shown to improve response rates to sensitive questions (Walby, Towers and Francis, 2014).

In the 'paying for sex' module three areas are covered: paying for sex with a member of the opposite sex; paying for sex with a member of the same sex (male-to-male); and paying for sex outside of Britain. Within each of these respondents were asked: whether they had ever paid for sex (prevalence); when they last paid for sex; and how many different people they had paid for sex (frequency). Those who had paid for sex outside Britain were asked for the location, which included other European countries (Natsal-3 questionnaire).

Large-scale representative surveys typically use a household-based sampling frame which includes all domestic households within the survey area. There may also be additional criteria such as permanent resident or nationality. For example, a Swedish survey on the buying and selling of sexual services restricted the sampling frame to Swedish citizens. The household sampling frame means anyone residing in other types of accommodation, such as hotels, hostels, homeless or temporary shelters, refuges, in-care or other forms of institutions, are excluded. If the experience of buying or selling sexual services for these excluded groups is significantly different to those included, the data collected will be biased, influencing the findings. For example, surveys of young people in Sweden using household sampling frames have found a higher likelihood of young men, compared to young women, selling sexual services. However, evidence suggests selling sexual services is more common among young women than young men in care; these young women would have been excluded by the survey sampling frame. Thus the findings can be challenged (Länsstyrelsen Stockholm, 2014). In a second Swedish example, a survey of Swedish citizens found no female disclosures of selling sex. Evidence suggests the majority of prostitutes operating in Sweden are of non-Swedish origin and thus were excluded by the sampling frame. This skews the gendered findings (Länsstyrelsen Stockholm, 2014; Statens Offentliga Utredningar, 2010).

Large-scale representative surveys on prostitution can produce estimates of scale of the number of people who have bought and/or sold sexual services (prevalence and frequency). They can also measure whether prostitution is increasing, decreasing or remaining stable over time if multiple sweeps are conducted. The practice of using households as the primary sampling unit is currently the biggest limitation of these surveys as this is likely to exclude those with the highest probability of having sold sexual services.

Studies

The terms of reference for this study call for the review, from a gender perspective, of policy practices aimed at assisting victims of trafficking for sexual exploitation and preventing trafficking for sexual exploitation. Prostitution is the end destination for a significant proportion of those trafficked for sexual exploitation (overwhelmingly women and girls), thus being able to measure the different sectors within prostitution is essential in order to effectively monitor trafficking for sexual exploitation and to evaluate policies and practices designed to reduce demand for trafficked persons. Studies which have aimed to measure prostitution are a key component of this process.

There have been a wide range of studies on prostitution, although only a small proportion of these have attempted to estimate its scale. Many have been conducted by academics, others by NGOs or other policy and practitioner organisations, or they have been commissioned by the government; for example, Sweden has a large number of studies on prostitution commissioned by the government (Statens Offentliga Utredningar, 2010).

It is in these studies that the delineation between on-street/off-street is most clearly made. Measures of on-street prostitution are needed to evaluate whether policies designed to shrink this sector work. Measures of off-street prostitution are needed to differentiate between changes affecting all prostitution compared to those which are sector specific. Two examples of methodologies which have attempted to measure the scale of on-street prostitution, and three for off-street, are described. The latest Tampep study (Tampep, 2009) is also described. This uses data from multiple sources through a sector specific survey to estimate the scale of prostitution. Uniquely it differentiates between on/off-street and between free and coerced prostitution.

On-street

A study based in Glasgow, Scotland attempted to estimate the scale of on-street prostitution across the city based on data collected in the main red light district, using a capture-recapture technique (McKeganey et al., 1992; Bloor et al., 1991). The study team carried out fieldwork on 53 nights in the red light district using strict time sampling procedures so that visits covered every day of the week and time of the day when women (this study only counted female prostitutes) had been observed selling sex. Data collection was spread over 7 months to capture seasonal variations.

On fieldwork visits the study team continuously circled the streets of the red light district to ensure all prostitutes were observed, including those off-site with a client during any one circuit. Contact was made with 90 %. Every prostitute approached was told about the study and asked to participate. They were given a unique identifier and first contact details were recorded. Every subsequent contact made on other fieldwork visits was recorded against the same unique identifier. This provided the 'capture' history of each prostitute.

A study in the United States by Shaver (2005) grounded in a participant-centred harm-reduction methodology was used to make full site counts at every fieldwork visit. This data was then used to estimate the total prostitution population. Time was initially spent making introductions and conducting public relations exercises to legitimate the study and the researchers. A very detailed methodology guided the fieldwork, including: the way prostitutes were approached, the way refusals were to be acknowledged and respected, but future requests to be made; working in pairs; handing out business cards with contact details for the project; carrying a stroll kit (bandages, safety pins, matches, list of resource people and agencies); walking up the street towards a prostitute so they were never startled; and ensuring never to back a prostitute into a corner. (Shaver, 2005: 300-302).

Off-street

Eaves, an NGO in the United Kingdom which works with prostitutes and trafficked women, developed a detailed methodology to estimate the scale of off-street prostitution across London (Dickinson, 2004). The 'adult services' sections of free newspapers in every London borough and internet sex guides were searched, supplemented by information from local projects, statutory agencies and sexual health outreach services to generate a list of premises and/or the telephone numbers of off-street prostitution sites. These were then extensively cross referenced to prevent double counting. Men employed by the project acted as clients telephoning the premises to ask about the number and ethnicity of the prostitutes selling sex. Each establishment was contacted a minimum of three times over a 5-month period. This data was then used to estimate the number of off-street prostitutes in London.

Other studies have attempted similar methods for counting off-street prostitution, but their methodologies are arguably less sophisticated than those of Eaves. For example, two internet surveys which were commissioned by the Swedish County Administrative Board in collaboration with the National Board of Health and Welfare used the number of online escort adverts as a measure of off-street prostitution, counting the number of adverts and using the associated telephone numbers to identify duplicates. Unlike the Eaves methodology there was no subsequent follow-up of each telephone number to establish the number of prostitutes linked to it. Using the telephone number to estimate the number of prostitutes is problematic because it fails to obtain data on how many individuals a particular telephone number is connected to — it could cover one or multiple prostitutes, or multiple adverts and phone numbers could link to the same prostitute. Online adverts can also continue to circulate even if they are no longer 'live'.

Cunningham and Kendall (2011) used a more technical methodology with a web-crawling PERL script to scrape data from 'TheEroticReview.com' website, which is '...the largest dataset currently available on sex workers who use the internet to solicit and communicate with customers' (Cunningham and Kendall, 2011: 277-278). This collected over 500 000 reviews of more than 94 000 prostitutes. Using this data Cunningham and Kendall made an estimate of the scale of off-street prostitution in a particular location based on the number of individuals receiving at least one new review within a given time period.

They also developed a methodology for surveying soliciting online. Requests to participate in an online survey were sent to all valid email addresses on 'TheEroticReview.com', supplemented by a sample of prostitutes who advertised on a popular national (United States) site for escort adverts (Eros.com). The email contained a link which took respondents to the survey hosted on a university server. Each email was sent using a randomly generated string of characters which prevented multiple responses from the same email address and maintained the anonymity of the respondent; a key factor in driving participation, as was the endorsement of the Las Vegas Sex Workers Outreach project (Cunningham and Kendall, 2011: 283). 26 189 emails were sent. 13 333 were successfully delivered. 685 surveys were completed and returned. Analyses of the survey responses were weighted using the distributions of age and race characteristics of all prostitutes advertising on 'TheEroticReview.com' which made the extrapolated findings more representative.

Shaver (2005) recruited and trained community partners who were, themselves, prostitutes as part of the research team. Their job was to locate and access off-street sites. This helped overcome sampling and privacy concerns, especially their advice on how best to approach the physical venues and the people working in them (Shaver, 2005: 305). Participants were given the choice of being interviewed by a prostitute or a research assistant, in a place of their choice and the option of being interviewed by a man or a woman: this addressed many concerns of privacy, trust and confidentiality. In order to ensure saturation, the sample was continuously expanded until no new types of stories or experiences were recorded (Shaver, 2005: 305). Shaver (2005: 306) argues that, although challenging, academic-community partnerships are '...the key to overcoming at least two of the obstacles faced when conducting research on the sex trade: sampling bias and privacy concerns. In doing so they increase the credibility of the data.'

Tampep study

Tampep is a European networking and intervention project for HIV/STI prevention and health promotion among migrant prostitutes (Tampep, 2009). The latest study collected data via a questionnaire from administrative bodies and other organisations in 25 European countries. Tampep identified and surveyed the key entities who work or come into contact with prostitutes: NGOs; the government health sector; social services; law enforcement; and prostitution and sex worker organisations.

In 2009, 600 questionnaires were distributed and 380 responses received (64 % response rate) from between 10 to 54 organisations per country. There was a process to review and clarify contradictions within the returned data before being entered into an online database for analysis.

The questionnaire asked each organisation how many prostitutes they were in contact or worked with in the last year and the source of that data. It is unclear whether the data was always, sometimes, or never from a formal database of registered prostitutes or generated through expert judgement. The questionnaire asks for a gender breakdown of prostitutes (female, male, transgender), but not for an age profile. Each question separates national and migrant prostitutes. (Tampep (2008).

There is a question to differentiate between on-street and off-street prostitution, these are then further broken down into specific forms: streets, highways, or parks and forest; brothels, clubs, bars, parlours with more than two women working together, apartments and windows with less than three women working together, and escort services. The questionnaire also asks a series of questions which differentiate between independent, exploited and coerced prostitution: 'please estimate the percentage of sex workers who have control of their working conditions and safe sex practices'; 'please estimate what percentage of sex workers have to share their income with third persons in the sex industry (e.g. traffickers, smugglers, club/brothel managers, etc., NOT family'; and 'please estimate the percentage of their earnings which they keep for themselves'.

There are also questions on violence against, vulnerabilities, and mobility of prostitutes and on structural change. For example, 'have changes in policy or legislation had an impact on sex workers working and social conditions in the past year?' These are differentiated at the municipal, regional, and national level; and into positive and negative changes (Tampep,2008).

The format of the questionnaire means data from one set of questions can be correlated with others; for example, the relationship between policy change and the percentage of prostitutes who work on-street could be analysed.

Tampep has run this study in a number of different years so there is potential to use the data to examine changes over time, and because the same questionnaire was used in 25 different European countries there is potential for cross-national comparisons. However, the study is based on data from administrative bodies and other organisations and so has significant caveats. There are also different numbers of organisations completing the questionnaire in each country which could skew the number of prostitutes nationally in comparison with other countries. Any prostitutes registered by multiple entities within the same country could be subject to double counting. Not all iterations have been exactly the same so comparisons over time may be unreliable.

Studies cannot estimate prostitution on a large scale (national or international), nor can they evaluate whether prostitution is increasing, decreasing, or remaining stable because they are not repeated in identical consecutive sweeps. Rather studies provide an in-depth analysis of prostitution at a particular time and place, often developing new and innovative methodologies. The Tampep studies are something of an anomaly in this category.

Expert judgement

There is not yet robust quantitative data on prostitution in the EU-28; expert judgement is still relied on in order to make evaluations: Tampep argue '…the only reliable source [on prostitution] is the expertise of organisations and projects working in the field and/or those in direct contact with the sex worker population' (Tampep, 2009: 9). Expert judgement is located at various levels and in various entities in the field of prostitution including: local police forces (especially if there are specialist roles or units assigned to prostitution); intelligence agencies (for example, Europol or the United Kingdom's National Crime Agency); social services; and NGOs working in the field.

Expert judgement develops with experience, thus one of its key strengths is that it is likely to take account of multiple contexts and competing influential factors which would be difficult for more conventional data sources to identify and measure. It can also be based on internal records which provide additional data to actors making expert judgements. For example, police may keep internal records on suspected pimps who have not been formally arrested, intelligence data may not appear in any formal administrative mechanisms but may be used to develop policing practices or specialist operations, and NGOs may collect data on prostitutes they come into contact with, for example, those on the street who are not formally registered with their service.

Expert judgement has been used to adjudicate on whether prostitution is increasing, decreasing, or remaining stable within particular contexts, especially the on-street sector. For example, police and social workers in Sweden who are in close contact with prostitutes state that, since the implementation of the 1999 law criminalising the purchase of sex, the sex trade has declined (Magnusson Wärmark, 2008: 9). [By contrast, a more formal evaluation of the impact of the law found '…no definitive answer to the question of the extent of prostitution' (Statens Offentiliga Utredninar, 2010: 107)].

Estimating and comparing the scale of prostitution in specific EU countries

In this section, we construct and compare recent estimates of the rates of prostitution for Germany, the Netherlands, and Sweden using data from the literature search and the case study chapters. These estimates rely on multiple sources of data which are pieced together and also on assumptions inherent in the methodologies. While the data lacks robustness, it is possible to build a range of estimates of the level of prostitution in different EU countries which allows some comparison between Member States

We divide prostitution into three categories: on-street; indoor; and internet-facilitated (cyber-enabled), relating to the client's method of contact with the prostitute. Indoor prostitution concerns meeting through premises such as sex clubs, brothels, lap-dancing clubs and massage parlours, whereas cyber-enabled refers to contact through online escort agencies and other online adverts. The latter category will also include some contact through newspaper free sheets, flyers and alternative tourist guides.

Most of the estimation work has been carried out in Sweden as there is considerable interest in that country on estimating the changing rates of prostitution. We start by examining that country.

Sweden

Various primary and secondary sources have been used to compile the Swedish data. The secondary sources principally come from the 10-year evaluation study report (SOU, 2010) of which certain chapters have been translated into English (Swedish Institute, 2010), and the 2014 report on prostitution in Sweden (County Administrative Board of Stockholm 2015 [Länsstyrelsen Stockholm]) — (referred to in Tables 5.8 and 5.9 as LS2015), which we have translated from Swedish into English. These reports make reference to the primary sources.

On-street

Table 5.8 below gives the summary information provided in the two reports, together with the primary and secondary sources.

Table 5.9 Number of on-street prostitutes in Sweden 1995-2014

Year	Number of prostitutes	Location	Primary source or survey	Secondary source
2008	300	National	Holmström (2008)	Waltman (2015)
2008	300-430	Stockholm, Gothenburg, Malmö	Mikamottagningarna support clinics	LS2015
2010	200	Stockholm, Gothenburg, Malmö	Mikamottagningarna support clinics	LS2015
2011-2014	200-250	Stockholm, Gothenburg, Malmö	Mikamottagningarna support clinics	LS2015

We can note that estimates are obtained from support service contacts only in three cities (the remaining cities in Sweden are 150 000 population or lower) and are hence lower bound estimates. For example, there is credible academic evidence of Russian prostitution in northern Sweden (Alalehto, 2002) which would add to these figures.

Sex clubs and massage parlours

An estimate for prostitution in sex clubs was made by SOU (2001) which was reported in the Swedish National Accounts report (Statistics Sweden, 2008). They estimate that there were 500 club workers in Sweden based on 13 sex clubs at that time. This is given as a point estimate for a specific year and assumed to be constant. The Swedish National Accounts report takes all of these to be working in prostitution, which is an unverified assumption.

Work in this report in the Swedish case study identified five sex clubs in Stockholm in 2015 through the wikisexguide site, and there are also six clubs in Gothenberg (three of which are gay/lesbian) and none in Malmö. This suggests a slightly lower figure than the 2001 estimate, and we assume in this report that around 250-300 prostitutes are now working in this sector

Internet facilitated

Table 5.9 below indicates the number of adverts (and sellers) for sexual services detected by various research studies since 2008.

Table 5.10 Studies on cyber-enabled prostitution in Sweden 2000-2014

Year	Number of websites/adverts	Number of sellers	Original survey	Source
National estimates				
2008	417 adverts	417 sellers	National Criminal IT crime section	SOU 2010
2008		350 sellers	Glykol 2014 survey	LS2015
2014	6 965 adverts	1 023 unique phone numbers	Glykol 2014 survey	LS2015
Lesbian, Gay, Bisexual and Transsexuals				
2010	190 adverts total of which:129 men, 61 transgender		RFSL	LS2015
2014	702 adverts, of which: 275 men and 134 transgender		RFSL	LS2015

The County Administrative Board of Stockholm (2015 [Länsstyrelsen Stockholm]) report provides the most recent figures and is careful to point out that the number of adverts is not equal to the number of distinct sellers. It explains that the Glykol report identifies that many adverts link to the same seller. The methodology of recent Swedish studies has moved towards identifying unique phone numbers, but as we point out elsewhere in this section, this can both underestimate (one phone line can be used by many prostitutes) and overestimate (some prostitutes will have more than one phone) the scale of internet-facilitated prostitution.

Overall estimate of the size of prostitution in Sweden

In 1995 the number of prostitutes in Sweden was estimated at 2 500-3 000 individuals (SOU, 2001). For 2006, Cho et al. (2013) provide an estimate of around 1 500 prostitutes in Sweden using unpublished ILO data which is described by Danailova-Trainor and Belser (2006). An alternative estimate of around 650 prostitutes for 2006 is provided by Holmstrom (2008). Using recent 2014 data in this section we tentatively concur with Cho et al.'s figure of around 1 500 individuals for 2014, which is formed by combining an on-street estimate of around 200-250, with 250-300 prostitutes who are off-street and based in sex clubs, and around 1 100 who are internet-facilitated (including the LGBT numbers).

Netherlands

Recent estimates of the number of prostitutes in the Netherlands come from the 2014 Dutch report on prostitution (Daalder, 2015). The report divides up estimates of scale into unlicensed and licenced. This has been supplemented by the Tampep reports.

Licenced prostitutes

The Daadler report gives the number of licences in various sectors of activity in 2014 for participating Dutch municipalities. In 2014 there were: 195 window brothels; 247 sex clubs; 125 escort agencies; 47 erotic massage parlours; 21 swinger clubs; and 39 other establishments licensed, giving an overall total of 833 establishments. However, licences do not equate to number of prostitutes — as establishments and not individuals are registered. For example, in the case study on Germany and the Netherlands in this report, the city of Amsterdam has suggested that 6 750 prostitutes were working in 2014.

Unlicensed prostitutes

Primarily, estimates of this sector are made through online advertisements. Through the researchers' analyses reported in Daadler, the amount of over 28 000 different advertisements could thus be reduced to around 8 685 unique phone numbers with which prostitutes (or mediators) advertise on the internet on a random day. Some of these numbers belong to those working in a licensed business; experts in the field estimate this proportion at 10 to 20 %. Taking this into account gives a provisional estimate of around 7 500 unique phone numbers.

There will also be unlicensed activity which is not cyber-enabled, and the scale of this market has not been assessed by official reports. The case study on the Netherlands identifies that displacement occurs from licenced activity into the unlicensed sector and this is the sector where exploitation and/or trafficking is most likely to be found.

Overall scale of prostitution in the Netherlands

It is difficult to estimate the overall scale of prostitution in 2014 from the Daadler (2015) report. It is however possible to combine the estimated 7 500 unlicensed internet-facilitated prostitutes with the city of Amsterdam estimate of 6 750 prostitutes, giving a lower bound estimate of 14 250. There will be licenced activity in other cities and also unlicensed activity nationally not included in this figure, and we have assumed this adds approximately an additional 5 000 prostitutes, giving a total of around 20 000. An earlier report, also by Daadler (2007) estimates the number of prostitutes for 2006 at 9 000.

A second source — the Tampep country reports — provides estimates of the total number of prostitutes for a number of different years (Tampep, 2009). The latest report (2009) provides an estimate of 10 000 to 15 000 for 2006-2008. The same report estimates that 83 % of prostitutes in 2006 were female, and this has increased to 90 % by 2008. Table 5.10 below gives the estimated number of prostitutes in the Netherlands in summary form.

Table 5.11 Estimated number of prostitutes in the Netherlands

Year	Estimated number of prostitutes	Source
2006	9 000	Daalder, 2007
2006-2008	10 000-15 000	Tampep 2009
2014	Lower bound of 14 250 - assume 20 000?	Daalder, 2015

The Tampep figures appear to be reasonably consistent with the estimates made by Daadler (2015) with an overall estimated scale of prostitution between 9 000 and 20 000.

Germany

German data appears to be very sparse and Schulze et al. (2014) confirm that there are no recent official data on the scale of prostitution.

An estimate of the scale of prostitution in Germany obtained primarily from sex worker organisations ([32]) and reported by the Tampep European network (Tampep 2009) suggest that there are around 400 000 prostitutes, with 90 % of them female, and with between 3 000-3 500 sex clubs in the country. This figure was unchanged from the Tampep (2007) report for Germany. The Tampep report also suggests that the proportion of female prostitutes has declined from 93 % in 2006 to 90 % in 2008. In 2005, 10 % were located on-street, this had increased to 13 % by 2008.

A second source for 2006 is Cho et al. (2013), who quote an unpublished ILO figure of 150 000 prostitutes in 2006 (this source is described in Danailova and Belser (2006)).

With just two widely differing estimates, these figures need verification. The larger figure is, however, quoted extensively in newspapers and academic studies.

Estimating the rates of prostitution in the four studied countries

Although estimates of the scale of prostitution are unreliable, we can tentatively compare the four Member States and estimate the number of prostitutes per 100 000 population. The estimates need to be read with the caveats already described. Table 5.11 below provides these estimates.

([32]) 'The Germany Prostitution Mapping 2008 is based on the answers of 54 organisations: 30 Public Health Care Services, 22 NGOs, one Law Enforcement agency, and one Youth Welfare Office. The organisations are located in 39 different towns of the 16 German states'. (Tampep, 2009)

Table 5.12 Rates of prostitution in Germany, the Netherlands and Sweden

Member state	Approximate scale of prostitution in the period 2006-2014	Population in 2014	Approximate number of prostitutes per 100 000 population
Sweden	650 - 1 500	9 760 142	6.65 - 15.4
Netherlands	9 000 - 20 000	16 926 400	53.2 - 118.2
Germany	150 000 - 400 000	81 083 600	185.0 - 493.3

The Swedish rates appear to be by far the smallest. The Netherlands appear to have around nine times the rate of prostitution as Sweden. Germany appears to have the highest rate. More work is needed to provide more reliable estimates in all Member States.

DATA PROTECTION AND THE COLLECTION OF DATA ON TRAFFICKING AND PROSTITUTION

This section addresses data protection issues related to the collection of data on trafficking in human beings, including: the forms of data processed and collected by Member States and relevant EU legislation; a brief summary of the data protection legislation in the EU; and the application of EU legislation to national registers of trafficked victims, the processing of Member State data by entities such as Eurostat, the construction of registration schemes for prostitutes in individual Member States, and data gathered by researchers on the size of the prostitution market in Member States.

Forms of data processed and collected by Member States and relevant EU Directives

In the fields of trafficking in human beings and prostitution there are a number of activities related to the collection and processing of data, these include: national registers of trafficked victims as and where collected by the National Rapporteurs or Equivalent Mechanisms (NREMS) or by individual bodies within Member States, and supplied to European entities such as Eurostat; the processing of such national data on trafficking by Eurostat; the construction of registration schemes for prostitutes in individual Member States; and research data gathered into the size of the prostitution market in Member States.

All of these are essential data sources for helping to determine the size and scale of human trafficking, prostitution and the evaluation of policy. The collection of such data is mandated by Article 19 of the Anti-Trafficking Directive.

The European Commission's Strategy towards the Eradication of Trafficking in Human Beings (2012-2016) contains additional detail on the mechanism required for data collection. Under Action point 1 of Priority E, the Commission, together with Member States, is requested to develop:

> '...an EU-wide system for the collection and publication of data broken down according to age and gender. Understanding the flows and trends of internal trafficking will be an important part of this work.'

Priority E is concerned with 'Increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings', thus disaggregation by the form of trafficking is a requirement. The European Data Protection Supervisor recommended that the inclusion of a data protection perspective would help this area.

Data protection legislation in the EU

There are a number of relevant pieces of legislation on data protection in the EU: including the 1995 Directive 95/46/EC; Regulation 45/2001, and the 1997 Treaty of Amsterdam ([33]), which extended legislation to EU bodies. The Treaty of Lisbon established data protection as a legally binding fundamental human right. The 2012 Review of Data Protection has also proposed a draft directive and regulation which is currently under discussion.

([33]) Europa (2014) *Treaty of Lisbon*. Available at: http://ec.europa.eu/archives/lisbon_treaty/index_en.htm

The 1995 Directive

The current EU directive on data protection is Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 relating to 'the protection of individuals with regard to the processing of personal data and on the free movement of such data'. This 1995 directive allows for the collection of data for government statistics and for scientific research in sections 33 and 34 of the preamble:

> '(33) Whereas data which are capable by their nature of infringing fundamental freedoms or privacy should not be processed unless the data subject gives his explicit consent; whereas, however, derogations from this prohibition must be explicitly provided for in respect of specific needs, in particular where the processing of these data is carried out for certain health-related purposes by persons subject to a legal obligation of professional secrecy or in the course of legitimate activities by certain associations or foundations the purpose of which is to permit the exercise of fundamental freedoms;
>
> (34) Whereas Member States must also be authorized, when justified by grounds of important public interest, to derogate from the prohibition on processing sensitive categories of data where important reasons of public interest so justify in areas such as public health and social protection — especially in order to ensure the quality and cost-effectiveness of the procedures used for settling claims for benefits and services in the health insurance system — scientific research and government statistics; whereas it is incumbent on them, however, to provide specific and suitable safeguards so as to protect the fundamental rights and the privacy of individuals.'

Within the Articles of the 1995 Directive, Article 4 stipulates that national law applies. This had led to different forms of implementation in different Member States ([34]), and to a proposed revision of data protection in Member States.

Article 7 allows for the collection of data for the legal needs of the state: (see 7c and 7e)

> 'Member States shall provide that personal data may be processed only if:
> (a) the data subject has unambiguously given his consent; or
> (b) processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; or
> (c) processing is necessary for compliance with a legal obligation to which the controller is subject; or
> (d) processing is necessary in order to protect the vital interests of the data subject; or
> (e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third-party to whom the data are disclosed; or
> (f) processing is necessary for the purposes of the legitimate interests pursued by the controller or by the third-party or parties to whom the data are disclosed, except where such interests are overridden by the interests for fundamental rights and freedoms of the data subject which require protection under Article 1 (1).'

Article 8 prohibits the collection of sensitive data relating to, amongst others, a person's sex life.

> 'Article 8: The processing of special categories of data
> 1. Member States shall prohibit the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life.'

However, this paragraph does not apply when data is required for employment law in so far as it is authorised by national law providing for adequate safeguards:

> '2. Paragraph 1 shall not apply where:
> (b) processing is necessary for the purposes of carrying out the obligations and specific rights of the controller in the field of employment law in so far as it is authorized by national law providing for adequate safeguards;'

([34]) For an example, see NHS European Office (2015) *Data protection*. http://www.nhsconfed.org/regions-and-eu/nhs-european-office/influencing-eu-policy/data-protection

or for the care of the subject:

> '3. Paragraph 1 shall not apply where processing of the data is required for the purposes of preventive medicine, medical diagnosis, the provision of care or treatment or the management of healthcare services, and where those data are processed by a health professional subject under national law or rules established by national competent bodies to the obligation of professional secrecy or by another person also subject to an equivalent obligation of secrecy.'

In addition, Member States can lay down further categories of data which are exempt:

> '4. Subject to the provision of suitable safeguards, Member States may, for reasons of substantial public interest, lay down exemptions in addition to those laid down in paragraph 2 either by national law or by decision of the supervisory authority.'

Criminal data is also currently exempt subject to appropriate safeguards:

> '5. Processing of data relating to offences, criminal convictions or security measures may be carried out only under the control of official authority, or if suitable specific safeguards are provided under national law, subject to derogations which may be granted by the Member State under national provisions providing suitable specific safeguards. However, a complete register of criminal convictions may be kept only under the control of official authority.'

For Member States that have national identification numbers, the data protection issues are derogated to them:

> 'Member States shall determine the conditions under which a national identification number or any other identifier of general application may be processed.'

The 1997 Treaty of Amsterdam

Article 286 of the EC Treaty, adopted in 1997 as part of the Treaty of Amsterdam, provided that the protection of individuals with regard to the processing of personal data should also apply at EU level to bodies such as Eurostat, and set out the legal basis for the establishment of an independent supervisory authority — the Data Protection Supervisor. This was implemented in Regulation (EC) 45/2001.

The 2007 Treaty of Lisbon

A fundamental right to data protection is enshrined in Articles 7 and 8 of the EU Charter of Fundamental Rights. The Lisbon Treaty of 2007 made the Charter legally binding on the institutions and bodies of the European Union, and on the Member States when implementing EU law.

The 2012 Review of Data Protection

A review of the 1995 Directive was undertaken between 2010 and 2011 and led to a number of proposals which were published by the Commission in 2012 as a proposed Regulation and Directive. This addressed the increasing diversity of the way the 1995 directive had been incorporated into national law of individual Member States, and the need for more harmonisation in legislation across the EU-28. These two documents are currently subject to discussions, and so the comments below refer to the original versions of these documents.

There are two documents relating to these proposals: a regulation document and a directive document.

COM/2012/011 is a proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data, and

COM/2012/010 is a proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data relating to criminal offences ([35]).

([35]) Eur-Lex Procedure 2012/0011/COD. Available at: http://eur-lex.europa.eu/procedure/EN/201286

In the 2012 Regulation proposal, the relevant Article on the collection of sensitive data is Article 9. This provides two new categories of exemption — 2(g) and 2(i) — which are not present in the 1995 Directive:

> 'Article 9: Processing of special categories of personal data
> 1. The processing of personal data, revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, and the processing of genetic data or data concerning health or sex life or criminal convictions or related security measures shall be prohibited.
> 2. Paragraph 1 shall not apply where:
> (g) processing is necessary for the performance of a task carried out in the public interest, on the basis of Union law, or Member State law which shall provide for suitable measures to safeguard the data subject's legitimate interests; or
> (i) processing is necessary for historical, statistical or scientific research purposes subject to the conditions and safeguards referred to in Article 83;'

Article 83 of the proposed Regulation provides safeguards for scientific research:

> 'Article 83: Processing for historical, statistical and scientific research purposes
> 1. Within the limits of this Regulation, personal data may be processed for historical, statistical or scientific research purposes only if:
> (a) these purposes cannot be otherwise fulfilled by processing data which does not permit or no longer permits the identification of the data subject;
> (b) data enabling the attribution of information to an identified or identifiable data subject is kept separately from the other information as long as these purposes can be fulfilled in this manner.'

The proposed EU directive on criminal offence and other criminal law data also allows (Article 8. 2(a)) for the processing of data relating to the sex life of the individual where the processing is authorised by a law providing appropriate safeguards:

> 'Article 8: Processing of special categories of personal data
> 1. Member States shall prohibit the processing of personal data revealing race or ethnic origin, political opinions, religion or beliefs, trade-union membership, of genetic data or of data concerning health or sex life.
> 2. Paragraph 1 shall not apply where:
> (a) the processing is authorised by a law providing appropriate safeguards;'

The following section describes the application of EU data protection legislation to the four categories of data outlined in the first section.

National registers of trafficked victims

In this report, we identify the need for the collection of detailed victim trafficking data which is disaggregated by data source, gender, age of victim and form of trafficking (see Conclusions for this chapter). We suggest that lists, or registers, or trafficked victims should be collected by the National Rapporteurs or Equivalent Mechanisms (NREMS) or by individual bodies within Member States, and supplied to Eurostat. The collection of such data is allowed under the 1995 Directive, and statistical data related to victims is required by the 2011 Directive 2011/36/EU. Whether data is deemed 'sensitive' affects how it is treated under data protection law. There are several issues here: whether 'sex life' is 'sensitive' data for the purposes of data protection regulations; the responsibilities of NGOs to provide detailed named data to the National Rapporteur or Equivalent Mechanisms (NREMS) to allow victim cases to be matched to other victim data; and how information on gender reassignment is sensitive data and subject to strict conditions in many Member States.

Roth et al. (2015: Section 3) discuss whether 'sex life' is a sensitive data topic. They draw on their distinctive interpretation of case law from the ECJ and ECHR relating to the distinction between a persons' public and private sex life. This interpretation of the case law was influential on the Dutch government reaching the conclusion that the professional sex life of a prostitute is sensitive data in the same way that a private sex life is. Roth et al. (2015: Section 5.1) details the role of the NGOs and the ability of the NREM to request data from them and other bodies. They suggest that the role of the NGOs in collaborating with data collection mechanisms is not clear (p. 67). It is recommended that NGO counselling centres should not be obliged to provide data on their clients to Government

stakeholders or other third parties. However, not all agree with the interpretation of the case law used to underpin their arguments; nor with the severity of the implications for data collection that they take into consideration.

Article 19 of Directive 2011/36/EU requires the gathering of statistics by NREMS in close cooperation with relevant civil society organisations active in this field, and reporting estimates of the scale of trafficking. Some of this data might be considered sensitive as it would need to be stored by name or national ID number in the individual Member State. We would agree this is important data, even if identified as sensitive. The exceptions in the current 1995 Directive and the more extensive exceptions in the 2012 proposed Regulation allow NREMS to request such data. We suggest that NGOs should be obliged to provide such un-anonymised data with appropriate safeguards through secure computed systems in order to support efforts to estimate the gendered specificity of the scale of trafficking in human beings and to support efforts to evaluate the impact of policy and practice interventions. In addition, NREMS should provide individual but anonymised data records to Eurostat so that country estimates can be made of the size and scale of particular forms of trafficking. The requirement for NREMS to provide such data should be made explicit in any revision to EU law.

Processing of national data by Eurostat

Eurostat is obliged to consider data protection issues. There is no need for Eurostat to receive data on named individuals if NREMS provide data in a suitable form such as individual anonymised records with sources identified. The proposed EU 2012 Data Protection Regulation will explicitly allow for individual level data to be processed by EU Statistical organisations.

The construction of registration schemes for prostitutes in individual Member States

This is a challenging area with contesting interpretations of public duties. As noted above, the Dutch Ministry of Justice considers that a person's professional sex life should be treated as sensitive data and subject to the same considerations as a private sex life. There is an exception in the 1995 Directive which relates to the collection of sensitive data for employment reasons, but this exception has not been used as a justification for registration in the Netherlands. The aims of the proposed Dutch registration bill were to regulate prostitution and sex businesses and to facilitate control and enforcement; therefore, the connection with employment regulation is tenuous.

Currently, the Dutch proposed registration law is withdrawn and there is no requirement for prostitutes to register.

The German regime, where prostitutes are registered for tax and social security reasons, appears to be allowed under the 1995 Data Protection Directive as the records are kept for the purposes of employment and not for control.

The same considerations apply to prostitution client databases produced by organisations for the purposes of monitoring and control. In Member States where being a client of a prostitute is legal this also falls under a person's private sex life; it is likely this would also be sensitive data. For Member States where being a client is illegal, strong safeguards relating to Criminal Justice data are needed, particularly under the proposed 2012 Data Protection Directive. Whether client names can be publicised in newspapers and posters (as happens in some US states) remains untested in EU law but appears to be against data protection requirements.

Research data on the size of the prostitution market in Member States

Research in this area may be problematic as it also falls into the area of sensitive personal data. For example, to develop a method to estimate the size of a street prostitution population, the names of the prostitutes (or other form of identification) need to be collected to avoid double counting. It is conceivable that aliases could be used which would then make the data anonymous.

In a similar way, identification of the number of unique prostitutes providing service online is needed. It is possible that other ways of determining uniqueness such as mobile phone numbers could be used to avoid identifying individuals, but this is less satisfactory.

Conclusions on data protection

There are debates on the extent to which personal data concerning victims of trafficking and sex workers should be subject to restrictions as stemming from legal obligations for data protection. While noting these issues, our conclusion is that there are sufficient ways to ensure the adequate protection to individuals that is the core of the concern, while collecting data in these areas that is necessary to inform public policy.

CONCLUSIONS

This report is concerned with practices to reduce and combat trafficking in human beings: service provision, law enforcement, online safeguarding, and prostitution policy change. Statistics can support the evaluation of these practices by evidencing change over time and between different regimes. In order to do so, robust and comparable measures of trafficking in human beings and in prostitution are needed.

The series of Eurostat reports 'Trafficking in Human Beings' (2012, 2013 and 2015) are currently the only source of gender-specific statistics on the scale of trafficking in the EU-28. These statistics find that trafficking in human beings is highly gendered. Victims are predominately female and traffickers are predominately male. Trafficking for sexual exploitation is the most gendered form, with over 95 % of registered victims being female. Whilst the best available, this Eurostat EU-28 data could be improved in its reliability and comparability.

Trafficking is difficult to measure. Despite challenges intrinsic to the field significant effort is being deployed in developing data collection and estimation methodologies. Work to develop the measurement of trafficking in human beings should also include the following:

A consistent definition, over time and across geographical space is needed to frame data collection. All EU-28 administrative data collection mechanisms should be obliged to use the 2011 Directive 2011/36/EU definition of trafficking and the Directive definition of identified and presumed victims.

The collection of data on trafficking is not yet embedded in or harmonised across all administrative bodies in EU-28 Member States. Member States should be obliged to provide coordinated and harmonised data on trafficking from all relevant administrative bodies (and other organisations). The EU Anti-Trafficking Coordinator should develop a data collection template for use across the EU-28. This should ensure that data collected uses harmonised definitions and can be disaggregated by: status (for example identified or presumed victim; suspected, prosecuted or convicted trafficker); form (for example, sexual exploitation); gender; age; and source of data.

An identified person within each Member State (for example, the National Rapporteur) should hold the responsibility to collect, coordinate and aggregate national level data on trafficking, independent of government. They should have a remit to liaise with the appropriate EU level entities to enable coordinated data analysis across the EU-28.

Statistics on the gender specificity of trafficking in human beings should be in the public domain so policy-makers, practitioners, and researchers can contribute to, and use this evidence base to improve future interventions. The European Commission should create a new Regulation requiring Eurostat to continue with analysis of data across the EU-28 on the gendered specificity of trafficking in human beings.

Significant effort has been made to develop measurement methodologies. Many of these initiatives have been funded at the European level. The EU Anti-Trafficking Coordinator should publish the conclusions and recommendations of funded projects and implement an on-going review of these to ensure priority research needs are being met. A mechanism for sharing and implementing 'lessons learned' from funded initiatives should be developed.

Statistics from registered populations are currently the main method of counting trafficking. There is little knowledge on the relationship between registered and unregistered populations. The European Commission should develop a programme of research on the best methodologies to estimate the scale of trafficking. This should build on the work of the large-scale surveys and studies which have been conducted in the field. Future research programmes should include: different sources of data; the relationship between registered (known) and unregistered (unknown) populations; sampling frames to best capture relevant populations (including the digital world, and the interaction between the 'real' and the digital); and the most appropriate units of measurement.

There is increasing interest in estimating the scale of prostitution, especially conceptualising trafficking for the purposes of sexual exploitation as either one form or in a particular relationship to prostitution. This is needed in order to support evaluation of policy change to combat and reduce trafficking for sexual exploitation. There is not yet coordinated data collection and analysis on prostitution across the EU-28 which is equivalent to that produced by Eurostat for trafficking in human beings. The European Commission should propose a new Regulation requiring Eurostat to undertake data collection and analysis on prostitution across the EU-28. The work on trafficking and that on prostitution should be compatible so that the relationship between them can be explored.

Statistics from large-scale surveys and studies are currently the main methods of estimating prostitution. Large-scale surveys on the buying and selling of sexual services provide some evidence on the relationship between known and unknown populations. There is excellent potential to advance this work, in particular to make them comparable over time and cross-nationally. The European Commission should support the development and implementation of a representative survey across the EU-28 on the experiences of national populations of buying and selling sexual services. Survey development should pay particular attention to the sampling frame, to the best method of delivery for sensitive topics, and to the use of questions which can differentiate between forms of prostitution (for example, Tampep).

Data on trafficking and on prostitution is sensitive and subject to data protection legislation. A named person in each EU-28 Member State (for example, the National Rapporteur) should hold responsibility for ensuring that data protection requirements are met, but do not become a barrier to the essential collection and analysis of data on trafficking and prostitution. Administrative bodies, NGOs and other organisations should be obliged to provide un-anonymised data to this person with appropriate safeguards through secure computed systems. The National Rapporteur or another designated person should then provide individual but anonymised data records to Eurostat. This requirement should be made explicit in any revision to EU law.

The proposed 2012 EU regulations on data protection appear to explicitly allow sensitive data to be collected for scientific and research purposes, but data protection issues will help shape measurement methodologies to take account of the privacy of an individual's sex life.

There are not yet robust or comparable statistics on trafficking or prostitution in the EU-28: both are needed to assist in combating and reducing trafficking in human beings. Progress is being made but more development is needed. In the meantime, there are other forms of data and evidence which can be used, alone or in combination with current statistics where appropriate. Expert judgement, in particular, and qualitative data from interviews and focus groups provide some evidence from which evaluation of policy and practice to combat and reduce trafficking can begin. The following case study chapters in this report use an innovative range of data and evidence to evaluate whether particular practices can contribute to the reduction of trafficking in human beings.

APPENDIX: METHODOLOGY OF LITERATURE SEARCH

Here, we detail the methods used in the systematic review of the literature.

A set of key words generated by reference to the theorisation of trafficking and through discussion with expert colleagues in the team was developed for the literature search. We began by running a 'pilot' in order to ensure identified the relevant literature and that erroneous literature was excluded (Table 5.12).

After implementing the pilot findings, a full systematic review was run. We searched 18 international literature databases covering scholarly and grey literature and the websites of the five most significant organisations in the field plus the websites of all National Rapporteurs or Equivalent Mechanisms accessible through the Anti-Trafficking Coordinators website (Table 5.13). This yielded 334 documents (Table 5.14). These were then manually sifted against five exclusion and selection criteria first by title, then by abstract, executive summary or similar (Table 5.15). The remaining documents (102) were read in full and a database was constructed of the raw data, total counts of specific known populations and estimates of known and unknown populations (Table 5.16).

Table 5.13 Systematic review search terms

Search Terms for repository databases and organisational websites	Boolean Search Strings
Trafficking, trafficked, traffick; modern slave, modern slavery; forced prostitution; forced labour	+traffick*ORmodernslave*OR forcedprostit*ORforcedlabour
Human; THB	+<human*
Estimate, estimated, estimation	+<estimat*
In addition, the search criteria are restricted by three criteria:	
Criterion	Justification
Publication data is restricted from: 2011 (EU Anti-trafficking Directive) to 2015	The most up-to-date estimates are required
Language is restricted to English	For sake of time and availability of interpretation.
Document types are restricted to those where the 'full text' is available	The full text is needed in order to extract the estimate, but more importantly to understand the context of the source and in order to be able to conduct an evaluative analysis of its gendered dimension.

Table 5.14 Scholarly and grey literature repository databases and organisational websites for the systematic reviews

General Bibliographies	
Article First	The database indexes articles from the table of contents of nearly 12 500 journals
Web of Science	Collectively indexes over 8 500 high-quality, peer-reviewed journals, providing complete bibliographic data, full-length author abstracts, and cited references to influential research
JSTOR	An archive of important scholarly journals.
Oxford Reference	Oxford Reference Online consists of facts, figures, definitions, and translations found in dictionary, language reference, and subject reference works published by Oxford University Press
General Social Science	
IBSS (International Bibliography of the Social Sciences)	An online resource for social science and interdisciplinary research.
SCIE (Social Care on Line)	The United Kingdom's most extensive free database of social care information, including: research briefings, reports, government documents, journal articles, and websites
Lexis	Provides access to case law and legislation.
Westlaw	United Kingdom and European case law, legislation and legal journals
Project MUSE	Access to over 540 high quality journals in the arts, humanities and social sciences.
General Scholarly Literature	
Google Scholar	Provides a broad search for scholarly literature across multiple disciplines and sources, including: articles, theses, books, abstracts and court opinions, from academic publishers, professional societies, online repositories, universities and other websites
Reports	
WorldCat	Contains over 43 million records describing library holdings
COPAC	Merged online catalogues of 22 of the largest university research libraries in the United Kingdom and Ireland PLUS the British Library
National Statistics United Kingdom	The United Kingdom National Statistics Publication Hub is the gateway to the latest statistics released each day by government departments in the United Kingdom.
Dissertations and Theses	
ProQuest	Dissertations and theses from around the world
Grey Literature	
OpenGrey	A multidisciplinary European database for 'grey' literature [note that coverage is best for the period 1980-2005, although more recent conference papers may be indexed]
BASE (Bielefeld academic Search Engine)	Repository of grey literature which enables searches for reports, thesis, etc.
Newspapers	
Nexis (global)	Large collection of newspapers from the United Kingdom and the rest of the world and company information and reports

Organisation Websites
National Rapporteurs or Equivalent Mechanisms in Member States via: http://ec.europa.eu/anti-trafficking/national-rapporteurs_en
European Commission: http://ec.europa.eu/index_en.htm
Eurostat: http://ec.europa.eu/eurostat/
International Labour Organisation: http://www.ilo.org/global/about-the-ilo/lang—en/index.htm
International Organisation for Migration: https://www.iom.int/
UN Office on Drugs and Crime: http://www.unodc.org/

Table 5.15 Number of documents retained from each repository database and organisational website

Database/website	Date searched	Number documents retained
REPOSITORY DATABASES		
Article First	8.5.2015	0
Web of Science	8.5.2015	36
JSTOR	8.5.2015	34
Oxford Reference	11.5.2015	6
IBSS (International Bibliography of the Social Sciences)	7.5.2015	12
SCIE (Social Care Online)	7.5.2015	42
Lexis	10.5.2015	1
Westlaw	10.5.2015	1
Project MUSE	12.5.2015	5
Google Scholar	10.5.2015	18
WorldCat	11.5.2015	2
COPAC	13.5.2015	0
Discover: United Kingdom Data Service	12.5.2015	0
ProQuest	12.5.2015	10
OpenGrey	12.5.2015	3
BASE (Bielefeld Academic Search Engine)	11.5.2015	1
Nexis (Global)	9.5.2015	87
ORGANISATIONAL WEBSITES		
National Rapporteurs or Equivalent Mechanisms in Member States	18.5.2015	31
European Commission	18.5.2015	16
Eurostat	18.5.2015	12
International Labour Organisation	18.5.2015	4
International Organisation for Migration	18.5.2015	10
UN Office on Drugs and Crime	12.5.2015	3
TOTAL		**334**

Table 5.16 Exclusion and selection criteria

Criterion	Justification for criterion
Exclusion criteria	
Document is a duplicate	Duplicate copies are not required: one copy of each document only will be retained
Document was published before 2011	The most up-to-date estimates are required and thus documents are restricted to those published between 2011 (EU Anti-trafficking Directive) and 2015
Estimate is not the most recent in the time series	Where data is part of a time series, the latest estimate is required
Document is in a series of repeated publications and is not the most recent	Only the most up-to-date estimates are required for this part of the report: we expect each iteration of a series to contain the most up-to-date data and thus only need to retain the most recent edition
Selection Criteria	
Estimates on the current scale of European or global trafficking in human beings are given	This is the purpose of the systematic review

Table 5.17 Scale of trafficking in human beings, by source

Country Code	European entity	Time period	Number of victims	Source
AT	Austria	2012	103	Eurostat (2015)
BE	Belgium	2013	1 108 ([36])	National Rapporteur (2014)
			69 ([37])	
			21 ([38])	
		2012	157	Eurostat (2015)
BG	Bulgaria	2012	579	Eurostat (2015)
CH	Switzerland	2012	60	Eurostat (2015)
CY	Cyprus	2012	37	Eurostat (2015)
CZ	Czech Republic	2013	57	Security Policy Department (2013)
		2012	100	Eurostat (2015)
DE	Germany	2013	603 ([39])	Bundeskriminalamt report
			542 ([40])	
		2012	626	Eurostat (2015)
DK	Denmark	2012	66	Eurostat (2015)
EE	Estonia	2012	22	Eurostat (2015)
EL	Greece	2012	94	Eurostat (2015)
ES	Spain	2012	125	Eurostat (2015)
FI	Finland	2013	128 ([41])	Finnish National Rapporteur (2014)
			56 ([42])	
			21 ([43])	
		2012	75	Eurostat (2015)
FR	France	2012	751	Eurostat (2015)
HR	Croatia	2012	11	Eurostat (2015)
HU	Hungary	2012	57	Eurostat (2015)
IE	Ireland	2012	48	Eurostat (2015)
		2011	57	Quinn (2013)
IS	Iceland	2012	2	Eurostat (2015)
IT	Italy	2012	2 631	Eurostat (2015)
LT	Lithuania	2012	14	Eurostat (2015)
			100+ ([44])	Institution of the Ombudsman for Children's Rights of the Republic of Lithuania (2013)
LU	Luxembourg	2012	7	Eurostat (2015)
LV	Latvia	2012	144	Eurostat (2015)
MT	Malta	2012	8	Eurostat (2015)
NL	Netherlands	2014	1 561 ([45])	Dutch National Rapporteur and Eurostat
			1 030 ([46])	
			531 ([47])	
		2012	1 711	Eurostat (2015)
			1 711	[Dutch] National Rapporteur (2014)

([36]) Police data.
([37]) Social Inspectorate data on trafficked employees.
([38]) Social Law Inspectorate data on trafficked employees.
([39]) BKA all victims of trafficking (federal criminal police).
([40]) BKA victims of trafficking for sexual exploitation (federal criminal police).
([41]) Trafficked persons applying for assistance.
([42]) Trafficked persons granted assistance.
([43]) Police reports (N=16) and border guards (N=5).
([44]) 'over 100 victims appealed for help'.
([45]) Registered victims — all trafficking.
([46]) Registered victims — trafficking for sexual exploitation.
([47]) Registered victims — trafficking for other forms of exploitation.

Country Code	European entity	Time period	Number of victims	Source
NO	Norway	2012	48	Eurostat (2015)
PL	Poland	2012	246	Eurostat (2015)
		2009-2011	1 524	Committee for Combating and Preventing Trafficking in Human Beings (2013)
PT	Portugal	2012	5	Eurostat (2015)
RO	Romania	2012	1 041	Eurostat (2015)
		2010	1 154	Mihalcea (2013)
RS	Serbia	2012	79	Eurostat (2015)
SE	Sweden	2014	33 ([48])	Swedish National Rapporteur reports
			60 ([49])	
		2012	88	Eurostat (2015)
SI	Slovenia	2012	67	Eurostat (2015)
SK	Slovakia	2012	40	Eurostat (2015)
TR	Turkey	2012	55	Eurostat (2015)
UK	UK	2013	2 744 ([50])	National Crime Agency et al. (2014)
			1 128 ([51])	
			743 ([52])	
			873 ([53])	
			10 000-13 000 ([54])	Silverman (2014)
		2012	2 145	Eurostat (2015)
EU-28		2012	10,998	Eurostat (2015)
		2010-2012	30,146	European Commission (2014) (citing Eurostat 2014 report)
Developed economies and EU		2012	1.5 million	ILO (2012)
Global		2012	20.9 million	EU (2011) citing ILO (2012)
			20.9 million	Danish Centre against HT(2014) citing ILO (2012)
			20.9 million (±7%)	ILO (2012)
		2012	2.4 million	Comissãopara cidadania elgualdade de Género and Presidéncia do Conselhode Ministros (2014) citing UNODC (2012)
		No date	1-4 million	IOM et al. (no date)

([48]) Police Recorded Crime — trafficking for sexual services.
([49]) Police Recorded Crime — trafficking for other services.
([50]) Potential victims — all trafficking.
([51]) Potential victims — trafficking for sexual exploitation.
([52]) Potential victims — trafficking for labour exploitation.
([53]) Potential victims — trafficking for other forms of exploitation.
([54]) Potential victims using NRM registered victims plus unknown population estimated using MSE method.

6. Demand reduction: Germany and the Netherlands ([55])

INTRODUCTION

As stated above, 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 Europol and 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.

Furthermore, according to Article 18 of the EU anti-trafficking directive, entitled 'Prevention', Member States have a legal obligation to discourage and reduce the demand that fosters all forms of exploitation.

The gender dimension of human trafficking is closely aligned with trafficking for purposes of sexual exploitation. As stated above, according to statistical data from Eurostat and other bodies, the overwhelming share of registered trafficking victims are trafficked for purposes of sexual exploitation, this being the main reason why women constitute the majority of all trafficking in human beings. The demand for prostitutes and the organisation of the prostitution business are thus closely related to the demand for trafficking in human beings. In this and the next section of this report we turn to the links between the regulation of prostitution and how this may or may not be eradicating the demand for trafficking in human beings for purposes of sexual exploitation. Regulations can be focused on one of three aspects: the sale of sex; the purchase of sex; and the taking of profits from the sale of sex. While the sale of sex is no longer criminal in most EU Member States, the regulation of taking profits from the prostitution of others and of the purchase of sex have been subject to different types of changes in Member States. The study investigates two of these innovations: the decriminalisation of some aspects of profit-taking from prostitution while still regulating prostitution businesses, an approach most developed in Germany and the Netherlands; and the criminalisation of the purchase of sex, exemplified best in Sweden. Rather than a simple polarity, we investigate the nuances and complexities of these bodies of regulations, discovering similarities as well as divergences. They share the common goals of reducing trafficking and the exploitation of the vulnerable, even as they begin from different starting points. The analysis includes not only an account of how these models diverge, but also in some cases, generate some similar insights into how reducing demand for prostitution contributes to reducing demand for trafficking in human beings.

The approach to prostitution in Germany and the Netherlands is typically depicted as a labour rights approach, which recognises prostitution as an occupational choice and aims to improve the employment and working conditions of women in prostitution (Dölemeyer, Pates and Schmidt 2010; Kavemann 2009; Kelly, Turner and Coy 2014; Mitrovic 2007; Outshoorn 2014; Pates 2008; Siegel 2009). The practice is to drive demand into a sector of voluntary and regulated prostitution, where some degree of profit-taking is legitimated, while mobilising law enforcement against all forms of forced prostitution by outlawing pimping, the exploitation of the prostitution of others, and trafficking. A clear use of criminal law in the case of pimping and trafficking but also strong use of administrative law at the local level (to licence, inspect, as well as block criminals from entering or remaining in prostitution businesses and to ban some forms of business unconditionally) is at the core of law enforcement strategy to eradicate demand for trafficking. In relation to the EU strategy, law enforcement aims to **identify** trafficking victims inside and outside the voluntary prostitution sector, to **prevent** trafficking by erecting barriers to entry by

([55]) Karen Shire, Birgit Apitzsch, and Markus Tünte

traffickers and their victims and to **prosecute** traffickers. In relation to the anti-trafficking directive, these measures fall most clearly under the provisions in Article 6 'Sanctions on legal persons' (Directive 2011/36/EU).

The Dutch and German approach involves close cooperation with selected NGOs ([56]) and welfare organisations to support victims of trafficking, but also to engage with law enforcement in identifying victims, preventing trafficking and prosecuting traffickers or third parties who exploit the prostitution of others. An important gender dimension of the German and Dutch approach is the role of women's support organisations in identification, prevention, and prosecution, as well as in victim support and enhancing knowledge. A more controversial gender dimension concerns the definition of prostitution as an occupational choice and prostitutes as 'sex workers.' Alongside Germany and the Netherlands, Austria has also taken this approach. A dependent employment relation is an option within this approach, yet most prostitutes are self-employed, with obligations to register their business and earnings under commercial and tax laws ([57]). Most measures practised locally to improve working conditions are meaningfully aimed at specific aspects of prostitution/sex work ([58]) such as sanitary and building conditions, health and safety measures and vigilance in enforcing bans on minors engaging in sex work. In the Netherlands, shift and working time regulations have been enacted to better regulate the conditions of sex work/prostitution. Yet, even in the best cases, when self-employed prostitutes are formally registered as self-employed this status brings a number of economic insecurities which disadvantage prostitutes in relation to social security and other social protections and work standards applied to dependently employed workers. Thus employment conditions and social insurance coverage of prostitutes share a number of disadvantages that women generally face in female-dominated service work jobs in Germany and the Netherlands; this stands in addition to disadvantages that are specific to prostitution work.

Strategies for eradicating demand for trafficking typically define the source of demand as buyers of services rendered by persons trafficked for purposes of sexual exploitation. The Dutch and German approaches, in contrast to the Swedish approach, do not aim to criminalise buyers, thus the contribution of these approaches to eradicating demand may not be evident at all. In the first section of this chapter, a conceptualisation of demand and supply in prostitution markets is presented, which illustrates the alternative source of demand informing the law enforcement strategies of the Dutch and German approach.

The second section of this report details the laws and ordinances used in Germany and the Netherlands to eradicate demand for trafficking for purposes of sexual exploitation. Germany uniquely passed a prostitution law (ProstG, BGBl. 2001, I Nr. 74: 3983, passed in 2001, enacted in 2002) while in the Netherlands prostitution businesses were legalised by lifting a ban on brothels and other forms of prostitution business (Staatsblad van het Koninkrijk der Nederlanden 1999, Nr. 464; laws passed in 1999, enacted in 2000). The analyses in the second section demonstrate, however, that the criminalisation of trafficking for purposes of sexual exploitation is covered in a number of provisions in criminal codes. Moreover, the central mechanism for driving demand into the voluntary and regulated prostitution sector — licensing and the power to deny and revoke licenses — draws on a range of criminal and administrative laws to sanction legal persons engaged in, attempting or even just suspected of being likely to engage in trafficking for purposes of sexual exploitation.

([56]) Besides public subsidies for NGOs which inform, offer consultations, or otherwise support persons in prostitution or victims of trafficking, the cooperation with NGOs manifests itself also in their involvement in governmental consultations on legal reforms. For instance, in Germany in 2014 the German Federal Ministry for Family, Seniors, Women and Youth invited the following NGOs and interest groups (in addition to police, Länder and municipalities, legal experts, unions and healthcare providers, and business representatives) to present their view on possible new regulations of prostitution: Deutscher Frauenrat e.V., Deutsche AIDS-Hilfe e.V., Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozess e.V. (KOK e.V.), Diakonie Deutschland, Evangelischer Bundesverband, Evangelisches Werk für Diakonie und Entwicklung e.V., Sozialdienst katholischer Frauen Gesamtverein e.V. (SkF), Bündnis der Fachberatungsstellen für Sexarbeiterinnen und Sexarbeiter e.V. (bufas e.V.), Dortmunder Mitternachtsmission e.V., Berufsverband erotische und sexuelle Dienstleistungen e.V. (BesD e.V), Bundesverband Sexuelle Dienstleistungen e.V. (BsD e.V.). Also, in the Netherlands NGOs and interest groups were involved in a hearing about the new prostitution bill 'Wet regulering prostitutie en bestrijding misstanden seksbranche' that took place in 2009. The following NGOs and interest groups were invited: Het Scharlaken Koord, CoMensha, De Rode Draad, SOA AIDS Nederland Vereining Vrouw en recht, Stiching de Haven Den Haag, Humanitas Prostitutie Maatschappelijk Werk Rotterdam, Opvang slachtoffers loverboys (Salida crisisopvang), Stichting Hulpverlening en Opvang Prostituees (Shop), BLinN (Bounded Labour in Nederland), Human Rights Research & Consultancy and Vereniging Exploitanten Relaxbedrijven.

([57]) In the Netherlands, self-employed prostitutes are under the same obligations as other self-employed persons to register with the Chamber of Commerce in the sense of registering a business. This is not an obligation in Germany, though in Dortmund (see case study below) they may voluntarily register with the *Ordnungsamt*. In both countries self-employed prostitutes report their income to tax authorities and pay taxes. In Germany, prostitutes are also obliged to join a health insurance scheme, while in the Netherlands they are covered by universal healthcare.

([58]) It is now common in Germany and the Netherlands to refer to all prostitutes as 'prostitutes' and no assumption is made that self-employed prostitutes are businesses rather than workers, since in most cases their contact with buyers is mediated by brothels, agents, or other real or virtual third parties taking profits (or receiving rent for premises provided) from their work.

The third section discusses case studies of two municipalities which represent best cases of the mobilisation of this legal arsenal to eradicate trafficking for purposes of sexual exploitation. This research is based on in-depth interviews with law enforcement officials, local administrators, women's support, welfare and other NGOs involved in the licensing and inspection of prostitution businesses and fighting trafficking in the sector. We have explicitly chosen a 'best case' methodology due to a major shortcoming of the Dutch and German approach; the lack of any nationwide licensing practices for prostitution businesses. The absence of mandatory national measures generates a great deal of heterogeneity in how the sector is regulated (Kavemann and Steffen 2013; Kavemann 2009; Czarnecki, Engels, Kavemann, Schenk, Steffan and Türnau 2014; Dölemeyer, Pates and Schmidt 2010; Outshoorn 2012). The two municipalities chosen — Amsterdam and Dortmund — are recognised in the literature as having some of the most far-reaching regulations at the local level, and enable an analysis which can uncover the full potential of the demand reduction approaches in Germany and the Netherlands to eradicate trafficking.

In addition to the absence of nationwide licensing practices, a number of other weaknesses in the Dutch and German approach to eradicating trafficking for purposes of sexual exploitation are now well recognised in both countries. Major parliamentary reforms currently debated in the Dutch and German national governments are reviewed in the conclusion to the third section in light of their relevance for improving anti-trafficking measures within the regulation of prostitution.

The final section explicitly addresses the gender dimensions of the Dutch and German demand reduction approach in relation to the five factors elaborated on in the first chapter of this report: gender-specific/equal treatment, gender expertise/gender balance in decision-making, demand reduction by reducing the exploitation of the prostitution of others, competing policy fields which are differently gendered and resourced, and gendered systems and the theory of prevention. The conclusion draws on insights from the Dutch and German cases and the performance of the regulatory approach in reducing demand to make recommendations for national reforms and for improving the EU anti-trafficking directive (EC 2011).

CONCEPTUALIZATION OF DEMAND AND PATHS TO ERADICATING TRAFFICKING THROUGH DEMAND REDUCTION

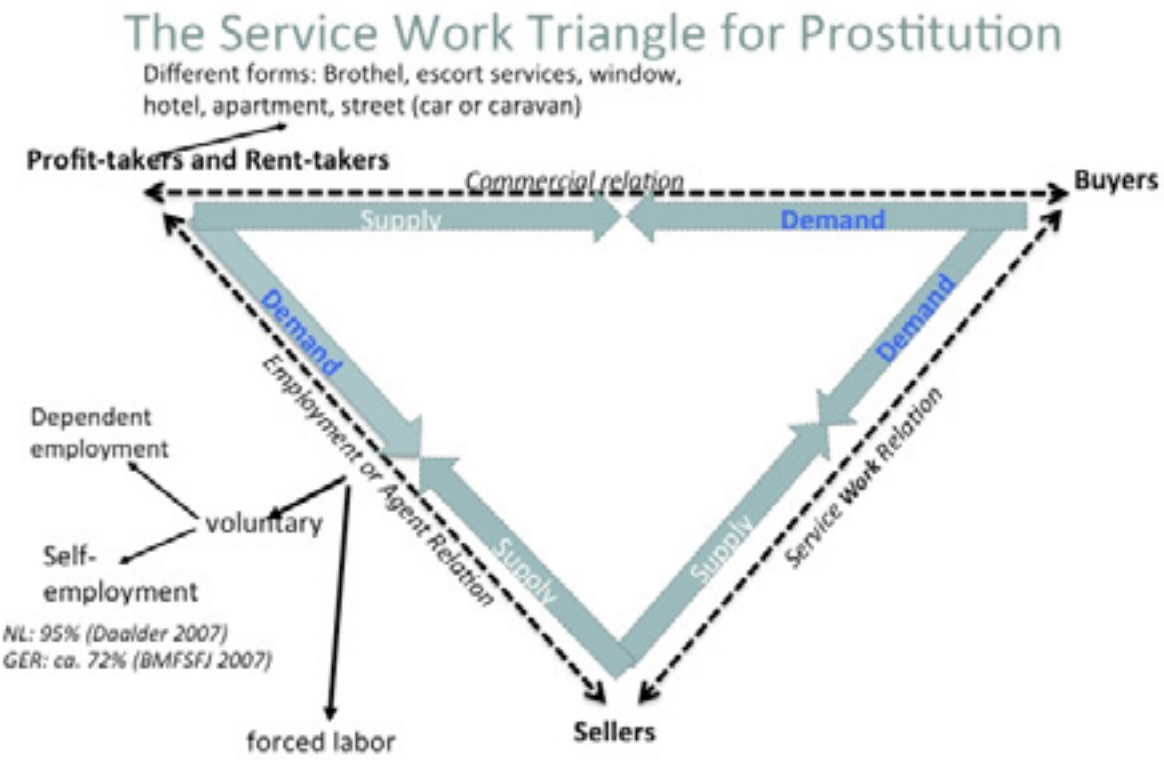
Recent research has argued for a clearer conceptualisation of the concept of demand and demand-side measures for curbing trafficking in human beings, but these contributions have approached the conceptualisation from an economic perspective (Vogel 2014). The alternative perspective proposed here draws on the sociology of service work (Jacobsen and Voswinkel 2005; Jacobsen 2010) and a political-cultural approach to markets and how they are regulated (Fligstein 2001). Together these sociological perspectives view markets as socially embedded relations between buyers and sellers of a product or service and views working conditions as the outcome of regulations governing the use of labour power. Market and working relations are always more than a simple economic transaction governed by the price mechanism, since markets are institutions created over time by state regulations and governed by rules, norms, and shared understandings of legitimate and fair work practices (Fligstein 2001).

This sociological approach is also well-aligned with recent work on prostitution and the effect of different approaches on trafficking, which begins with the notion of 'buyers' and 'sellers' and how different approaches seek to regulate the relationships between them (Kelly, Turner and Coy 2014). Trafficking, in the context of the Dutch and German approach is a crime, and stands in contrast to 'voluntary' exchanges between 'buyers' and 'sellers' as well as norms implicit to regulations about legitimate forms of sexual services and shared understandings of fairness in sexual service transactions. As in most service markets, prostitution is marketed by some form of intermediary taking-profits or collecting rents, either in the form of an enterprise with an identifiable location of business (e.g. a brothel, apartment, or club) or in the form of an agent (e.g. escort services or hosts of internet matching sites). From the perspective of such 'profit-takers', 'rent-takers', and 'fee-collectors' in various forms of sexual service market transactions, traffickers are a form of illegal 'staffing service', interrupting legitimate intermediaries and their business by undercutting wages, other standards, and profit rates in the formal market.

The idea of legitimate 'profit-takers' in sex markets is implicit to the Dutch and German approach, as is the exoneration of 'buyers' from direct regulation of prostitution or the criminalisation of trafficking. Moreover, these models make a claim to improve the autonomy and protection of 'sellers' by recognising prostitution as an occupational choice and legitimate form of work. We draw on the sociological literature about service work, specifically the concept of the service work triangle (Frenkel, Korczynski, Shire and Tam 1999: 199), to analyse how relations

between profit-takers and buyers (commercial relations) and profit-takers and sellers (employment relations) are regulated in what we conceptualise as an 'alternative demand strategy for eradicating trafficking for purposes of sexual exploitation.' Specific to this alternative strategy is the absence of regulation of the direct relation between buyers and sellers (service work relations).

Figure 6.1 The Service Work Triangle for prostitution



The sides of the service triangle for prostitution delineate sets of supply and demand relations, which are threefold in any situation where 'sellers' and 'buyers' are not completely independent of enterprises, locations, or agents for market transactions. In most research on demand-side strategies for eradicating prostitution, buyers are the focus, and they are, as Figure 6.1 illustrates, most clearly in the position of demand in prostitution markets. The exemplary case of a demand strategy in this sense is the criminalisation of buying, which effectively shuts down prostitution markets, with Sweden as a model. As Figure 6.1 illustrates, an alternative source of demand for prostitutes (and trafficking victims) derives from profit-takers/rent-takers who depend on a supply of prostitutes for services offered to buyers. The German and Dutch approaches to regulating prostitution are analysed in this report as an 'alternative demand reduction strategy' aimed at profit-takers rather than buyers.

In this alternative demand reduction strategy, regulatory activity directed towards profit-takers/rent-takers targets the employment relations with sellers and commercial relations with buyers. In terms of employment or agent relations, the alternative approach draws a distinction between voluntary prostitution and forced prostitution associated with criminal exploitation and trafficking. Regulation of employment relations between profit-takers and sellers aim at driving criminal supplies of labour out of prostitution markets. In terms of commercial relations, the alternative strategy draws a second distinction between legitimate and illegal businesses. Legitimate businesses engage in 'reasonable' profit-taking/rent-taking while illegal business seek 'excessive' profit-taking from criminal businesses based on pimping and the exploitation of the prostitution of others associated with trafficking. Regulations involve the criminalisation of pimping, exploitation and trafficking on the one hand, and the licensing and control of legitimate prostitution businesses on the other hand, to drive criminals and rogue businesses out of prostitution markets.

A central difference between the two demand strategies regards the criminalisation versus exoneration of buyers, not only in prostitution, but as we will see, also in prosecuting trafficking. A similarity between the two demand strategies is the protected position of sellers, who are not criminalised, though as we will see, this occurs nonetheless, though unintentionally, in the alternative demand strategy. **Finally, an important difference concerns how the criminalisation of the exploitation of the prostitution of others is understood across the two demand strategies. Is all profit-taking from the prostitution of others considered to be exploitation of the prostitution of others?** The answer is no, within the logic of the alternative demand strategy, which makes a distinction between 'reasonable' profit-taking by legalised and legitimate prostitution businesses, and 'excessive' profit-taking by pimps and exploitative businesses, which are associated with trafficking in human beings and other crimes. Moreover, the underlying understanding of the gender dimensions of prostitution differ widely in these two models. The original demand reduction strategy, as exemplified by Sweden (see Chapter 7), views all prostitution as violence against women and views the eradication of prostitution as a gender equality measure. The alternative demand reduction strategy, exemplified by Germany and the Netherlands, regulates prostitution with the aim of improving the autonomy and control of women in prostitution, to end forced labour of women and to end violence and exploitation of women by driving pimps, traffickers and other criminals engaged in exploitative practices out of prostitution markets.

As the next sections will show, the regulatory approaches that constitute the German and Dutch alternative demand reduction strategies for eradicating trafficking are concentrated on the upper left hand corner of Figure 6.1 in regulating profit-taking/rent-taking as businesses and the relationship between profit-takers/rent-takers and prostitutes working in their businesses (the employment or agent relation on the left-side of the triangle). The next section addresses how the alternative demand reduction strategies regulate prostitution businesses in Germany and the Netherlands, specifically in relation to eradicating forced labour and trafficking from prostitution.

LEGAL REGULATIONS RELEVANT TO ERADICATING TRAFFICKING FOR THE PURPOSES OF SEXUAL EXPLOITATION IN GERMANY AND THE NETHERLANDS

The laws and codes relevant for eradicating trafficking for purposes of sexual exploitation in Germany and the Netherlands span criminal and administrative law. Prostitution was given the status of a legal commercial relation through the enactment of the German Prostitution Law in 2002 and in 2000 in the Netherlands with the enforcement of the lifting of a ban on brothels and profit-taking in prostitution. Prostitution as a legitimate form of business, however, hinges on adjustments to the criminal code which clearly sanctioned exploitation, pimping, and the prostitution of minors. These prohibitions are covered in specific items in the criminal code as well as in parts of the anti-trafficking laws in both countries. Moreover, administrative laws enable processes of licensing prostitution businesses and commercial enterprises and create the possibility to impose bans on prostitution altogether or in specific forms at the local administrative level.

Table 6.1 details the main articles and paragraphs of criminal law in Germany and the Netherlands, which criminalise specific practices of prostitution and trafficking for purposes of sexual exploitation.

Table 6.1 Criminal codes relevant to eradicating trafficking for purposes of sexual exploitation: Germany and the Netherlands (as of August 2015)

Germany	Netherlands
Prostitution Law BGBl. 2001, I Nr. 74: 3983 Gesetz zur Regelung der Rechtsverhältnisse der Prostituierten (Prostitutionsgesetz — ProstG, 20 December 2001, enforced since 1 January 2002). The law is part of the Civil Code, but the text of the law in Article 2 stipulates changes to Criminal Code §180a on exploitation of prostitutions and §181a on pimping	**Lifting of the ban on brothels and pimping** Wet on 'Opheffing algemeen bordeelverbod' Stb 1999, 464, In 2000 Article 250bis prohibiting brothels and Article 432 prohibiting subjugation were removed, and Article 250a on human trafficking was added, to draw a line between voluntary and forced prostitution
Exploitation of prostitutes § 180a Strafgesetzbuch (StGB): Ausbeutung von Prostituierten	**Trafficking 273f (1.6°) — wilful profiting from the prostitution of others** Replaced Article 250a in 2006

Germany	Netherlands
Pimping § 181a Strafgesetzbuch (StGB): Zuhälterei	**Trafficking 273f (1.9°) — inducing another person to provide him with the proceeds of that person's sexual acts with or for a third-party** Replaced Article 250a in 2006
Sexual abuse of youth § 176 Strafgesetzbuch (StGB): sexual abuse of children (under 14 years), § 176a Strafgesetzbuch (StGB): severe sexual abuse of children (under 14 years), § 180 Strafgesetzbuch (StGB): promotion of sexual activity by minors (under 18 years), § 182 Strafgesetzbuch (StGB): sexual abuse of minors (under 18 years)	**Trafficking and other Sexual exploitation of youth** Art. 273f inducing prostitution of minor (1.5°) or wilfully profiting from the prostitution of minors (juveniles younger than 18); Art. 244 (juveniles younger than 12); Art. 245 (juveniles aged 12 to 15); Art. 247 (juveniles younger than 16); Art. 248b (juveniles aged 16 and 17)
Trafficking § 232 Strafgesetzbuch (StGB): Human trafficking for purposes of sexual exploitation, §232 a Strafgesetzbuch (StGB): Facilitation of human trafficking	**Trafficking** Art. 273f (1.3°) who 'recruits, takes with him or abducts a person with the intention of inducing that person to make himself/herself available for performing sexual acts with or for a third-party for remuneration in another country'

The German prostitution law changed the legal status of prostitution from a business 'contrary to moral order' (*sittenwidrig*) to the status of a legal commercial relation, specifically recognising prostitutes as employed persons covered by labour standards and with claims to social insurance coverage. The wording of the law circumscribes the supervisory authority of employers so that they 'may not prescribe the choice of clients or the type of services provided' (BMFSFJ 2006: 16)' (Czarnecki, Engels, Kavemann, Schenk, Steffan and Thürnau 2014: 9, 44). Two paragraphs in the criminal code covering exploitation of prostitutes (§180a) and pimping (§181a) were adapted as specified in Article 2 of the Prostitution Law, drawing a clear line between legal and voluntary prostitution and the exploitation of the prostitution of others (SoFFi.K 2005: 94ff.). Paragraph 180a of the German criminal code had criminalised any promotion or facilitation of prostitution before 2002 (though brothels were not illegal per se) but the Prostitution Law changed this to specifically criminalise exploitation, defined as holding prostitutes in 'personal or economic dependence' (StGB §180a). Pimping underwent a significant redefinition through the Prostitution Law. Before 2002, persons could be prosecuted for pimping if they engaged in any commercial mediation of the sex or employed persons for purposes of prostitution. Paragraph §181a was reformulated so that it no longer covers any commercial mediation of sex, but rather specific actions which are aimed at increasing one's economic advantage through the prostitution of another by controlling the location, time, extent or other circumstances of prostituting, or preventing prostitutes from refusing any of these circumstances, as well as any direct supervision of sex by a prostitute that goes beyond a single incident (StGB §181a). Pimping between married persons is also subject to prosecution (StGB §181a (3)).

Trafficking for purposes of sexual exploitation, pimping, and the exploitation of the prostitution of others are all covered in the Dutch anti-trafficking provisions in the Penal Code. In Article 273f 1.1°, it is stated that that any person who, 'by force, violence or other act, by the threat of violence or other act, by extortion, fraud, deception or the misuse of authority arising from the actual state of affairs, by the misuse of a vulnerable position or by giving or receiving remuneration or benefits in order to obtain the consent of a person who has control over this other person recruits, transports, moves, accommodates or shelters another person, including the exchange or transfer of control over that person, with the intention of exploiting this other person or removing his or her organs.' As in Germany, changing the legal status of prostitution in the Netherlands involved changes in the criminal code (Wetboek van Strafrecht) but in the Dutch case the changes were made directly to the anti-trafficking laws. Changes to lift bans on brothels and pimping added a distinction between voluntary and forced prostitution. Until 2005, Article 250a in the penal code addressed the exploitation of the prostitution of others in detail but without reference to the term 'pimping.' After several shifts in the numeration of the articles, they now exist as Article 273f in the Dutch legal code. The Dutch anti-trafficking provisions (Article 273f, which is referred to as the 'anti-trafficking' article in the Netherlands), specifically 273f 1.6°, explicitly names 'wilfully profiting from the exploitation of another person' as a crime ([59]). One source calls this 'active pimping' though pimping is still not named as such in Dutch law since 2000 (Lindenberg 2014a). Currently, there is debate in the Netherlands about whether a specific code about pimping is necessary. However, in the opinion of the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children [Netherlands] (2015), all forms of pimping which are related to trafficking in human beings, such as wilfully profiting from the exploitation of another person, are already

([59]) Kornvius, Koster and de Jonge van Ellemeet (2007) attribute this addition to a response to the European Council Framework Decision 2002/629/JHA.

prosecutable under the current anti-trafficking provisions in Article 273f, making further specifications to the penal code unnecessary.

In both countries, stronger prosecutions are in place for pimping, exploitation, and trafficking of minors, though a few differences stand out. First of all, where trafficking is involved, German law allows prosecuting anyone who exploits a situation of exigency (*Zwangslage*) or takes advantage of a person's vulnerability (*Hilflosigkeit*) in relation to that person's residence in a foreign country to bring that person to enter or continue prostitution or to engage in other exploitative sexual activities. The law is broader in its definition of trafficking of persons under 21 years of age into prostitution, criminalising those who bring persons under the age of 21 into prostitution, regardless of whether a border is crossed or not (StGB §232(1)). (See also Czarnecki et al. 2014: 13, who see this as a 'special feature' of the German anti-trafficking code) ([60]). The Dutch law prosecutes any person who recruits others across borders for sexual exploitation (Interview, Police Anti-Trafficking Team Amsterdam, 18 May 2015 and 11 June 2015; see also Overheid 2015, Wetboek van Strafrecht, Art. 273f), with specific prohibitions on trafficking of persons under the age of 18 years (Art. 273, 1.8°). Age is not specifically named in the Dutch anti-trafficking codes. As we discuss below, however, the city of Amsterdam has raised the age of prostitution to 21 across the board, and current national reform proposals, if enacted, will raise the age to 21 nationwide, so that any form of prostitution for persons under the age of 21 may soon be illegal across the board in the Netherlands. This issue is far more contested in Germany ([61]), but current reform plans laid down in the coalition government agreement foresee better protections for those under the age of 21 (BMFSFJ 2015) ([62]). In both countries, however, minors (under the age of 18) receive special protection, not only in trafficking prosecutions, but also when they are victims of pimping and sexual exploitation.

Overall, maximum terms of imprisonment for trafficking are higher in the Netherlands (up to 12 years or even life imprisonment depending on severity of the crime and the injury or death of victims) while in Germany terms of imprisonment are shorter (up to 3 years for exploitation, up to 5 years for pimping and up to 10 years for trafficking (for Germany, Strafgesetzbuch (StGB) §180a, §181a, §232; for the Netherlands, Overheid 2015, Wetboek van Strafrecht, Art. 273f). Higher imprisonment terms cover pimping, exploitation, and trafficking of children. The maximum imprisonments in the Netherlands were raised recently to underscore the government's position that human trafficking is a serious crime which traumatises victims for their lifetimes (Tweede Kamer 2011). No changes have been made recently in Germany to increase penalties, though the current draft of a bill to transpose the EU Anti-Trafficking Directive 2011/36/EU include more severe penalties for trafficking of minors (under the age of 18) (Deutscher Bundesrat 2015).

Similarities are also evident in tolerance granted to victims from outside the EU without residence permits. In the Netherlands, all potential victims are given a 3-month period in which to decide whether to cooperate in prosecuting traffickers or not, and a total 1-year residency on temporary humanitarian grounds when they agree to cooperate, with renewals for the duration of court proceedings (Vreemdelingencircularie 2000 B8). Very similar

([60]) The relevant paragraph in the German criminal code covering trafficking for purposes of sexual exploitation (StGB §232(1)) in the original: 'Wer eine andere Person unter Ausnutzung einer Zwangslage oder der Hilflosigkeit, die mit ihrem Aufenthalt in einem fremden Land verbunden ist, zur Aufnahme oder Fortsetzung der Prostitution oder dazu bringt, sexuelle Handlungen, durch die sie ausgebeutet wird, an oder vor dem Täter oder einem Dritten vorzunehmen oder von dem Täter oder einem Dritten an sich vornehmen zu lassen, wird mit Freiheitsstrafe von sechs Monaten bis zu zehn Jahren bestraft.' This first part of the paragraph outlaws trafficking for prostitution or any other form of sex act (through force or by exploiting the vulnerability of a person) connected to a residence in a foreign country. The last part of the paragraph however, broadens the concept of trafficking beyond 'border-crossing' in the case of any person under 21 years of age: 'Ebenso wird bestraft, wer eine Person unter einundzwanzig Jahren zur Aufnahme oder Fortsetzung der Prostitution oder zu den sonst in Satz 1 bezeichneten sexuelle Handlungen bringt.' In our translation: 'The same punishments apply for those who bring a person under 21 years of age to enter or to continue prostitution or any other of the sex acts named in this paragraph.' The German verb ***bringen*** is much broader in meaning than other verbs in German denoting force (***zwingen, nötigen***).

([61]) Police and criminal law experts, and also some ***Länder*** and municipalities in Germany, support the idea that working in prostitution should not be possible for persons under 21, assuming that persons of 21 years of age or older are better able to estimate the long-term consequences of working in prostitution, and younger persons are more vulnerable (BMFSFJ 2014a, f, d). However, most NGOs who counsel prostitutes and support trafficking victims, as well as those who provide health consultations, interest groups of sex workers and some ***Länder*** and municipalities oppose raising the minimum age (see BMFSFJ 2014a, b, c, e, f, g, h): Since legal adulthood in both countries is 18, the constitutional implications are unclear and under review. Advocates for sex workers' rights fear that such a stipulation will drive sex workers under 21 into criminal domains of activity and argue instead for increased consultation services and exit options for young prostitutes with better federal funding. Civil society groups prefer these latter options and are against a ban on sex work for those under the age of 21. We discuss these debates at the end of the next section.

([62]) In the formulation of the government coalition agreement, the proposed revisions will also change the title of the law from 'Prostitution Law' to 'Law on the Regulation of Prostitution Businesses and on the Protection of Persons in Prostitution' (authors' translation) and alongside enterprise level registration of all prostitutes and better health services, proposed to require registration of prostitutes under 21 to be repeated annually (but every 2 years for old prostitutes) and foresees requiring documentation of medical consultations every 6 months (rather than annually for older prostitutes) (BMFSFJ 2015).

provisions in German immigration law give temporary residency to victims who consider testifying and during court proceedings (§25 and § 59 Aufenthaltsgesetz, BGBl. 2008, I, Nr. 162 and BGBl. 2015, I Nr. 1286).

While there are differences in how they do it, both Germany and the Netherlands specifically prosecute pimping and exploitation of the prostitution of others. The special provisions in the German criminal code and the anti-trafficking laws in both countries enable law enforcement to prosecute businesses as well as individuals who exploit the prostitution of others, while special clauses in immigration law exhibit tolerance for victims from outside the EU without residence permits, but conditionally for the duration of court proceedings.

With prostitution granted a legal status, the regulation of both the commerce and the employment sides of prostitution markets, as illustrated in Figure 6.1 above, are enabled by a range of administrative laws applying generally to commercial and employment relations. The application of two specific sets of provisions are especially important in creating capacities for local law enforcement to identify, prevent and prosecute trafficking: (1) the use of commercial codes to require and undertake licensing and inspections of prostitution businesses, including background checks, with the power to deny and revoke licenses and (2) the use of public order and youth protection clauses to ban prostitution in specific situations, which are particularly useful in hard-to-control sectors of prostitution where pimping, exploitation and trafficking are known to most likely occur. As with criminal laws, administrative laws regulating prostitution are similar in Germany and the Netherlands, as detailed in Table 6.2.

Table 6.2 Administrative provisions and procedures relevant to eradicating trafficking for purposes of sexual exploitation: Germany and the Netherlands (as of July 2015)

Germany	Netherlands
Licensing of commercial enterprises Gaststättengesetz (Law governing Restaurant and Bar Licensing) and Gewerbeordnung (Law governing registration of businesses); Also governs inspections by the Ordnungsamt (Public Order and Commerce Administration) at the local administration level	**Licensing/Registration prostitution facilities** Differently regulated in municipalities/ municipal by-laws (APV 'Algemene Plaatselijke Verordening') In Amsterdam: Art. 3.27 'Exploitatie van een prostitutiebedrijf' Covers licensing of prostitution businesses (broadly referred to as 'exploiters of prostitution' to cover any form of profit-taking or gain, for example in the form of rent or mediation fees), and Art. 3.27 (1) makes licensing mandatory. Art. 3.32 gives the mayor the power to deny and Art. 3.36 to revoke licenses. Art. 3.43 and 3.44 makes it possible to deny or revoke licenses for escort services in cases where the operation of these create disadvantages for residential areas, for the quality of life or public security in the area. **'Background' checks of proprietors** Art. 7 'Wet bevordering integriteitsbeoordlingen door het openbaar bestuur', BIBOB (Public Administration (Probity Screening) Act - permits local administrations to conduct financial investigations and background checks on business owners and managers of those applying for or already licensed places of prostitution. Local administrations have the authority to refuse licenses when finances are not transparent or if applicants have a criminal record. Art 7 (1) of the BIBOB Act empowers mayors and local administrations to revoke licenses for these reasons.
Registration of prostitution facilities Gewerbeordnung (Law governing registration of commercial enterprises)	**Local Regulation/Legislation on Prostitution** (Administrative Law) **Art. 151a** ('Gemeentewet') enacted with the lifting of the brothel ban, authorises local administration to regulated paid sexual services whenever third parties are involved
Entering and monitoring prostitution facilities For police: depending on Police law in each *Bundesland*, e.g. § 41 PolG State of North Rhine Westphalia (NRW, see SoFFi.K 2005: 112)	**Entering and monitoring of commercial enterprises** Differently regulated in municipalities/ municipal by-laws (APV) Example Amsterdam: Municiple law Art. 6.2 (Toezichthouders) empowers the mayor and the city administration to control licensed businesses and to delegate authority to the police and other administrative bodies to do so. Art. 174 of the city administrative act (Gemeentewet) assigns responsibility to the mayor for controlling commercial enterprises and the right of public officials to conduct inspections is regulated in Art. 177.

Germany	Netherlands
Local bans on prostitution § 297 Einführungstext zum Strafgesetzbuch (EGStGB)/ Introductory Act to the Criminal Code, grants the authority to federal states, and if they so wish, to local administrations to ban prostitution in a specific administrative community (Gebiet oder Gemeinde) or to restrict prostitution to certain hours of the day, if the operation of prostitution is considered either a threat to the moral health of youth or to public order in the specific region. § 120 Ordnungswidrigkeitengesetz (OWiG): Verbotene Ausübung der Prostitution, Werbung für Prostitution: §184f Strafgesetzbuch (StGB): Ausübung der verbotenen Prostitution: covers imprisonment for up to 6 months or fines for persons violating a ban on prostitution §184g Strafgesetzbuch (StGB): Jugendgefährdende Prostitution: introduces imprisonment for up to 1 year or fines for any person who engages in prostitution in the area of a school or other public area frequented by persons under 18 years old, including private houses.	**Local bans on prostitution** There is no national framework for this, as in Germany, but any local administration can enact a ban on prostitution or some of its forms or locations. A national framework for bans ('nuloptie') is currently under deliberation in the Dutch parliament. Example Amsterdam: Bans prostitution on streets (Art. 2.12 'Werven van klanten voor prostitutie') and the solicitation of buyers in publicly accessible buildings.

A central limitation to the effective use of these administrative provisions is the fact that licensing and bans are not implemented at the national level. Instead, the decision about whether or not to license prostitution at all in Germany, and the actual implementation and procedures for licensing in the Netherlands are delegated to lower levels of public administration (federal states and municipalities in Germany, local administration/municipalities in the Netherlands). **The decentralisation of licensing generates differences and inconsistencies in the control of prostitution businesses in both countries, which are problematic for demand reduction strategies to eradicate trafficking.** The lack of standardisation in licensing and the imposition of bans on prostitution enable displacement of criminal and exploitative forms of prostitution from highly to less or unregulated communities and municipalities, and probably results in a shift rather than an actual reduction in demand (National Rapporteur [Netherlands] 2013: 63). Nonetheless, the arsenal of administrative rules and procedures is effective on a narrower (geographic) scale, as the case studies below show, in reducing demand for trafficking in the licensed sector of prostitution. Moreover, the current attempts to reform prostitution regulations are undertaken in part in recognition of the need to better address trafficking, pimping, and exploitation in prostitution. In this spirit, **both the current German and Dutch reform plans foresee nationwide mandatory licensing of all forms of prostitution** (Tweede Kamer 2015a; BMFSFJ 2015).

The main mechanisms in what Dutch practitioners have called the 'barrier model' to eliminating trafficking, exploitation, and pimping from the prostitution business (Ministry of Interior, Republic of Cyprus 2013) are licensing of prostitution businesses and bans on prostitution where controls prove ineffective. As discussed above, the demand reduction strategy is situated at the upper-left side of Figure 6.1 to regulate profit-takers/rent-takers in a range of specific forms of prostitution businesses. At the municipal level, as illustrated by the case studies of Dortmund and Amsterdam below, licensing and the right to refuse licenses, conducting inspections and the right to revoke licenses, and resorting to bans where licensing and inspections are not effective or where other issues of public order and citizen protection mitigate doing so are the (mainly) administrative mechanisms through which 'barriers' are erected in the legal and voluntary sector of prostitution against infiltration by traffickers, pimps, and exploitative practices. Where the barriers of licensing and inspections prove ineffective, bans on prostitution are enacted to abolish prostitution altogether, to abolish specific forms or to close-off specific districts or time-zones to prostitution businesses. In the case of bans, prostitutes and buyers are subject to fines or imprisonment in both countries. In practice however, it is prostitutes who are most visible in banned zones and thus more often subject to fines (Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015 and 11 June 2015; Interview, Dortmund Police). Further administrative measures in Dortmund are used to better identify and prosecute buyers in neighbourhoods where street prostitution has been banned ([63]).

Overall, licensing is more widespread and involves more specific obligations in the Netherlands, compared to Germany. Most German municipalities do not require licensing of prostitution businesses per se, and some federal

([63]) As discussed below, Dortmund declared the streets surrounding the previous prostitution zones as resident-only passage areas, allowing identity checks and fines for outsiders entering the neighbourhoods (Interview, *Ordnungsamt* Dortmund, 18 March and 2 June 2015).

states even refuse to accept registrations of prostitution businesses on moral grounds ([64]), though generally there is an obligation to register as a business under tax ([65]) (*Steuerrecht*) and commercial laws (*Gewerberecht)* and employers are required to make social insurance contributions for sex workers as for any workers under social welfare law (*Sozialgesetzbuch*) (see SoFFi.K 2005: 40f, 144ff, 145). In German states or municipalities where licensing is used the licensing procedures are undertaken under commercial codes governing restaurants and bars. As the case study of Dortmund (below) demonstrates, local officials conduct background checks to deny licenses to proprietors with criminal records or who are expected to be acting on behalf of criminals or gangs. Moreover, inspections of compliance with restaurant licensing procedures are monitored in inspections by the Office of Public Order (*Ordnungsamt*), and involve a number of criteria (sanitary conditions, building safety) which may serve as the basis for refusing or revoking licenses. As the case study of Dortmund (below) will show, such criteria are used to pressure or shut down businesses where the police suspect but cannot prove crimes of pimping, exploitation, or trafficking. Federal states can (and some do) stipulate inspections by police of all prostitution businesses into their state police law, allowing police to enter and control for criminal activities beyond the commercial code ordinances under which licensing takes place (see SoFFi.K 2005: 112) ([66]).

In the Netherlands, local administrations decide the specific licensing procedures (Dutch National Rapporteur 2002: 18; see also Daalder 2015), and licensing is very widespread. In the Netherlands the assumption is that municipalities are better positioned to develop strategies and regulations of prostitution that suit local conditions (Dutch Ministry of Foreign Affairs 2012) ([67]). Moreover, the licensing procedures and consequences are detailed in laws specific to the licensing of prostitution at the municipal level. The legislative authorities of municipalities for the regulation of prostitution are codified in Article 151a of the Dutch Local Governance Act (*Gemeentewet*), which enables municipalities '(…) to adopt a regulation which prescribes criteria for the commercial arrangement of the opportunity to perform sexual acts with or for a third person against payment (…).' (Daalder 2015:11). With provisions in municipal by-laws (*Algeme Plaatselijke Verordening*/APV) local officials approve, deny and revoke licenses for prostitution businesses. There is variation however, as to what forms of prostitution are covered under licensing, and this is decided differently in each municipality/local administration. As discussed below, the city of Amsterdam licences all forms of prostitution, which are organised as an enterprise, including escort services (Article 3.27, 3.43, 3.44, APV Amsterdam) ([68]). To aid licensing decisions, an additional instrument at the national level is the 2003 'BIBIOB' Act (*Wet bevordering integriteitsbeoordelingen door het openbaar bestuur*) translated as the Public Administration Probity Screening Act, which permits financial background checks in licensing procedures, and the refusal or revoking of licenses if the financing of businesses is not transparent (Wagenaar, Altink and Amesberger 2013: 51). This act, together with background checks of criminal records of owners and managers, are mechanisms for refusing or revoking licenses to known or suspected criminals, or where the actual source of capital for a business cannot be clearly tracked.

Despite the fact that prostitution has been given a legal status in Germany and the Netherlands, administrative ordinances are also used to ban prostitution (altogether or in a specific form or district) on the basis of threats to residents, public order, the quality of life or the endangerment of youth. This is most common in both countries for street prostitution, which is also among the most difficult forms of prostitution to control in relation to trafficking, pimping and exploitation. In Germany, provisions in the §297 of the Introductory Act to the Criminal Code (*Einführungstext zum Strafgesetzbuch (EGStGB*)) allow municipalities (*Kommunen)* to set up 'exclusion zone ordinances' (*Sperrbezirke*), a clause that has been used to prohibit prostitution altogether or to shut down street prostitution (Czarnecki, Engels, Kavemann, Schenk, Steffan and Türnau 2014: 15f; Van Daele 2015: 216). Violations are prosecuted with fines or imprisonment in cases of recidivism ([69]). Similar procedures are available

([64]) Nationally, the German Prostitution Law removed clauses, which defined prostitution as immoral (*sittenwidrig*), but state level commercial codes still allow discretion over whether a specific business is *sittenwidrig* or not.

([65]) There are also differences in taxation, for instance, whether a municipal 'sex tax' or 'entertainment tax' is charged, or whether financial authorities collect standard preliminary tax payments of prostitutes from proprietors (the so-called 'Düsseldorf procedure'), which, however, does not substitute for an individual tax declaration (see Czarnecki, Engels, Kavemann, Schenk, Steffan and Türnau 2014: 15, MGEPA 2015: 57).

([66]) Relevant to the case study below is § 41 PolG NRW (the police law of the Land North Rhine Westphalia), which grants police the right to enter prostitution facilities and to conduct controls. If prostitution facilities are licensed under restaurant law, local authorities are granted the right to enter them and to request necessary information from proprietors or their representatives or check documents (see §22 *Gaststättengesetz* (GastG)).

([67]) This is in line with the categorisation of the Netherlands as a 'decentralised unitary state' (Toonen 1987) delegating a large range of public administrative tasks to municipalities (Wagenaar et al. 2013: 50).

([68]) The very detailed requirements for licensing in Amsterdam are discussed below in the case studies.

([69]) In Germany, local administrators can also use building codes to refuse the establishment of brothels or brothel-like facilities in residential areas (see SoFFi.K 2005: 117ff.).

in the Netherlands at the municipal level, but the current draft of a bill aimed at better regulation of prostitution businesses at the national level includes specific provisions for banning prostitution at the local level entirely, the so-called 'Zero Option' or *nuloptie*, where local authorities determine that prostitution is a threat to public order (Wagenaar, Altink, and Amesberger 2013: 52).

In summary, licensing and bans together with criminal laws against trafficking, pimping, and exploitation are attempts to eradicate demand for trafficking by regulating a legal zone of voluntary prostitution. This approach aims to reduce demand from profit-takers/rent-takers that is linked to trafficking by subjecting businesses to regular and tight controls and banning businesses which are either known or prone to criminal activity, or banning forms or zones of prostitution posing problems of public order or threats to youth.

The regulation of the employment side of prostitution markets is aimed at eliminating demand for cheap and abusive service as profit-taking strategies and introducing specific protections for prostitutes. The legalisation of the status of prostitution in Germany and the Netherlands was originally intended to encourage contractual employment relations between prostitutes and prostitution businesses, and eliminate exploitation, dependencies and abusive practices. **Research shows however, that the vast majority of prostitutes are self-employed or do not work in salaried employment (BMFSFJ 2007, SoFFi.K 2005: 55, Daalder 2015)**. Moreover, where self-employed prostitutes are selling in only one enterprise, they may be in violation of laws in both countries against 'bogus' self-employment, that is, the practice of using self-employment rather than hiring persons into an employment relation in order to avoid social insurance contributions, labour standards, and employment protections. In many cases self-employed prostitutes pay rents to prostitution businesses for facilities. In this way, the employment relation with all its protections is replaced by a rental agreement, and thus not covered or subject to statutory employment standards and contracts. Self-employment and rent-taking mean that the original focus on labour rights in regulating prostitution businesses is no longer of much relevance as a regulatory measure, leaving a range of specific and general dimensions of working conditions and labour standards unaddressed.

A survey of 305 prostitutes in Germany in 2004/2005 found that 72 % of them are self-employed (BMFSFJ 2007, SoFFi.K 2005: 55). Self-employed individuals in Germany are not covered by regulations regarding working time, paid holidays, maternity leave, or employment protection. They are subject to mandatory health insurance only as of January 2009. In most cases, those who are self-employed do not have access to statutory pension insurance (see below, Schulze Buschoff and Schmidt 2009: 154) and are required to pay into individual private pension plans ([70]). Estimates based on a survey of 292 prostitutes in 2005 found that less than half of all prostitutes make any pension contributions (SoFFi.K 2005:47). Nevertheless, the case study research below reveals an overwhelming consensus about the benefits of self-employment for prostitutes, seen as a guarantee of autonomy vis-à-vis profit-takers and buyers. The lack of health insurance coverage however, was seen as an acute problem, despite the fact that it is now mandatory.

An even higher proportion of prostitutes in the Netherlands, 95 %, are estimated to be self-employed (Daalder 2007). The case study in Amsterdam similarly revealed an overwhelming consensus about self-employment as guaranteeing prostitutes autonomy and control to refuse exploitative sexual practices and undesirable buyers. In contrast to Germany, the Netherlands has universal forms of health and pension coverage, which include self-employed persons (Schulze Buschoff and Schmidt 2009) ([71]). As in Germany, self-employed persons in the Netherlands are not eligible for unemployment benefits, sickness benefits, or disability insurance (*Wet werk en inkomen naar arbeitsvermogen*; see Gemeente Amsterdam 2014a). Private insurance for these risks is available but conditions vary with insurance companies and the fees are very high. Until 2004 when it was abolished, there had been an income-based insurance system for self-employed workers, including occupational disability insurance and eligibility to paid maternity leave. In 2008, the Pregnancy and Childbirth Act (*Zwanger en Zelfstandig*) re-established access to paid maternity leave for self-employed women (Westerveld 2012). The extension of many social benefits to citizens in the Netherlands, regardless of employment status, generally enables better social security for prostitutes. However, there remain a number of benefits which require contributions and which are effectively not available to self-employed workers and access to private insurance requires occupational registration. Moreover, insurance companies often refuse to extend insurance contracts to prostitutes on the grounds, for example, that this

([70]) Self-employed persons are only able to voluntarily contribute to unemployment insurance under certain conditions.

([71]) Furthermore, the extension of minimum wage to self-employed prostitutes is currently discussed, but as of yet, has not gained a majority in the parliament (Wagner 2014).

group experiences higher health risks. As discussed below, this was specifically reported in the city of Amsterdam, where the Mayor's office is currently putting pressure on insurers to extend coverage to prostitutes (Interview, NGO Proud Amsterdam, 21 April 2015; Interview with city of Amsterdam, 3 June 2015; Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015 and 11 June 2015).

A unique development in the Netherlands is the creation of a special status of self-employment for prostitutes, which falls between dependent and self-employment, the so-called opting-in arrangement (*voorwaardenpakket*). As in Germany, self-employment for prostitutes in Amsterdam is seen as promoting their work autonomy and control over earnings, but the failure of many prostitutes to register their status with financial authorities placed them in an illegal work relationship (Tweede Kamer 2014a). The opting-in arrangement was originally established for writers, clergy and members of local councils, and was extended in 2009 to include prostitutes, with a number of amendments and an extension until 2015 (Wagenaar, Altink and Amesberger 2013: 51; Daalder 2015; Tweede Kamer 2014a). Besides legalising their tax status ([72]), the opting-in arrangement includes a 'package of conditions' (Wagenaar, Altink and Amesberger 2013) that specifies the limited authority of proprietors over a prostitute in written form (Gemeente Amsterdam 2014a). Proprietors cannot determine working hours, the clothes prostitutes wear, what kinds of services are provided, which clients are accepted, or require prostitutes to consume alcohol or work without condoms. Furthermore, prostitutes can determine themselves how they are paid by the proprietor and the proprietor has to report the payments to financial authorities on their behalf (ibid.) ([73]). Law enforcement is enabled to check the legal (self-) employment status of prostitutes in these establishments. In this way, an additional 'barrier' is erected against the use of trafficked prostitutes in the licensed sector. However, the first evaluations of the scheme indicate that proprietors frequently violate a number of the conditions circumscribing their authority over conditions of work and sexual practices with negative consequences for the autonomy of prostitutes (Wagenaar, Altink and Amesberger 2013: 42). According to Wijers and Bijleveld (2014), the opting-in scheme seems to, thus far, favour the interests of proprietors and financial authorities over those of prostitutes ([74])

In summary, the alternative demand-side strategy represented by the German and Dutch regulatory approaches towards prostitution focus primarily on licensing and monitoring prostitution businesses. The relevance for the eradication of trafficking is the way in which barriers are erected, through criminal but also administrative law, to keep trafficking, pimping, and exploitation out of the prostitution business. Trafficking, pimping, and exploitation of the prostitution of others are criminalised in both countries, with some minor variations. The capacities afforded by licensing and inspections however, draw on administrative law enacted at the local level, and there is a great deal of heterogeneity in whether licensing is done in Germany, and how it is done in the Netherlands. The Dutch approach at the local level is more likely to draw on administrative licensing procedures designed specifically for the prostitution sector; in Germany, local officials make use of licensing procedures for the restaurant industry to license and monitor prostitution. Further administrative provisions for banning prostitution when it threatens public order are possible in both countries, with planned reforms in the Netherlands to strengthen the capacities of localities to adopt the *nuloptie*.

Though originally motivated by a labour rights approach, the fact that most prostitutes are self-employed in Germany and the Netherlands means that they are not covered by the employment and social protections and rights of dependent employees. The use of employment law in reducing demand for trafficking by improving labour conditions is not, as originally expected, of much relevance. Nonetheless, especially in the Netherlands, there are attempts to improve the labour rights of self-employed prostitutes through their ability to 'opt-in' to social insurance and in terms of the more universal nature of healthcare and pensions in the Netherlands compared to Germany. Overall, the approach to regulating both prostitution businesses and the (self-) employment relation is more comprehensive in the Netherlands than in Germany. In the next section, we analyse how these regulatory capacities are implemented and practiced as alternative demand-side strategies for eradicating trafficking for purposes of sexual exploitation from the prostitution 'industry'.

([72]) Opting-in is primarily a form of tax regulation. Proprietors set up an agreement with financial authorities to pay VAT and wage taxes on behalf of self-employed prostitutes working on their premises.

([73]) Social insurance coverage is not affected by this arrangement, so that prostitutes working under this arrangement are — as other self-employed — not eligible for sickness or disability benefits.

([74]) Wijers and Bijleveld (2014) report that prostitutes positively assess how the scheme relieves them of doing financial accounting. For financial authorities, transparency over earnings and tax payments are increased (Tweede Kamer 2014a).

CASE STUDIES OF LOCAL REGULATION AND ITS IMPACT ON REDUCING DEMAND AND ERADICATING TRAFFICKING FOR PURPOSES OF SEXUAL EXPLOITATION

Germany and the Netherlands, as the previous section discussed, make very similar use of criminal codes against trafficking, pimping and exploitation and administrative ordinances to license, inspect profit-takers/rent-takers, and place bans on prostitution. Such measures aim to erect 'barriers' against trafficking and other criminal practices. These alternative demand reduction strategies, with an original orientation towards labour rights, are better understood as approaches targeting the regulation of prostitution businesses, criminalising specific sources of profit-taking (from the use of trafficked prostitutes, through pimping and exploitation of the prostitution of others) rather than reducing demand by criminalising buyers. In this section, we present detailed case studies of local level regulations in two of the best cases of local administrative action against trafficking: in the city of Dortmund, Germany; and the city of Amsterdam, the Netherlands. In each of these cities we conducted interviews with key actors, including the police and NGOs engaged in supporting prostitutes and victims of human trafficking for sexual exploitation (Table 6.3). The aim of the interviews was to understand how actors regulate prostitution businesses and employment, and the impact of regulatory practices on the eradication of trafficking for purposes of sexual exploitation.

Table 6.3 Interviews for case studies of the city of Amsterdam and the city of Dortmund

The Netherlands: city of Amsterdam ([75])

Name	Function	Date of Interview
NGO Proud Amsterdam	Board Member of Proud and former prostitute	21 April 2015
ACM Victim Services city of Amsterdam	Coordinator for Victim Services, Amsterdam Coordination Point for Human Trafficking (ACM) (Zorgcoördinator Amsterdamer Coördinatiepunt Mensenhandel (ACM)	29 April 2015
Police Anti-Trafficking Team Amsterdam	Team-leader, Anti-Trafficking Team, Police Department, city of Amsterdam	18 May 2015; Follow-up on 11 June 2015
Human Trafficking Coordinator city of Amsterdam	Coordinator of the city of Amsterdam multi-agency Program on Prostitution and Human Trafficking	3 June 2015; Follow-up on 11 June 2015

Germany: city of Dortmund ([76])

Name	Function	Date of Interview
DGB Fair Mobility Project, Germany	Project leader of 'Fair Mobility'-Project, DGB Berlin (German Trade-Union Federation)	30 March 2015
NGO Mitternachtsmission Dortmund	Director, Mitternachtsmission	15 April 2015; Follow-up 7 July 2015
Ordnungsamt Dortmund	Director of Commercial Department, Ordnungsamt Dortmund	18 March 2015; Follow-up on 2 June 2015
Police Prostitution Division Dortmund	Detective Chief, Dortmund Police Department and Criminal Police Division KK22 for Prostitution	1 April 2015; Follow-up 26 June 2015
State Ministry of Health and Equality, NRW Germany	Director of Department for Emancipation and Member of the Joint Consultation/Round Table on Prostitution for the state level Ministry of Health, Equalities, Care and Aging (MGEPA) of the State of North Rhine Westphalia (NRW)	2 June 2015

A consensus is evident on the part of the actors interviewed about the effectiveness of the combination of criminal and administrative regulations to reduce demand and eradicate trafficking in the legal and voluntary sector of prostitution. However, the available statistics are inadequate which means it is not possible to reach a clear conclusion with regard to whether trafficking has reduced. There are also no clear statistics about growth or decline in

([75]) The NGO Scharlaken Koord declined an interview with the justification that their time/resources are too tight for interviews and they would rather devote their time to the prostitutes.

([76]) The customs service in Dortmund, which is responsible for prosecuting forms of pseudo-self-employment and social insurance rules, did not agree to an interview. Another women's support organisation operating in Dortmund, *Kober,* declined an interview with the justification that they have nothing to do with trafficking, only with prostitution. Formerly, *Kober* was responsible for counselling street prostitutes, but after the ban on street prostitution in 2011 experienced a cut in their resources, and have since narrowed their work to exit consulting for prostitutes.

the number of prostitutes working voluntarily in the two municipalities. Moreover, the heterogeneity in how prostitution is regulated from one city and community to the next invites a high degree of displacement, whereby trafficking, pimping, and exploitation has shifted from highly regulated contexts, such as Dortmund and Amsterdam, to less regulated or unregulated communities.

Case Study 1: City of Dortmund, Germany

The city of Dortmund, located at the end of the Ruhr Valley industrial area, has long been a region of labour migration. It has been selected as a case study of prostitution regulation for several reasons. First of all, the cooperation of relevant actors to develop a coherent approach towards prostitution began before the enactment of the 2002 prostitution regulation (Schäfer 2012), as the city was confronted with an increase in prostitutes from eastern Europe, a group that was also vulnerable to trafficking. Second, regulations that were developed in Dortmund now inform national debates about reforming the prostitution law. Third, regulations were developed through close cooperation with a women's support organisation, the *Mitternachtsmission* ([77]), which is recognised as one of the most established representatives of prostitutes' interests and providers of aid to trafficking victims in Germany. Fourth, regulations were developed over time through close cooperation between the *Mitternachtsmission*, the police, and the *Ordnungsamt,* which is responsible for commercial inspections of licensed facilities. In addition to this cooperation, a specific division of labour has evolved between the *Ordnungsamt* (inspecting and monitoring compliance with local commercial regulations and maintaining public order), the *Mitternachtsmission* (supporting victims' and prostitutes' interests) and the police (conducting inspections and prosecuting traffickers or violations of other crimes). Moreover, the police have set-up a special task force for inspections, and all actors are involved in two sets of 'roundtables' for discussing problems in the regulation of prostitution and in stopping human trafficking in Dortmund.

In Dortmund, prostitution businesses with at least three prostitutes are required to register as commercial enterprises, whether these are brothels, clubs, or locations-for-rent or use by prostitutes. Licensing is required for all establishments with eight or more prostitutes. Self-employed prostitutes are encouraged to register voluntarily (Schäfer 2012; Minzel, 2006), but we were not able to obtain figures on how many actually do register. As outlined in Table 6.2 above, licensing of businesses is under the commercial regulations covering the restaurant sector (*Gaststättengesetz*) ([78]). The police law in North-Rhine-Westphalia gives police the capacity to enter any prostitution establishment without prior notice, while commercial law enables control and monitoring by the commercial division of the office for public order (*Ordnungsamt).* On this basis, the police and *Ordnungsamt* conduct regular inspections. Violations of criminal or commercial law uncovered by inspections can and do result in the revoking of licences, effectively shutting down rogue businesses. The initial licensing procedures and subsequent monitoring involves background checks on proprietors. Licenses are refused or revoked whenever owners or managers have criminal records or are known to belong to organised crime groups.

On-site inspections play an important role in monitoring the voluntary nature of prostitution and identifying trafficking victims. An indication of trafficking or forced prostitution according to the police in Dortmund is whether prostitutes carry their own identification documents. Yet even where the police cannot document suspected cases of pimping or trafficking (all indictable under criminal law, see Table 6.1 above), they and the *Ordnungsamt* use minor violations (e.g. temperature checks on food served in buffets) or more frequent inspections to pressure businesses to report and terminate such practices (Interview with Dortmund Police, 1 April 2015 and interview with *Ordnungsamt* Dortmund, 18 March 2015) ([79]). Licensing and registration create capacities for law enforcement and public administration to monitor and control businesses taking profits (or fees) from the prostitution of others, and in the case of rents, directly from prostitutes. At present however, locations with fewer than three

([77]) Founded in 1918, this non-governmental organization has engaged in outreach social work and counselling of prostitutes since the 1980s (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). Outreach social work by the *Mitternachtsmission* is organised into specialisations in different forms of prostitution, e.g. in brothels, or apartment prostitution, street prostitution, prostitution initiated in bars, and support of specific groups, such as minors and children in prostitution, trafficking victims, drug addicted prostitutes, migrants, or counselling of prostitutes who want to exit prostitution. The *Mitternachtsmission* is funded by donations and public subsidies from the state of North Rhine-Westphalia (*Mitternachtsmission* 2013).

([78]) Licensing procedures require compliance with hygienic regulations, liquor licensing, and other requirements. Compliance with licensing provisions is monitored by the *Ordnungsamt* (public order administration), which operate independently from tax and customs authorities responsible for financial and employment law.

([79]) According to the Dortmund police and *Ordnungsamt* further controls are possible through the customs office (charged with controlling for undocumented migrants or unregistered employment) and financial authorities on tax issues, but these offices do not coordinate their activities with the police (Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015; Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015).

prostitutes are not required to register, and fall out of the scope of monitoring and control. Moreover, certain forms of prostitution — private apartment prostitution and escort services were often named by interview partners in Dortmund — are more difficult to monitor and control, as discussed below.

The only available source for estimating the number of prostitutes in Dortmund is data collected by the *Mitternachtsmission*, generated by and limited to their direct contacts and consultations with prostitutes including trafficking victims since 2002. In 2014, the *Mitternachtsmission* had been in contact with 692 persons seeking consultation. Of this total, 90 were prostitutes engaged in brothels in the main prostitution district in Dortmund, the *Linienstraße*. An additional 151 prostitutes were in other forms of business (82 in clubs, 69 in apartments) and 32 were street prostitutes. A total of 205 were victims of trafficking, 81 of whom had consulted with the *Mitternachtsmission* in previous years ([80]). The *Mitternachtsmission* extrapolates from its direct contacts that roughly 1 500 persons were working as prostitutes in Dortmund in 2015 (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015).

Interviewees reported 18 brothels operating in Dortmund where proprietors mainly collect daily rents from prostitutes rather than employing them directly. The number of larger sex clubs has declined from between an estimated 13 to 16 in the mid-1990s to 4 or 5 over recent years while their average size has increased from around 10-12 prostitutes to 30-40, with some engaging up to 100 prostitutes (Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015; Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015; Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). There has been a recent increase in the proportion of mobile women from new EU Member States, such as Romania, working in these licensed establishments. In addition to these forms of prostitution, about 60 private apartments are registered as prostitution businesses, and the *Mitternachtsmission* suspects there are more that have not registered. This is an area where the NGO suspects greater incidence of trafficking (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015).

The Dortmund police carry out inspections of brothels regularly and without advance notice at least six times a year, and in apartments licensed for prostitution, two to three times per year. In the words of local officials, inspections are carried out in a respectful and professional manner, with the aim of building trust through contact with prostitutes. The police inspect more often if violations are suspected and may even change the character of inspections to outright raids (Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015). Finally, regular police presence in the facilities has a re-socializing effect on the prostitution business, encouraging proprietors to follow rules and operate as a legitimate business. Over time, according to all the local actors interviewed, this approach has built trust and communication between local authorities, prostitutes, and proprietors, which is used to identify victims of trafficking and to pursue prosecution of traffickers.

In the view of the Dortmund police, licensing and inspection is effective in identifying trafficking victims and other forms of exploitation of the prostitution of others. In reflecting on the origins of municipal regulations, the police spokesman pointed to the desire to curb excessive profit-taking and improve the autonomy and control of prostitutes over their work and earnings.

> We [*the police*] recognised that it [*prostitution*] cannot continue like this. There was no legal basis, they [*proprietors*] just rented a place, set in women and earned a lot. Then it started that we said: it cannot go on like this. Against the background that we do not want to prevent prostitution, just the opposite, we want to enable women, whose job is difficult enough, so they can work under reasonable conditions, voluntarily, autonomously, and that they are able to do whatever they want with their earnings.... It is always about the well-being of the women, not about granting proprietors great earnings (Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015, authors' translation).

Licensing and registration creates capacities for police to curb profit-taking by monitoring establishments for indications of pimping, abusive sexual practices, and signs of trafficking in licensed businesses.

A key component of the Dortmund case in relation to eradicating trafficking is the close cooperation between the police, *Ordnungsamt* and the *Mitternachtsmission*. The *Mitternachtsmission*, which was founded in 1918 and has

([80]) Thus reports of trafficking victim contacts in any year cannot be added together for a total number of trafficking victims over time.

been involved in social outreach work for prostitutes and victims of trafficking for a long time, had little direct contact with the police or local administrators until it was commissioned by the state of North Rhine Westphalia in the 1990s to set up joint consultations with local authorities to combat trafficking (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). Through initial consultations, the police, the *Mitternachtsmission* and the *Ordnungsamt* agreed to jointly develop regulations with the aim of improving the independence of prostitutes over their work and earnings and address working conditions. In their own estimation, the legal status granted to prostitution in the 2002 Prostitution Law was welcomed, especially since it removed the moral stigma to prostitution (*Sittenwidrigkeit*) and recognised prostitution 'as a field of work, so that, just as in any other fields of work or commerce people can act according to their rights and duties without being discriminated against' (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015, authors' translation). However, the national law did not mandate any of the licensing or registration procedures; these are the outcome of local cooperation and negotiations between the police, NGOs and administrators since the 1990s ([81]). Moreover, the *Mitternachtsmission* are called upon whenever indications of trafficking victims are suspected. The cooperation between the police and NGOs integrates law enforcement and victim support services in identifying and prosecuting trafficking.

Licensing, inspections, and cooperation with NGOs help to curb trafficking for sexual exploitation in three ways. First, persons with a criminal record or members of 'rocker gangs' like the *Banditos* and *Hells Angels*, both of which are very active in Germany and seen as being engaged in trafficking and pimping, can be prevented from owning or operating prostitution businesses. These background checks extend to investigating those who may control a particular enterprise as an owner or financer. Second, access to premises allows the police to check the identification documents of prostitutes (e.g. permanent address, residence permit, identity card, age) and cooperation with NGOs allows for immediate victim support. Third, the *Ordnungsamt* can and do use minor violations of licensing requirements (e.g. temperature of food served) to shut down establishments which are suspected of trafficking or engaged in exploitative practices.

It was not, however, self-evident for local authorities actually doing the licensing in the beginning that prostitution could and should be treated as a legitimate business endeavour. The *Ordnungsamt* reported internal training for administrative staff. The police had already established an internal unit dedicated to any issues arising in or involving places of prostitution or prostitutes. The same five or six police persons conduct the inspections and have developed an ability to observe the behaviour of prostitutes for signs of intimidation or exploitation which might point to either pimping or trafficking, all of which are then vigorously prosecuted. Interestingly, the police reported not cooperating with tax or customs authorities in their inspections as a way to maintain trust and focus on fighting trafficking and exploitation ([82]).

Trust and NGO cooperation encourages proprietors and fellow prostitutes to report suspicion about trafficking or other forms of force or intimidation (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015; Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015). One example, provided by the police in Dortmund, involved a Nigerian trafficking victim. Local proprietors initiated contact with the police officers after observing anxious behaviour and other possible signs of trafficking and pimping. The police responded by questioning other prostitutes and proprietors at the site. They learned that the woman did not join in ordering food. Instead she always brought a small package of boiled rice for her meals which the police interpreted as signalling a lack of access to her own wages. The police contacted the woman to inform her of her legal rights and eventually she was persuaded to testify against her traffickers; this led to the detection and conviction of a large group of traffickers who were using Voodoo rituals to psychologically coerce African women into prostitution.

The *Mitternachtsmission* is involved in supporting trafficking victims to obtain temporary or permanent residence permits, accommodation, and providing psychological support and guiding victims through the prosecution process and court proceedings. Other signs of trafficking, exploitation, and pimping involve 'controlling behaviours' by persons accompanying prostitutes or translating for them. Further indications are whether prostitutes carry their identification documents or cell phones. The *Ordnungsamt* and police also considered registration by self-employed women at the *Ordnungsamt* as an opportunity to establish trust and to check for indication of exploitation, pimping or trafficking although repeated contacts are only possible in the business locations.

([81]) Cooperation is now formalised in annual 'roundtable' meetings, which have since been divided into a roundtable for regulating prostitution and a roundtable for trafficking for purposes of sexual exploitation, but with many of the same participants in both roundtables. At present there are discussions to set up a third roundtable to address trafficking for labour exploitation.

([82]) Tax and customs officials do have the capacity to monitor legal compliance themselves.

In Dortmund, the police and *Ordnungsamt* established and continually enforce a local ban on abusive sexual practices, such as flat rates and sex without condoms. These local prohibitions are pursued both through direct controls of prostitution locations and by monitoring advertisements for prostitution. The police and *Ordnungsamt* reported monitoring internet sites and newspapers where such abusive practices are often advertised and following up these leads with inspections and threats of revoking licenses. During the licensing process new proprietors are informed that these practices are not tolerated. In this respect, local police view poor or abusive working conditions as one possible indicator for trafficking or pimping.

The police and the *Mitternachtsmission* noted increasing mobility throughout the prostitution business as a particular challenge to controlling for trafficking victims. Even in the large brothels, which had little turnover previously, mobility is on the rise (Police; Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015).

> Until a few years ago we almost always met women in apartments whom we knew already and who have worked there for a longer period. At the moment, however, there is something like 'traveling prostitution' and more and more women travel through Germany and adjoining countries, for a week in Dortmund, then 10 days in Cologne, then moving on to Frankfurt, then Munich, then Hamburg. So it is more difficult for us to get into contact with them. To establish trustful relations is almost impossible because they are here only for a short time. This makes it more difficult to identify victims of trafficking because a trustful relationship is a necessary condition (Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015, authors' translation).

The *Ordnungsamt* in Dortmund favours the introduction of mandatory registration for all prostitutes by establishments to address the increasing lack of transparency with regard to the identity and status of prostitutes throughout the licensed/registered sector (Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015). Trafficking and other forms of exploitation are thought to be located largely in the private apartment sector which, if having less than three prostitutes, are not required to register but they were also recognised as being a problem in street prostitution. Further, in the case of apartments, the *Mitternachtsmission* suspect incidences of child and youth prostitution (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). The Dortmund Police also named sauna clubs as propitious venues for traffickers and conjectured that the share of trafficking victims in sauna clubs, specifically young women and girls from new EU Member States, is likely to be greater than elsewhere (Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015).

Erecting 'barriers' through administrative ordinances is especially difficult in street prostitution. In 2000, the city of Dortmund attempted to improve controls of street prostitution by restricting it to one specific street (Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015; see also MGEPA 2015: 37). Investments were made in sanitary and safety measures. These included emergency buttons and special car ports (*Verrichtungsboxen*) where the cars of buyers were forced to park in a way permitting easy exit from the passenger side. Women's support NGOs also established nearby consultation areas for street prostitutes. However, these measures met their limits in the mid-2000s with the influx of mobile prostitutes from the new EU Member States in eastern Europe working on the streets ([83]).

By the late 2000s, according to the *Mitternachtsmission*, trafficking, exploitation and pimping had become rampant in street prostitution and was also evident in the increased violence in the district. The police suspected that many EU mobile workers moving into street prostitution were trafficking victims (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015; Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015). City officials responded in 2011 by taking advantage of administrative regulations allowing the city to ban street prostitution on the grounds of threats to public order and minors (Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015) ([84]). Police and the *Ordnungsamt* enforced the ban by monitoring the streets and imposing fines. As in brothels, law enforcement made creative use of additional administrative measures by, for example, imposing further restrictions on traffic in neighbouring streets to residents

([83]) Before 2011, citizens from the A8 countries (8 of the 10 countries joining the European Union in 2004, including the Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovenia and Slovakia) and, until the end of 2013, Bulgarians and Romanians were prohibited from working in Germany (under the special transition measures available to older Member States fearing labour competition from the newly ascended Member States). However, self-employment presented a legal way to enter the labour market under the freedom of services provisions of the European Union.

([84]) The continuation of this ban is, however, still being negotiated in court because of a lawsuit initiated by a prostitute (MGEPA 2015: 37, VG Gelsenkirchen ZVR Online-Dok-Nr. 48/2013).

(*Anliegerstraßen*) which allowed law enforcement to conduct regular identity checks of all drivers passing through the banned district and to levy fines on (potential) buyers. Law enforcement reported leniency in the treatment of prostitutes who are first warned to stop soliciting, and then fined or even imprisoned if they fail to pay fines. Buyers are hard to detect if they are not caught in the act or identified as non-residents driving through banned zones but were reported to be always fined if caught (Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015; Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015).

In the 4 years since the 2011 ban on street prostitution the *Ordnungsamt*, police, and *Mitternachtsmission* have reported a large decrease in this form of prostitution. Estimates at the time of the ban in 2011 ranged from 600 to 1 000 prostitutes a year being engaged in street prostitution ([85]). Current police estimates are 30 to 50 prostitutes and, while estimates of the *Mitternachtsmission* are higher (120 prostitutes over a year), this still represents a large decrease (Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015; Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). Despite this reduction, many of those working illegally are mobile workers from new EU Member States (the *Mitternachtsmission* specifically mentioned Bulgarian women) but also German women, with **high incidences of drug dependency**. The *Mitternachtsmission* reported **alarming health risks**, especially HIV infection, and a lack of adequate resources for detoxification and HIV treatment for street prostitutes (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015) ([86]).

In Dortmund, local actors did not claim to have stopped trafficking through their regulatory practices and identified a number of factors that make it difficult to reduce demand and eradicate trafficking altogether. Where access is best — in brothels and clubs — the police are able to inspect and monitor regularly, to identify and prosecute traffickers (Interview, Police Prostitution Division Dortmund, 1 April 2015 and 26 June 2015). Moreover, the share of mobile women workers from the newest EU Member States (Bulgaria and Romania) is estimated to be growing in the licensed sector (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). Yet without a clear measure of the size of either the licensed or unlicensed/unregistered sector, none of the interview partners were willing to say whether the number of prostitutes has increased overall or not, or to conjecture about the overall share of prostitutes in the licensed/registered sector vis-à-vis the illegal or unregistered sectors ([87]). There are suspicions that prostitution is shifting to locations which evade licensing and registration within Dortmund: to private apartments, escort services, and services mediated through the internet and social media (Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015). However, according to the *Mitternachtsmission*, most of the prostitutes driven out of street prostitution following the ban are more likely to have re-located to other cities without bans or licensing (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). The lack of national-level licensing and registration for all prostitution businesses invites such displacement.

Even within the legal and voluntary sector where law enforcement has the best capacities for identifying, preventing, and prosecuting trafficking, identification is difficult when victims are not aware of being trafficked or of their rights as victims of trafficking. The Dortmund Police and *Mitternachtsmission* suspect that many disguise their situation due to threats of physical or psychological violence against themselves or their families in home countries. These are 'forms of pressure, which you cannot see' (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). Moreover, prostitutes working legally often hide incidences of trafficking in their own biographies as prostitutes, some only realizing much later that definitions of trafficking apply to their own histories. Local officials themselves are surprised when seemingly independent prostitutes report having entered the industry years ago as trafficking victims. Consequently, the local actors interviewed consider contact with prostitutes as important since it provides an opportunity to explain their legal rights to them, which then helps to raise awareness about exploitative practices and about available services, including support for exiting prostitution. Traffickers are often the main social contact in Germany for their victims, who may even be married or related to them, resulting in initial social isolation when victims do report to the police. Victims are reluctant in such situations to report

([85]) The estimate of 600 street prostitutes is from the NGO *Kober*, referred to in Interview, *Ordnungsamt* Dortmund, 18 March 2015 and 2 June 2015; the larger estimate of 1 000 street prostitutes is from the police (Interview, Police Prostitution Division Dortmund, April 1, 2015 and 26 June 2015).

([86]) While the Dortmund police and the Mitternachtsmission seemed satisfied with results of the ban of street prostitution, the Dortmund Ordnungsamt is arguing for replacing the ban with a new regulatory model of owner-run street prostitution, which could be monitored as a licensed business (Interview, Ordnungsamt Dortmund, 18 March 2015 and 2 June 2015).

([87]) The *Mitternachtsmission* warned about interpretations of trafficking victims among the increasing numbers of asylum seekers, especially African women, in Germany. In many of the cases that have come to the attention of the *Mitternachtsmission*, African women have been victims of trafficking for purposes of sexual exploitation in other EU countries before coming to Germany, but not in Germany, where they report their victimisation (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015).

traffickers, particularly so if they are third-country migrants, who face leaving the country when court proceedings are completed. The *Mitternachtsmission* argues for more protection and support for victims in curbing trafficking, such as extending residence permits to victims and allowing victims to bring their children to Germany as alternatives to mandatory returns (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015).

Recent political discussions at the state level have focused more attention on ending exploitative practices and profits as a means to eradicate trafficking.

> ... it has become clear to me that what we have to work on is exploitative working relations, that is, where women and men say: Yes, I want to do this job, I want to do this, but not like this. And of course there is a relation to trafficking. It is trafficking if someone wants to work in prostitution, but is forced to engage in certain practices against their will, then that is criminal. But it is more a question of 'Who makes the money?' 'Under which conditions do people have to work there?' 'Are they able to maintain their human rights?' (Interview, State Ministry of Health and Equality, NRW Germany, 2 June 2015, authors' translation).

In summary, in the city of Dortmund, licensing under restaurant business procedures and the registration of other forms of prostitution create capacities for law enforcement to monitor, control, and inspect prostitution businesses with the aim of keeping out known criminals, identifying and prosecuting the use of trafficked prostitutes, and enforcing bans on exploitative practices which attract more vulnerable persons into prostitution (flat rates, no use of condoms). There is evidence, though no clear statistics, that law enforcement agencies are better able to identify trafficking victims and to prosecute traffickers through using their frequent contact during inspections. Moreover, bans allow commercial authorities to prohibit prostitution altogether. The problems of monitoring private apartment prostitution and escort services, which are increasingly organised through virtual communications over the internet, are indications of the limits of Dortmund's regulations in eradicating trafficking, pimping, and exploitation. A further limitation in Dortmund, which will become more evident in the comparison to licensing in Amsterdam, is the reliance on restaurant sector procedures for licensing since these depend on enterprise-like organisation of prostitution businesses which thus excludes street and private apartment prostitution. The city has not introduced mandatory registration of prostitutes, though the increasing mobility of prostitutes, even in the more established licensed brothel sector, has led some actors to consider requiring proprietors to register prostitutes working in their businesses. This form of regulation is implemented in the case of the city of Amsterdam to which we now turn.

Case Study 2: City of Amsterdam

The idea of erecting 'barriers' to trafficking for purposes of sexual exploitation through licensing of prostitution businesses and registration of prostitutes was pioneered in the city of Amsterdam. The German Prostitution Law refers to criminal codes about pimping and exploitation but makes no mention of trafficking. Nonetheless, these are clearly criminalised in other codes (see Table 6.1). In the Dutch case, lifting of the ban on prostitution and pimping was tied more clearly to anti-trafficking efforts, and involved a reformulation of criminal codes against 'inducing' prostitution and 'wilful profiting' directly into the anti-trafficking legislation. Current parliamentary debates about the reform of prostitution in Germany continue to carefully delineate the regulation of prostitution from anti-trafficking reforms, even assigning these reforms to different ministries (Ministry of Family, Women, Seniors and Youth for prostitution, Ministry of Justice for anti-trafficking). The current German coalition agreement to reform prostitution is far more explicit than in the past about the aim of eradicating trafficking (BMFSFJ 2015). Nonetheless, political discourse in the Netherlands more frequently views the regulation of prostitution as part of anti-trafficking provisions. In this section, we examine how the criminal and administrative measures outlined in Table 6.1 and Table 6.2 above are being implemented at the local level, through a case study of the city of Amsterdam.

The municipal ordinance of the city of Amsterdam (*Algemene Plaatselijke Verordening*, APV, Gemeente Amsterdam 2015a) includes extensive paragraphs about licensing prostitution, which regulate who can operate prostitution businesses, sex clubs, and sex shops, regulations about their business plans and how they recruit and document prostitutes in their operations. Hotels, for example, are not allowed to operate prostitution in Amsterdam, and since 2003 street prostitution has been banned altogether. In 2008, further regulations were introduced for escort services. Overall, the coverage and specifications of licensing are more comprehensive than in Dortmund. Moreover, since 2007 the city of Amsterdam has had a City Coordination Office for Human Trafficking (ACM, *Amsterdams*

Coördinatiepunt Mensenhandel) which runs a publically funded shelter for trafficking victims. Since 2008, the city has also had a publically funded Prostitution Health Centre.

In the implementation of 'barriers' against human trafficking for purposes of sexual exploitation the city has institutionalised coordination between welfare and victim support organisations and shelters, the police and other public offices involved in regulating and inspecting places of prostitution. In further steps to strengthen the 'barriers' the city established Guidelines for Prostitution Politics in Amsterdam in 2012 (*Nota van uitgangspunten* 2012-2017, Gemeente Amsterdam 2012). On the basis of these guidelines, the city ordinances regulating prostitution were reformed in 2013 (*Algemene Plaatseljke Verordening*, APV Gemeente Amsterdam 2015a).

The 2012 *Guidelines for Prostitution Politics* re-affirm the view of prostitution as an occupational choice but explicitly aim to erect barriers against exploitation and abuse in prostitution by eliminating submissive sexual acts, addressing unequal power relations between profit takers, buyers and sellers within the licensed domain (Gemeente Amsterdam 2015b: 3) and by stronger measures for fighting forced prostitution. The 2012 guidelines name groups of people who are especially vulnerable to abusive and forced prostitution, including women and men between the ages of 18-20 and migrants from outside the EU Member States, especially from Africa and Asia. The guidelines call for measures to better protect vulnerable groups from forced prostitution (Gemeente Amsterdam 2012: 14). A key measure passed in 2013 by the city of Amsterdam to implement protections against vulnerable groups raised the legal age for prostitutes from 18 to 21 years (Article 3.30, Absatz 1 (e), APV Amsterdam) ([88]).

The 2013 ordinance explicitly mandates the extension of licensing procedures to all forms of prostitution, including those considered most susceptible to trafficking, pimping, and exploitation (windows, sex clubs, and escort services) (Article 3.27, para. 1, Gemeente Amsterdam 2015a) ([89]). The licensing procedures have been strengthened to require all forms of prostitution to present a business plan detailing compliance with sanitary and working conditions and the prevention of abusive working conditions. Proprietors are required to maintain rental schedules (for rooms in brothels for example) with exact occupation times and to maintain accurate lists of the names of prostitutes working in the establishment (Gemeente Amsterdam 2015b). Double shifts, rental times exceeding 11 hours, rentals to individual prostitutes for more than 6 days in a row are all prohibited. Window prostitution may no longer operate 24 hours, 7 days a week, with an imposed daily closing period from 6.00 to 8.00 a.m. In clubs and similar forms of prostitution the proprietors are required to document their presence on the premises during prostitution hours. All of these measures make proprietors in all the different forms responsible for sanitary and working standards, and for registering the prostitutes working under the auspices of their establishments, regardless of employment status. These measures are intended to improve the identification and prevention of trafficking, especially in those forms of prostitution which have proven more difficult to control (for example, escort services).

Self-employed prostitutes are required to register with the local Chambers of Commerce. The new municipal ordinance in Amsterdam addresses concerns of prostitutes for anonymity and avoiding stigmatisation, and allows for registration of self-employed prostitutes under the innocuous category of 'personal services' (Gemeente Amsterdam 2014b). Further measures in the 2013 ordinance require licensed businesses to document their prostitutes. Further, licensing requires proprietors to conduct 'intake' interviews of all prostitutes, to keep records of these interviews, and to keep copies of prostitutes' identification documents. The 'intake' interviews in particular are aimed at curbing trafficking (APV, Art. 3.30, para. 1a, b, see also Gemeente Amsterdam 2014c). Proprietors are required to repeat these interviews, and to explicitly query whether prostitutes are working voluntarily, whether dependence on another person is evident, or whether there are signs of inducement, force, or trafficking. Proprietors are obliged to keep records of 'intake' interviews and to report any suspicions of trafficking or inducement to law enforcement (Gemeente Amsterdam 2015b; see also Gemeente Amsterdam 2012 and for further details on the practice and an initial evaluation, see Verhoeven and Straalen 2015).

Support organisations for prostitutes criticised the 'intake' interview process for assuming that brothel owners and other proprietors were competent in noticing and interpreting signs of forced prostitution and trafficking. According to Proud in Amsterdam 'Even brothel owners who are in the business for 30 years often say that we cannot tell'

([88]) Persons who were 18-21 years old in 2013 were exempted from the new regulation, and for that reason, but according to city officials and the police, many of the licensed brothels had already only been engaging prostitutes who were 21 years or older (Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015 and 11 June 2015; Interview, Police Anti-Trafficking Team Amsterdam, 18 May 2015 and 11 June 2015).

([89]) Only prostitution in private homes involving resident individuals without solicitation of any form (red lights, advertisement) escapes licensing (Gemeente Amsterdam 2013: 1).

if someone has been induced to work as a prostitute (Interview, NGO Proud Amsterdam, 21 April 2015). The city of Amsterdam responded to the critique by publishing guidelines for 'Intake' interviews, including indicators for proprietors to check for the voluntary nature of the decision to take up work as a prostitute and signs of psychological stress that might point to inducement or a lack of control over one's own earnings (Gemeente Amsterdam 2014d). The measures are very recent and it is therefore too early to reach clear conclusions about the effects on eradicating trafficking ([90]).

The city of Amsterdam estimates the total number of prostitutes to be 6 750 in 2014, 92 % of whom are women. There were 402 window brothels, 15 sex and private ([91]) clubs, and 12 escort services licensed in Amsterdam. The city estimates that 75 % of all prostitutes in these establishments are from new EU Member States in eastern Europe, with the remaining 25 % from the Netherlands, other EU Member States and third countries, mainly in South and Central America (Gemeente Amsterdam 2015c).

An important aspect of the Amsterdam Prostitution Policy is the institutionalisation of coordination networks under the concept of 'Chain Management'. This entails close cooperation and information exchange between a number of municipal offices and organisations as well as women's support and welfare organisations. There are two chains: one 'chain' for 'public order and security,' involving the police, public prosecution office, tax and customs administration, immigration services and the chamber of commerce; and a second 'care chain' of support services, involving welfare organisations comprising churches, public welfare offices, and the prostitution health service centre. The leader of the Police Anti-Trafficking Team Amsterdam is in both chains. The intensified cooperation between the two chains has affected the way the police understand trafficking victims.

> When I started this job 13 years ago, I thought I would be like a knight in shining armour and riding a white horse and rescuing women. It`s not going to happen. Because they have their own interests, their own values. And by working with them and working with the NGOs and people of the care chain, I have realised that these are really strong women, because they are able to survive in this environment (Interview, Police Anti-Trafficking Team Amsterdam, 18 May 2015 and 11 June 2015).

Chain management, according to the police, has enabled cooperation between the police and support organisations, including the ACM shelter, which enables better identification of trafficking victims and quick and non-bureaucratic victim support. For example, victims are questioned in the shelter with welfare staff present rather than in police headquarters.

> Because you have to remember, if the care part is well organised, the victim probably will be easier to detect and easier to cooperate with the police... for years it was not possible for me, if I´ve found a woman at 8 o`clock in the evening, I had to struggle to get a safe place. And now, it`s all taken care of (Interview, Police Anti-Trafficking Team Amsterdam, 18 May 2015 and 11 June 2015)

Local actors argue that regulations together with chain management in Amsterdam have gone a long way to eradicating trafficking in the legal and voluntary sector. However, they also acknowledge displacement within Amsterdam to forms of prostitution that are harder to control, as well as to other cities with looser regulations and barriers against trafficking (Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015 and 11 June 2015; Interview, NGO Proud Amsterdam, 21 April 2015). The police and other public officials regularly inspect licensed prostitution premises six times a year. The interval between inspections cannot exceed 2 months. In the escort services branch, where there are currently 12 licensed businesses, the police carry out a total of 25 inspections every year. The police have set up a special anti-trafficking team charged with inspections in possible unlicensed prostitution sites to identify victims and prosecute traffickers in an attempt to address the persistence of illegal practices in prostitution, i.e. trafficking and wilful exploitation. Almost all forms of prostitution are subject to licensing in Amsterdam, except house prostitution, which is not illegal. Yet the unlicensed sector may be a target for traffickers or pimps to operate undetected. The leader of the anti-trafficking team of the Amsterdam police

([90]) The national data protection agency (*College Bescherming Personsgegevens*) is currently seeking judicial clarification on the matter. The organisation Proud (2015) objects to infringements of rights to anonymity, and suspects that interviews could lead to a national register of prostitutes. In fact, the 'in-take interviews' were a product of a compromise. Originally the mayor's office demanded a full registration of prostitutes (as demanded by the Christian Union party nationally), which had existed in Utrecht for window prostitution. The local actors interviewed — except the city of Amsterdam — all rejected a mandatory registration system for prostitutes on the basis of privacy rights of prostitutes.

([91]) In the Netherlands a distinction is made between sex clubs, serving food and beverages, and private clubs, where sellers and buyers meet for sex.

reported specific strategies for detecting human trafficking for sexual exploitation outside the licensed sector, including the monitoring of advertisements for sexual services written in poor Dutch or offers for 24/7 sex. In the non-licensed domain, the police are accompanied by staff from the Amsterdam Coordination Office for Human Trafficking (ACM) when crimes of trafficking and exploitation are suspected. In 2014, the police delegated the task of inspecting licensed sex clubs, where inspections currently uncover the fewest cases of trafficking, to the city agency in charge of commercial registration (*Dienst Stadstoezicht*) ([92]) in order to shift more law enforcement resources to the non-licensed zones of prostitution. In this way, the police have reassigned more staff to investigating suspected areas of illegal practices of trafficking and wilful exploitation (Gemeente Amsterdam 2015b).

Licensing and inspections are capacities which allow public officials and NGOs to enter prostitution businesses, monitor working conditions, and come into frequent contact with prostitutes and develop trusting relationships, all of which are mobilised to identify, prevent, and prosecute trafficking. Trust is considered essential to building informant relations, identifying victims, and prosecuting traffickers.

> Because, especially when a female or a male are victims of human trafficking, the experience is that they never tell this in the first time of contact. After several contact moments they will start to tell something but not always the whole story. This takes more time. I think one of the advantages of a legalised sex industry is that you have contact moments with prostitutes (Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015).

Women from new EU Member States in eastern Europe and third-country nationals from Africa were named as persons who are often inhibited by negative experiences with police in their own countries and the police complained about difficulties in gaining the trust of victims who are not Dutch citizens to identify and prosecute traffickers. Moreover, the Coordinator for Victim Services within the city Coordination Point for Human Trafficking reports that victims who are not Dutch citizens often do not view themselves as 'victims' or are not aware of their right to work voluntarily in prostitution in the Netherlands (Interview, ACM Victim Services city of Amsterdam, 29 April 2015; Interview, NGO Proud Amsterdam, 21 April 2015). An increasing share of trafficking is organised through family networks which hinders the identification and prosecution of traffickers (Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015 and 11 June 2015). As in Dortmund, traffickers of African women use Voodoo rituals to place victims under extreme pressure to comply with forced sex work. The police reported using unconventional methods to counter such pressure through alternative Voodoo priests who lift curses placed on individual women so that prosecution could be initiated with victims' consent. Overall, foreign prostitutes are not well informed about the regulation of prostitution in the Netherlands. Traffickers and pimps use misinformation about the illegality of prostitution to generate fear and mistrust among victims towards the police and support organisations (Interview, NGO Proud Amsterdam, 21 April 2015).

A major challenge to fighting trafficking that was noted by all actors is prostitution in private houses and on the streets. The recent regulation of escort services is an attempt to gain regulatory control over prostitution in private spaces, while a total prohibition on street prostitution is aimed at abolishing one of the segments of prostitution that is susceptible to trafficking and exploitation. Escort services, as noted above, are now subject to the same administrative licensing procedures as other forms of prostitution business, which since 2013 also means producing business plans, maintaining lists of prostitutes working in the business, conducting 'intake' interviews and being subject to inspections. Access by police and support organisations to prostitutes to identify trafficking victims is difficult since escorts are, by definition, highly mobile and the place where services are contracted is often in another jurisdiction from the place of prostitution (Daalder 2015: 20). The Amsterdam Anti-Trafficking coordinator estimates that many escort services sending prostitutes to buyers in the city establish their business outside of Amsterdam to evade the city's licensing requirements (Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015 and 11 June 2015).

One segment vulnerable to trafficking remains outside the realm of all regulations — prostitution in private residences, either the private homes of prostitutes or of their traffickers or pimps, often referred to as 'house' prostitution in the Netherlands. This is the only form in Amsterdam not subject to licensing or other regulations designed to eradicate trafficking. Police suspect that, as regulations have tightened over all other forms of prostitution

([92]) In 2013, as reported above, the city intensified regulations requiring licensing of sex and private clubs, and inspections since then have shown that indications of trafficking and exploitation are weakest now in this form of prostitution.

in Amsterdam, displacement to this sector has increased (Interview, Police Anti-Trafficking Team Amsterdam, 18 May 2015 and 11 June 2015). It has been estimated that there are a total of 2 000 prostitutes in the unregulated 'house' prostitution sector (Wijk, Niewenhuis, van Tuyn, van Ham, Kuppens and Ferwerda 2010) ([93]). Some localities in the Netherlands have banned 'house' prostitution altogether and a national task force is currently examining different regulations to consider how to better regulate this sector.

Another challenge to eradicating trafficking, specific to the city of Amsterdam, arises when brothels are concentrated in districts with large numbers of coffee shops (for legalised cannabis consumption). These districts are vulnerable to a wide range of criminal activities, including trafficking, according to the Amsterdam police. Such was the case in the postal code 1012 district of Amsterdam, which the city administration has targeted in efforts to eradicate trafficking and other criminal activity. A national administrative ordinance for screening the financial basis of commercial enterprises and proprietors (BIBOB Act) and city ordinances for revoking licenses as part of the regulation of prostitution (see Table 6.2) were systematically utilised to investigate the large number of windows and sex clubs in the district. The result was a number of revoked licenses and closures of places of prostitution. Since 2007, the number of windows in the postal code 1012 district of Amsterdam has been reduced from 476 to 352, with 94 additional windows targeted for closure (June 2015). City-wide, the number of sex clubs was also reduced from 35 to less than 10 by 2015 (Interview, Human Trafficking Coordinator city of Amsterdam, 3 June 2015 and 11 June 2015). Local actors assume displacement has occurred especially to the 'house' prostitution sector (ibid.).

Street prostitution, as stated above, has been banned since 2003 throughout the city of Amsterdam (Nijkamp, Sijtsra, Snippe and Bieleman 2014: 228) on the basis of a special city ordinance (in the latest version of the APV, Art. 2.12, see Table 6.2). The prohibition of street prostitution followed a brief attempt in 2002 to contain and regulate it, similar to the attempt in Dortmund. Between 1996 and 2003 the city set up a street zone in the harbour area of Amsterdam aimed at containing and securing reasonable working conditions, especially for the drug dependent prostitutes who were thought to represent the majority of those engaged in this form of prostitution (Huisman and Nelen 2014: 608). Dutch prostitutes failed to use the new zone, preferring to solicit in the city centre, where they were also closer to dealers. Instead, the harbour zone began to draw prostitutes from South America and later from new EU Member States in eastern European. As in Dortmund, many of the street prostitutes were thought to be under the control of pimps and criminal organisations. With rising complaints from residents in the neighbourhood and a rise in crime and violence in the zone the city closed down the street prostitution district completely by imposing a city-wide ban. It was anticipated that illegal street prostitution in the city centre would increase but this did not occur; the police assume that supply shifted to escort services and in house prostitution instead (Interview, Police Anti-Trafficking Team Amsterdam, 18 May 2015 and 11 June 2015; see also Huisman and Nelen 2014). With the end of legal street prostitution, the city uses punishments enacted in a city ordinance (Art 6.1 APV) to impose fines up to EUR 4 050 or 3 months' imprisonment. Both prostitutes and buyers can be fined or imprisoned. However, according to police it is mainly prostitutes who are fined (unless buyers are caught in transactions) and no use is made of imprisonment (Interview, Police Anti-Trafficking Team Amsterdam, 18 May 2015 and 11 June 2015).

Lessons from the Case Studies for Eradicating Trafficking

It is hard to imagine a better attempt or higher commitment than that found in Amsterdam for the alternative demand reduction strategy to eradicate trafficking by regulation of prostitution businesses. Yet, without a reliable database, it is not possible to say whether trafficking is being eradicated in Amsterdam or not, and no one in our interviews claimed that this was the case. It does seem plausible, on the basis of reports by the police, city officials, and women's support organisations, that trafficking and other crimes are being driven out of the legal and voluntary sector of prostitution. The stronger controls on proprietors (background checks, refusing and revoking licenses, business plans) and the obligations placed on proprietors to monitor the identities and independence of prostitutes working in their businesses (keeping lists, checking and storing identification documents, conducting intake interviews), as well as regular inspections, give law enforcement the capacity to identify, prevent, and

([93]) 'House' prostitution is similar to private apartments or other residences for prostituting oneself in Germany. In some Dutch municipalities, such as Amsterdam, private homes/apartments cannot be used for prostitution by non-owners or non-residents, with such third-party use being illegal. In Germany, private residences are not subject to licensing or registration. In Dortmund, the city orders that private residences also register, however, if there are three or more prostitutes working on the premises.

prosecute to drive trafficking out of prostitution businesses in the licensed sector. A key factor in identifying and supporting victims is the close coordination between law enforcement 'chains' and the 'chain' of welfare and support organisations. The cooperation of both 'chains' in entering and inspecting places of prostitution is not only a matter of victim support but also of identifying victims and encouraging prosecution.

Yet these practices and the sequences of regulations over the past 6 or 7 years in Amsterdam are like a game of cat and mouse in that law enforcement narrows the options for traffickers to operate in prostitution and the traffickers move their victims further out of reach. The 'chase' begins by regulating brothels and clubs, thus driving trafficking into escort services and the streets; it continues by regulating escort services and abolishing street prostitution, thus driving trafficking into private homes; then intensifying police investigations into illegal prostitution, subsequently driving traffickers into other less regulated communities or other countries altogether. The net effects for eradicating trafficking in one sector are negated by the subsequent impact upon other forms of prostitution.

Another relevant issue in considering the regulation of prostitution businesses is the changing composition of prostitution, in terms of who takes it up, the form of employment and the location. Over the past decade, the mobility of women from the new EU Member States has increased the non-national composition of the prostitution labour force, though there are no reliable numbers to demonstrate this beyond the observations of interview partners. With the accession of new Member States in eastern Europe since 2004, Germany and the Netherlands made use of moratoriums on labour mobility, and in the case of Germany this was for the full 7 years. Free mobility (except for employment) encouraged either use of or overstaying tourist visas to engage in work or registration as self-employed under EU freedom of service provisions. The self-employment of eastern European workers is also evident in male-dominated occupations such as food processing and construction. The changes in the size and composition of street prostitution in the mid-2000s suggest that eastern European women may have entered street prostitution under the control of pimps and traffickers. There is no clear proof but the moratoriums and the patterns of informal work and self-employment used to evade the restrictions on labour mobility may account for why these forms persist in the prostitution sectors in Germany and the Netherlands. The moratoriums on mobile labour from eight of the ten new Member States between 2004-2011 imposed in Germany after accession of the new Member States may have made eastern European women more vulnerable to traffickers and pimps for entering and operating in prostitution markets abroad, particularly within street prostitution.

On the scale of municipalities, there are a number of differences between Dortmund and Amsterdam, which do point to differences in how effectively trafficking is being eradicated by reducing demand through regulating profit takers/rent takers. Dortmund relies on general licensing procedures for restaurants while Amsterdam has institutionalised specific licensing procedures for prostitution businesses. Moreover, the discourse of connecting prostitution regulation to anti-trafficking measures is much more open and accepted in Amsterdam and the Netherlands, in general, in comparison to Germany. The specific regulation of prostitution businesses as an anti-trafficking measure has allowed the city of Amsterdam to extend licensing to forms of prostitution which do not resemble enterprises but which are particularly vulnerable to trafficking. Thus the breadth of anti-trafficking activities is much broader in Amsterdam than in Dortmund. While pimping, exploitation, and trafficking are explicitly criminalised in Germany, the Dortmund police have to rely on licensing procedures for restaurants rather than ones specifically tailored to prostitution businesses as in Amsterdam. In Amsterdam, police can monitor a range of procedures tailored to prostitution businesses and the scope for revoking licenses is much broader.

Nearly all of the measures now practised in Amsterdam are part of the current German coalition agreement on how to reform the Prostitution Law, meaning that German law enforcement may soon have the same set of prostitution-specific measures available to identify, prevent, and prosecute trafficking (BMFSFJ 2015).

Dortmund and Amsterdam share similar experiences of attempting to regulate street prostitution and the decision to eventually ban this form altogether. Again, the growth of and increased reports of violence and nuisance in street prostitution aligns with moratoriums on labour mobility from the new to the old Member States from the mid-2000s onwards; most recently from Bulgaria and Romania, countries that were explicitly named in interviews in both cities. Overall, **in both countries, there are indications that the composition of prostitution businesses may be shifting with a growth in the unlicensed/unregistered 'house' and 'apartment' prostitution which officials and NGOs suspect are most easily infiltrated by trafficking, exploitation and child prostitution.** The proliferation of such 'micro-**businesses' in prostitution may be associated with an increased use of the internet to organise market transactions between buyers and sellers**. Officials and NGOs in both municipalities reported monitoring electronic and social media in their efforts to identify, prevent, and prosecute trafficking.

A national task force in the Netherlands is currently considering whether to ban 'house' prostitution altogether while German government reform plans to require mandatory licensing for any form of business involving more than one prostitute (currently, the threshold is three or more in Dortmund) (BMFSFJ 2015).

The various reform efforts aimed at better addressing trafficking for purposes of sexual exploitation will very likely mandate nationwide licensing in both countries in order to reduce displacement. Three further measures currently under debate may also contribute to these efforts: the registration of prostitutes, lifting the legal age for prostitution from 18 to 21, and criminalising buyers of trafficking victims.

The German government coalition is calling for mandatory registration of all prostitutes in its reform effort; originally, the Dutch government had done the same. In both countries the issue is highly contested by NGOs and prostitute interest organisations in terms of it compromising the anonymity of prostitutes. The measure is clearly meaningful for monitoring whether prostitution is voluntary or forced, as well as the age of prostitutes, but this measure has already been taken out of the Dutch reform bill due to a lack of consensus. Instead, a compromise may be the obligation of licensed businesses to keep registers and identity documents of the prostitutes working in their businesses (including self-employed prostitutes) as already practised and accepted in Amsterdam. The outcome of the legislative process in Germany is not yet clear but a similar compromise seems likely.

Lifting the legal age of prostitution to 21 is part of the current Dutch reform and already practised in Amsterdam. A further reform is the criminal prosecution of buyers who use prostitutes under the age of 21 with imprisonment for 1 year or a fine of EUR 8 100. At present, however, the removal of mandatory registration from the national reform draft has created some uncertainty about how proof of age will be demonstrated. Moreover, the present draft also foresees fining prostitutes under 21; a measure criticised by the Dutch National Rapporteur (Tweede Kamer 2014b; National Rapporteur [Netherlands] 2014). Lifting the age of prostitution to 21 is more controversial, and not currently part of the government reform agreement, though anti-trafficking law in Germany provides a precedent. In Germany, the definition of trafficking in the anti-trafficking code (StGB §232) already extends to the prosecution of anyone who 'brings' a person under the age of 21 into prostitution or continues the prostitution (as discussed above). The underlying issue of many NGOs and prostitute interest organisations who oppose this measure is the fear that young prostitutes could be criminalised (as the Dutch reform does do in its present form ([94])) which will have the effect of eliminating funding and resources for services and protections for prostitutes under 21. The consensus, already present in the current government coalition agreement, instead foresees better protection for prostitutes under the age of 21, with more frequent registration renewals and mandatory health checks (BMFSFJ 2015). In this way, the population of prostitutes under 21 will become more transparent which may allow authorities to better identify violations to the anti-trafficking provisions covering those who 'bring' a person under the age of 21 into prostitution.

The EU Anti-Trafficking Directive (2011/36/EU) asks Member States to consider the criminalisation of the users of prostitutes who are known to be victims of trafficking, but does not oblige Member States to do so. This issue was not included in anti-trafficking legislation in Germany and the Netherlands to-date, but is under consideration in current national reform discussion. In fact, there is a debate in the Netherlands about whether use of trafficking victims is or is not already criminalised, i.e. whether buyers can be seen as deriving an advantage from trafficking (as the present wording dictates, Lindenberg 2014b). In Germany, the law against black market labour criminalises the employment (but not use) of foreign trafficking victims for any form of labour (SchwarzArbG §10a, BGBl. 2004, I Nr. 39: 1842) including prostitution businesses. The current reform to transpose Directive 2011/36/EU **does not, however, include prosecution of users of victims of trafficking for sexual exploitation.** Statements by the German Justice Ministry indicate that a consensus on such a clause could not be reached and, given the over-due transposition, the current reform plans are restricted to expanding the forms of trafficking (for purposes of begging and organ harvesting) and stronger prosecution of trafficking of minors (Deutscher Bundesrat 2015; Deutscher Bundestag 2015).

The German and the Dutch approach to licensing and inspecting prostitution businesses as a demand strategy aimed at eradicating trafficking for purposes of sexual exploitation is undergoing important reform to: address displacement through nationwide licensing; potentially improve the capacity of law enforcement to better identify

([94]) However, in July 2015, the Dutch Minister of Security and Justice has suggested amendments to the current bill to take out the criminalisation of these prostitutes. In this, he follows the recommendations of the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children. Currently, the amendments are discussed in the House of Representatives (*Tweede Kamer*).

trafficking victims through enhanced registration; prevent trafficking among vulnerable persons (under 21); and to criminalise buyers who can be shown beyond reasonable doubt to have known about a situation of force or exploitation. Most of these, with the exception of criminalising buyers of trafficked victims, are related to the reform of national level prostitution regulations rather than transposition of the EU Directive.

In the next section, we consider the gender dimensions of the German and Dutch approach, analysing how these national experiences may inform recommendations for improving the EU Directive 2011/36/EU and its transposition.

WHAT WORKS IN GERMANY AND THE NETHERLANDS TO ERADICATE TRAFFICKING? GENDER DIMENSIONS AND RECOMMENDATIONS

Two distinctions emerge out of the regulation of prostitution in Germany and the Netherlands, which are of relevance for eradicating demand for human trafficking: one between voluntary and forced prostitution; the other between legitimate businesses taking profits/rents from the prostitution of others and illegitimate businesses taking profits through excessive or wilful exploitation, pimping, and trafficking. By distinguishing forced from voluntary prostitution and legitimate profit/rent-taking from exploitation, law enforcement in Germany and the Netherlands aim to erect barriers of access to the prostitution business to keep out traffickers and other criminal elements, and in this way to eliminate demand in the prostitution business altogether for victims of trafficking. In this section, we consider the gender dimensions of this approach to eliminating demand for trafficking, with its focus on regulating prostitution businesses.

1. Gender-specificity/equal treatment

A basic assumption of the German and Dutch approach is that prostitution is an occupational choice entered into willingly on the part of women (men are a minority in prostitution). In relation to eradicating trafficking the German and Dutch approach assume that voluntary and forced prostitution can be distinguished and the latter replaced by the former in a legalised sector of prostitution businesses. Regulations improving employment and working conditions are part of this strategy. From a gender perspective, the important questions concern the employment and social protections in prostitution, and whether labour standards and protections apply equally to prostitution. Similar to other feminised occupations in the service sector, prostitution is mainly in the form of irregular employment relations, often with no contracts. Moreover, as discussed above, the most common form of employment is self-employment. **Overall in Germany and the Netherlands, women constitute 40 % of all self-employed, but self-employment is the dominant form in prostitution.** This is in contrast to domains of primarily male employment where regular and protected employment relations are predominant. Moreover, self-employment is especially prevalent among mobile EU workers from the new Member States in eastern Europe, and in other sectors of feminised work (domestic labour and eldercare) where a high proportion of these women are employed.

As discussed above, **self-employment enables employers to evade statutory labour standards. It also allows them to evade social contributions by shifting responsibility for employment and social risks onto workers**. The local officials and NGOs interviewed in our study associated self-employment of prostitutes with more autonomy and control in relation to both the business owners/landlords and the buyers. While dependent employment relations may be no better for prostitutes, the advantages of self-employment may be disputed, particularly given the legacy of self-employment as a 'loophole' for placing labour market entrants from the new EU Member States into low status jobs in countries like Germany and the Netherlands (Anderson 2010). While this is also true for eastern European men working in sectors such as construction and food processing, the prevalence of self-employment in prostitution (and elderly care work) exceeds that found in most of the male-dominated occupations. Moreover, EU directives covering posted work (96/71/EC and the enforcement thereof in 2014/67/EU) and temporary agency work (2008/104/EC) open alternative and regulated avenues, mainly taken up by male workers, for labour mobility in Europe. At present there are no EU level directives covering self-employment as an employment form. **Instead, self-employment in offering services falls under the service directive (2006/123/EC) which includes a list of services that should not cross borders (e.g. financial services and gambling). In effect, mobile women in Europe, especially those from the new Member States, seem far more likely to be in forms of employment not regulated by the EU than mobile men. This essentially constitutes unequal treatment of the employment and service conditions of mobile women and men in Europe as evidenced by the above analysis of prostitution.**

A second issue related to self-employment concerns bogus self-employment. This is illegal in Germany and the Netherlands but the study found little evidence of this being addressed in Germany in the prostitution sector, though the 'opting-in' measures in the Netherlands were beginning to do so. This violation of regulation in prostitution thus appears to be tolerated at the same time as it is pursued in the rest of the economy. **The lack of enforcement** again constitutes a case of unequal treatment. This inequality is addressed in attempts in the Netherlands to integrate bogus self-employment across the economy into statutory social insurance and thus to treat it as a form of dependent employment. However, the extension of these provisions (opting-in) to prostitutes is relatively recent in comparison to other occupations associated with a prevalence of bogus self-employment.

NGOs in Germany and the Netherlands call for better exit options for integrating trafficking victims, and prostitutes more generally, into the labour market. In this sense, NGOs function as trade unions and employment agencies for women in prostitution ([95]). Germany and the Netherlands have extensive systems of unemployment services which span public and private labour exchanges. These were not investigated directly in this study but there is little evidence in the extensive literature on prostitution in both countries that women wishing to exit prostitution are able to access these services effectively. NGOs assist these women but do not have sustainable funding structures, relying in part on donations or temporary funding of projects, and often lack the necessary resources to go beyond the most acute needs of trafficking victims for shelters, healthcare, and psychological support. This is another instance of unequal treatment in that the labour market problems of women in female-dominated occupations are not being addressed as well as those of men in male-dominated occupations.

The regulatory approaches in Germany and the Netherlands were motivated by labour rights of persons choosing to work as prostitutes but neither voluntary nor forced prostitutes are afforded full employment and social protections. Proud, a prostitutes' rights organisation in Amsterdam, reported further discrimination in obtaining bank accounts and registering for health or pension systems. Proud was itself denied an account by a Dutch bank and there are many reports of registered prostitutes being denied sickness insurance and access to other social programmes on the basis of higher health risks (Interview, NGO Proud Amsterdam, 21 April 2015). At present, the mayor of Amsterdam has intervened to persuade banks to allow prostitutes to open accounts but these measures only support those in the licensed sector. Victims of trafficking, especially **mobile women from within and migrant women from outside the EU,** have no access to public or private infrastructures such as bank accounts which could support their exit from forced labour. Social disenfranchisement is compounded by social exclusion.

2. Gender Balance in Decision-making

At the municipal level, roundtables of public officials and NGOs formulate policies and cooperate in efforts to better regulate forms of prostitution where exploitation is thought to be widespread. Women's support NGOs, on the basis of their lengthy experience, are often called upon to consult government actors in reform processes. The series of hearings by the German Federal Ministry for Family, Seniors, Women and Youth responsible for reforming the 2002 Prostitution Law are an example of such consultation. All major NGOs involved in trafficking victim support (BMFSFJ 2014e), consultation and other support for women in prostitution (BMFSFJ 2014c), gender equality NGOs and public offices (BMFSFJ 2014h) and health services for prostitutes (BMFSFJ 2014g) were all invited to participate in the workshops to plan reform in this Ministry. Reading the hearings and documents of on-going reform debates, particularly in Germany, gender balance benefits the 'voice' and participation of prostitutes in the legal sector directly, but women, youth, mobile EU workers and third-country migrants who are most vulnerable to trafficking have only indirect 'voice' through NGOs, which in the hearings so far, tend to emphasise more support in the most acute needs areas of health and shelters. The longer-term interests of mobile prostitutes to gain access to regular labour markets and to be covered by social insurance are hardly present in reform debates. In part, this is due to prevailing employment policy, which is more concerned with the labour market problems of male workers, and immigration policy, with a bias towards retaining high-qualified (often male) workers. A case in

([95]) The Dortmund chapter of Ver.di, the service worker union, attempted to reach out to prostitutes through information campaigns, offers of consultations about problems and rights, and even developed a contract template for use by dependently employed prostitutes. None of their efforts succeeded however, and according to a brief telephone request for further information from a local representative of Ver.di Dortmund on 17 April 2015, Ver.di is no longer engaged in building representation in the prostitution sector in Dortmund. Other research shows however, that trade-union involvement is more successful in other German municipalities (Czarnecki, Engels, Kavemann, Schenk, Steffan and Thürnau 2014). An interview with a member of the German Trade-Union Federation participation in the project 'Fair Mobility' revealed, that there is no focus on cross-border prostitution, but rather on posted and agency workers and self-employment in branches like construction and food processing (Interview, DGB Fair Mobility Project, Germany, 30 March 2015).

point being the fact that migrant women from third countries (non-Member States of the EU) who are trafficked must return to their home countries at the end of prosecution. Gender balance in prostitution and trafficking policy is present in Germany and the Netherlands yet this does not appear to be the case in related policy fields of employment and immigration.

3. Demand reduction by reducing the exploitation of the prostitution of others

The regulations practised by Germany and the Netherlands constitute a strategy for reducing the exploitation of the prostitution of others by creating a legal business sector of prostitution to replace those forms of profit-taking based on wilful exploitation. The question remains whether any form of profit-/rent-taking from prostitution is to be considered as exploitation, as suggested by Article 6 of the UN Convention on Ending all forms of Discrimination Against Women (CEDAW), which calls for ending all forms of exploitation of prostitution of women. The efforts of police and local administrations in Dortmund and Amsterdam to license businesses, and the use of licensing and inspections to identify, prevent, and prosecute trafficking, do appear to function to reduce trafficking and pimping in the licensed sector. However, as discussed above, the immediate effect is displacement rather than replacement. Laws with a national scope would be an obvious policy response to counter this trend.

Two other issues demand a deeper reconsideration of this model for reducing exploitation. The first concerns the direction of law enforcement resources into inspections in the licensed prostitution sector. This focus, while possibly reducing exploitation in the licensed sector, may however be diverting police (and NGO) resources away from the non-licensed sector where trafficking is more widespread. The Amsterdam police have consequently reassigned some of their resources to the non-licensed and harder to regulate sectors leaving public administrators to conduct the regular inspections of licensed businesses. **This example demonstrates that regulating prostitution is not the same as fighting trafficking and that resources directed towards licensed businesses may be helping those prostitutes who are least vulnerable while leaving the most vulnerable women, especially youth and migrant women from third countries, unprotected and in increasingly insecure locations of exploitation** (private homes and apartments). These are intersectional issues in the gender dimensions of the alternative demand reduction strategies for eradicating trafficking practices in Germany and the Netherlands.

The second issue demanding more deliberation is the use of bans and how these are enforced. Again, the experience in Dortmund and Amsterdam does indicate a reduction of exploitation in street prostitution, evidenced by the data provided by local actors. Again, however, displacement rather than eradication is the most likely development. Moreover, selling is more visible in illegal street prostitution, with the unintended effect that more prostitutes than buyers may be subject to punishments of violations. Bans, in this sense, lead to the prosecution of those selling sex while leaving buyers unsanctioned. Police in Dortmund and Amsterdam indicated a policy of relative tolerance towards street prostitutes and more stringent action towards buyers; a bias towards prosecuting women who sell sex does, nevertheless, appear to constitute an unintended consequence of the bans ([96]).

Another dynamic with complex gender outcomes is the growth in size of the licensed brothels in Dortmund and Amsterdam at the same time as the number of these establishments with regulation has decreased. **The shift towards fewer but larger enterprises may be an indication of profit-taking from volumes rather than margins of sales as prostitutes in this sector gain better access to their earnings**. In turn, this could potentially represent part of a dynamic whereby an elite group of prostitutes is created who have better access to the police and support organisations and political voice through NGOs. This does not seem to be the case, however, with reports in Dortmund of greater competition and in Amsterdam of higher rents driving down earnings. Interviews in Dortmund also pointed to increasing turnover and mobility in the prostitution sector which is generally indicative of poor and deteriorating working conditions. Nevertheless, conditions in the licensed sector still appear better than those in forms of prostitution which are not licensed/registered (apartments with less than three working prostitutes in Germany and 'house' prostitution in the Netherlands) or banned, or which occur in regions without licensing/registration, and which are thus destinations for displacement as trafficking, exploitation and pimping are driven out of licensed/registered domains. Such displacement may be increasing the inequalities between voluntary and forced prostitutes and altering the composition of these groups according to migrant status as well as country or region of origin.

([96]) Another example of criminalising selling is evident in current Dutch reform plans for lifting the age of prostitution to 21, which at present includes fines for prostitutes under the age of 21.

Finally, in neither country are users of trafficked prostitutes sufficiently criminalised. The alternative demand reduction strategy tends to exonerate buyers, who are mainly men, in the regulation of prostitution and prosecution of trafficking ([97]).

4. Competing policy fields, which are differently gendered and resourced

There is evidence of a gendered division of labour between law enforcement and crime prevention being led by men while victim support and counselling is led by women. In the case of victim support, it is meaningful for women's support organisations to offer services to female victims, but gender discrimination is evident in the very different positioning and resourcing of these activities. Most of the interviewees in public administration and police leadership roles, in both countries, were male. Women are engaged in law enforcement but their relative absence in leadership of anti-trafficking efforts in law enforcement and public administrations does appear strange even given the very small sample of our case studies ([98]). Moreover, women's support organisations often join the police in inspections and identifying trafficking but, unlike the police, these organisations have no sustainable funding and are often reliant on grants, donations, and temporary government subsidies. Such insecurity in terms of their resources stands in sharp contrast to the extent of their value in terms of fulfilling a vital public function to support victims and identify, prevent, and prosecute trafficking.

For third-country nationals, less restrictive immigration policy, and for mobile workers from EU Member States and German nationals, better supports through unemployment services for trafficking victims, would aid women in exiting prostitution and entering other jobs. NGOs in Germany call for non-EU trafficking victims to be able to bring their children to Germany during periods of prosecution (Interview, NGO *Mitternachtsmission* Dortmund, 15 April 2015 and 7 July 2015). The present rules grant only temporary status for the duration of prosecution at the end of which victims should return home, with the possibility for extension if other criteria are met (e.g. for humanitarian reasons, see Aufenthaltsgesetz §25 and 59, BGBl. 2008, I, Nr. 162 and BGBl. 2015, I Nr. 1286; for the Netherlands see Vreemdelingenbesluit 2000, Art. 3.51). When the period of either prosecution or extended residence expires, victims are obliged to leave Germany. While extensions may be likely in cases where impending return to countries of origin for trafficking victims may mean a return to a violent situation in home countries, the threat of return still poses a strong disincentive for trafficked women to cooperate with prosecution and, at worst, leads to re-victimisation. In the Netherlands, it is possible to apply for a permanent humanitarian residence permit.

In sum, prostitution regulations at present do not adequately regulate employment conditions and relations, and anti-trafficking laws do not provide a normalization of immigration status and thus also do not provide alternative futures for victims of trafficking in prostitution. As a result, the current mix of regulations function unintentionally to reinforce insecure working conditions while failing to adequately encourage victims to prosecute perpetrators.

5. The Gender Regime

Prostitution can be considered a feminised form of labour. Voluntary and forced prostitution share a range of insecurities related to the overrepresentation of women in irregular and informal work in both countries, especially social disenfranchisement. Moreover, the pattern of labour mobility from the new Member States in eastern Europe into low labour market status jobs in Germany and the Netherlands (and elsewhere) is common to mobile women workers in domestic labour and eldercare as well as prostitution and these are all areas where labour exploitation is also extensive. This represents a clear intersection of gender inequality and low employment status which needs to be addressed as an EU employment issue and as a matter of equal treatment of men and women in the EU labour market. **Gender equality policy in Germany and the Netherlands does not adequately address the higher likelihood of women being engaged in low paid work with little social protection which renders them dependent on potentially abusive employers. If women do manage to exit prostitution and sexual exploitation the question is to what alternative form of employment can they turn?** The options for their reintegration into the EU labour market appear, at least in the current conditions, extremely limited.

([97]) Based on the analysis of reform debates so far, the criminalisation of users of trafficking victims is likely to be legislated in the next reforms in the Netherlands (Tweede Kamer 2015b) but it is not yet part of reform plans in Germany.

([98]) Our contacts are not representative and, in fact, gender equality measures in the public sector, and the gender balance in public services generally is quite good in Germany and the Netherlands.

7. Demand reduction: Sweden ([99])

INTRODUCTION

At the point the Swedish law on criminalising the purchase of sex was introduced trafficking was yet to be recognised as a critical concern. The law was, however, always intended to reduce demand within a policy framing of gender equality. In the intervening time the legislation has been increasingly invoked as offering a well-defined approach to demand reduction within anti-trafficking strategies (see, for example, the Report on prostitution, trafficking and modern slavery in Europe, Council of Europe 2014).

Demand reduction has progressively been emphasised as a core anti-trafficking measure, required under a number of international policies. The 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) notes that: 'States Parties shall adopt or strengthen legislative or other measures … to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking (Article 9(5)).' Echoing this, 5 years later the Council of Europe Convention on Trafficking requires that state parties take measures to: 'discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking' (Article 6). Also, in 2005 the Council of the European Union plan on best practices, standards, and procedures for combating and preventing trafficking in human beings (2005/C 311/01) included a specific focus on reducing and eliminating demand for all forms of trafficking, including for sexual exploitation. Article 18 of the EU Directive (2011/36/EU) on preventing and combating trafficking in human beings addresses prevention and specifies that demand reduction is part of this: 'Member States shall take appropriate measures, such as education and training, to discourage and reduce the demand that fosters all forms of exploitation'. Article 18 further notes: 'In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2'.

This case study explores the 'Swedish approach' through the twin lenses of whether demand reduction can be considered an effective anti-trafficking measure and the gender dimensions which sit behind the law and its implementation.

HOW THE CASE STUDY WAS CONDUCTED

The case study combined a literature review and face-to-face interviews with ten stakeholders and is organised around a series of questions designed to address the question of whether demand reduction can reduce trafficking for sexual exploitation.

The literature review involved searches in the academic and grey literature, the latter being especially important given the number of key reports published by the Swedish government and local administrations. A systematic way to extract data and argumentation was created using a tabular format. Two tables were created — one for publications which supported claims for the Swedish approach and one for those which questioned them. Columns were headed: impacts claimed; impact on trafficking; impact on public attitudes; unintended consequences; data used/referred to; contestations (evidenced or ideological). The first iterations of these tables were developed before a field work visit to Sweden in April 2015 to generate a set of questions for all interviewees that focused explicitly on trafficking for sexual exploitation, since the published material focuses more directly on the impact on prostitution.

Interviewees were chosen because of their strategic roles within anti-trafficking work or evaluating the sex buyer law and canvassing the various positions within the academic debate (see Table 7.1). Unfortunately, neither of projects approached were supported with the participation (either during the field trip or by email subsequently)

([99]) Liz Kelly and Jo Lovett

of those who sell sex — their perspectives are a significant gap. Similarly, several of the researchers who take a critical perspective on the Swedish approach declined invitations to take part: one had shifted her area of academic interest and one withdrew at the last minute during the field trip. We have taken care to ensure that their arguments are represented through written materials.

The interview guide covered: the relationship between prostitution and trafficking; whether trafficking for sexual exploitation is linked to gender inequality; how the role of demand is understood in relation to trafficking; evidence that the sex buyer law has decreased demand and how strong it is; whether it is possible to claim that there has been disruption of sex markets; whether the law made investigating/prosecuting trafficking cases more difficult; identification of, responses, and resources for victims of trafficking; to what extent the sex buyer law can be said to have reduced trafficking; any unintended consequences; and current debates. Interviews were transcribed during the study visit.

Table 7.1 Actors interviewed for the Swedish case study

Professional role	Interview date	Interviewee number
Chancellor of Justice	29 April	1
National Rapporteur on Trafficking	27 April	2
Specialist anti-trafficking police officer Stockholm	29 April	3
Specialist anti-trafficking police officer Gothenburg	28 April	4
Anti-trafficking coordinator and staff member	29 April	5 & 6
Academic Stockholm	27 April	7
Academic Stockholm	29 April	8
Academic Gothenburg	28 April	9
Academic Gothenburg	28 April	10

Following the study visit, and after discussions in the project team, the literature was re-examined to follow up particular questions and to search for comparative data — for example, on the proportions of men from various studies saying they had paid for sex whilst outside Sweden to test claims for displacement effects.

BACKGROUND AND CONTEXT

The idea of criminalising the buyer of sex was first mooted in the Nordic region in the early 1980s by Cecilie Høigård, following research on the experiences of women in prostitution in Norway and Sweden (English publication: Hoigard and Finstad 1992). It would take almost two decades for this challenging concept to become law. In 1999, the Swedish parliament enacted legislation criminalising the purchase of sexual services — the Prohibition of the Purchase of Sexual Services Act (SFS 1998: s.408). This made the buyers punishable with either fines or up to 6 months' imprisonment and simultaneously decriminalised the sale of sex in all contexts. The law was part of a wider package of measures known as Kvinnofrid (Women's Peace) that sought to address men's violence against women more broadly. Whilst located in this bill, the argumentation to support the Act was rooted in gender equality politics — that so long as it was possible for one group of persons (men) to buy the bodies of another (women) it was not possible to claim there was equality: Josefina Erikson argues that the law frames prostitution as a practice of gender inequality (Erikson 2012).

Other legal regulations can also be applied with respect to the use of premises for the purposes of prostitution, which require termination of tenancies where they are used to sell sex. Dodillet and Östergren (2011: 4) argue these have been used to harass sex workers.

The legal reform followed two government-commissioned reports into prostitution in Sweden in 1997 and 1993 (SOU 1981; SOU 1995a), and a third on violence against women (SOU 1995b). In 2005, when the law on sexual offences was reformed, the 1998 Act was replaced by new legislation (Chapter 6, Section 11 of the Swedish Penal Code). In 2011, the maximum penalty was raised to one year's imprisonment. This approach to prostitution has become known as the 'the Swedish approach' or 'Nordic model', although the latter has been described by some (see, for example, Skilbrei and Holmström 2011) as a misnomer, as it overlooks the different histories and

contexts in other Nordic countries that have adopted similar laws, with trafficking being a much more explicit focus in the later debates in Iceland and Norway.

The origins of the law are rooted in Swedish feminist and gender politics, in which prostitution has been a live issue for over a century: unlike in some European countries it remained a core principle that women's equality was not possible whilst prostitution existed (Svanström 2004). In a detailed 'dynamic frame analysis' (Erikson 2012: 159) five periods of policy debate are outlined, culminating in the current controversy in which the differences are so deep that data is considered incapable of resolving them (op cit). There were parliamentary motions on prostitution in the 1970s noting a growth in the sex industry following the relaxation of law (SOU 1972). In this period, prostitution was seen as a social problem and women's movement activists called for its removal from the category of sexual crime and for an inquiry to establish the scale of the problem and possible responses to it (Erikson 2012). A key question for this inquiry was whether prostitution was an acceptable activity which should be normalised or was unacceptable and harmful. Institutionalisation was rejected in a government report (SOU 1981), although a minority report supported this route. From the mid-1980s the normalisation argument became increasingly unavailable as a frame and from the late 1980s a series of parliamentary motions were tabled which raised the possibility of criminalising the buyer. The issue remained framed as a social one, with an emerging criminalisation focus. Increasingly, however the gender equality frame was that most articulated publically and within this men's role and response was emphasised, as was a connection to material inequality rather than individual choice (Erikson 2012). A report in the mid-1990s (SOU 1995a) surprisingly recommended criminalisation of both buyer and seller, leading to a cross-party parliamentary motion in 1996 (motion 1996/97: Ju 718) on criminalising the purchaser. The wider public debate coincided with the completion of the Kvinnofrid report on violence against women (SOU 1995b).

One academic interviewee (8) took an even broader perspective noting that the strong social welfare support system in Sweden and the move from the 1970s to promote a 'two waged family', including childcare provisions, created a context in which relatively few women chose to sell sex. This 'gender equal' political economy also meant there was limited space for the argument to take root that prostitution should be considered work (Interviewee 8). Furthermore, the social democratic framework within Sweden resulted in feminists regarding politicians as potential political allies, thus the debate was taken up in the cross-party parliamentary women's group where it became a policy on which they agreed to work together (Interviewee 8). It was not, as myth has it, radical feminists who succeeded in getting this law reform, rather it was conservative and liberal women who drove the issue in parliament (Interviewee 8).

The sex buyer law was contentious from the outset, but saw growing public support over the next decade. Today, the contention comes primarily from academics and queer activists challenging both evidential claims and drawing on the individual freedom and self-determination theoretical arguments of a 'sex work' position. Successive governments, of all political shades, have promoted the law at regional (Nordic/Baltic) and European levels. Interestingly, the grounds on which political parties have supported the law vary and have changed overtime: the Moderate (liberal) party did not support it originally, but when in power in 2006 they shifted position, recognising its usefulness as an anti-trafficking strategy (Interviewee 8). The 'Swedish approach' was initially treated with consternation by other EU countries and jurisdictions, but it has now been adopted in Iceland, Northern Ireland and Norway. Serious debates about its adoption are also taking place in Ireland, France, Finland and Scotland..

Trafficking legislation

Sweden ratified the Palermo protocol in 2004, following legal reform in 2002 which created the new crime of 'trafficking for sexual purposes'.

> A person that, in other cases than what is intended in §1, through use of unlawful coercion, misleading, or some other unlawful means induces someone to go to or be transported to another country in order to subject this person to crime under chap 6, § 1, 2, 3 or 4, exploit that person for casual sexual relations or in some other way exploit that person for sexual purposes, will be convicted of trafficking in human beings for sexual purposes and sentenced to imprisonment for a minimum of 2 years and a maximum of 10 years.

Over the next 10 years a series of amendments have been made that: increase the penalties; remove the cross-border requirement; include the phrase of 'exploiting a position of vulnerability'; cover other forms of trafficking in

human beings; and most recently, remove the term 'take control over the person'. The latter was seen as an impediment to successful prosecutions.

The 2005 Aliens Act is also relevant, since this grants the possibility of both a 30-day reflection period and temporary residence permits. Since 2007, anyone identified by police as a victim of trafficking is eligible for such a permit if they are cooperating with an investigation. Such permits allow a minimum of 6 months and can be extended if the judicial proceeding is prolonged (Cederlöf et al. 2011). Being a victim of sexual exploitation is not grounds for asylum in Sweden, so any such applications have to be made under general humanitarian protection grounds. Dodillet & Östergren (2011) maintain that the Aliens Act has been used to refuse entry to anyone where it is suspected that they will engage in prostitution in Sweden. Danna (2011) argues that eastern European women have been especially affected by this provision. There is limited empirical data to support these claims.

Sweden has had a National Rapporteur on Trafficking in Human Beings since 1997.

How is the relationship between prostitution, demand and trafficking theorised, and how has demand been addressed?

A fault line in debates on the Swedish approach is whether prostitution and trafficking are analytically connected or separated. The exploitation aspect of trafficking requires that trafficked persons are located within existing sex industries — whilst sex markets are undoubtedly segmented, there is no separate or specific market for trafficked persons (Anderson and O'Connell Davidson 2003; Danailova-Trainor and Belser 2006). All of the interviewees who held anti-trafficking remits saw this as an umbilical connection, which sat at the heart of the Swedish approach — that demand to pay for sex feeds and fuels trafficking.

> Prostitution fuels trafficking and the fact that it is there results in demand which creates trafficking (Interviewee 1).

This position reflects that of the Swedish government:

> Demand is key — what primarily sustains trafficking and prostitution is demand. In other words, the fact that people — mostly men — buy sex (Government Offices of Sweden 2009: 4).

In addition, at the core of the Swedish government approach is the view that prostitution is a harmful practice, a form of inequality (Waltman 2011a) that is incompatible with the achievement of social equality, gender equality and human rights (SOU 2010).

It is these theorised connections which result in prostitution and trafficking being addressed conjointly in a National Action Plan 2008-2010 — entitled *Against prostitution and human trafficking for sexual purposes* — with oversight by a National Task Force which includes both issues within its remit ([100]). The intent to reduce demand traverses the action plan and all women who sell sex are understood to be victims of unequal gender relations. Ekberg (2004) summarised the policy position as being that the purpose of the recruitment, transport, sale, or purchase of women by traffickers is to sell them into (and within) the prostitution industry, hence trafficking will never be eliminated unless measures are taken to eradicate prostitution and sexual exploitation. Swedish scholar Max Waltman goes further, arguing that, because prostitution usually involves abuses of power and/or vulnerability as described in the Palermo Protocol, it means that 'prostitution generally is a form of trafficking' (2011b: 134). Law enforcement practitioners and those with anti-trafficking remits interviewed for this case study (1, 3, 4, 5) concurred in so far as all recognised that there were a minority of Swedish nationals who were making an un-coerced choice to sell sex, but argued that this should be the basis of policy-making, since the proportion who are trafficked internally and across borders has increased.

Opponents have described this approach as 'oppressive' (Weitzer 2013) and gender essentialist, with 'women appearing as 'victims' seeking state protection from the actions of individual men' (Scoular 2004: 202). The sex buyer law has been depicted as driven by a context of increased migration, radical 'state' feminism and a model of social welfare interventionism (Scoular and Carline: 2014). Central to this countervailing view is a distinction

([100]) The National Rapporteur on Trafficking in the Netherlands concurs that there is a clear connection between prostitution and trafficking and argues that policies need to be linked (European Parliament 2014).

between free and coerced or forced prostitution. Here, prostitution is seen as a legitimate part of the commercial sex industry, with those involved exercising free choice and agency, whilst the concept of force — a much higher threshold than in the Palermo Protocol — is used to demarcate trafficking. Critics of the law seek to separate prostitution and trafficking and in their arguments make the case for the rights of individuals, particularly the rights of sex workers (Dodillet and Östergren 2011; Levy and Jakobsson 2014). The issue of demand and its connection to trafficking is usually marginal in this perspective.

The government position, in contrast, emphasises that demand to pay for sex cannot be separated from demand for trafficked women (Government Offices of Sweden 2009; Wahlberg 2009). The intent of the law was originally to decrease demand with respect to prostitution and thus contribute to movement towards gender equality; this argumentation has been extended to trafficking. The use of law to establish new normative frameworks is a feature of Swedish jurisprudence with the intent that over time it would become less acceptable for men to pay for sex (Wahlberg 2009). Over the last decade, however, the law has been increasingly enforced, with a total of 5 927 men apprehended of whom just over a third have been convicted (see Table 7.2). The spike in 2010/11 reflects an increased investment of funds through the National Action Plan in implementing the law; whilst raw numbers from 2012 are lower, they remain higher than for the first decade.

Table 7.2 Numbers of men suspected of and convicted for paying for sex 1999-2014

	'99	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	'14	TOTAL
Reported Offences																	
PSS	94	92	86	110	300	156	460	163	189	187	352	1 277	765	551	544	601	5 927
PSA	19	21	30	56	22	38	60	46	67	46	150	233	131	103	150	96	1 268
Convictions																	
PSS	11	29	38	37	72	48	94	108	85	69	107	336	450	319	391	-	2 194
PSA	-	-	-	-	-	-	-	1	6	69	6	9	7	33	76	-	308

The National Council for Crime Prevention (Brottsförebyggande Rådet) [http://www.bra.se]

Alongside enforcement, KAST (Köpare Av Sexuella Tjänster or Buyers of Sexual Services, BOSS) groups have been set up in Gothenburg, Stockholm, and Malmö to encourage potential and active purchasers of sex to change their behaviour. An evaluation conducted by the National Board of Health and Welfare in 2012 found that those who received the intervention had reduced their alcohol and drug consumption, and what is termed their 'hyper sexual disorder' (GRETA 2013).

Over the last decade the law has become an important tool — a number of interviewees (1, 2, 3, 4 and 5) argued it is 'the' tool — in addressing trafficking. The criminalisation of buyers and the decriminalisation of sellers provided different entry points to gather intelligence on sexual exploitation and trafficking, information which in turn informs targeted investigations, surveillance, and prosecutions (Interviewees 1, 2 3, 4 and 5).

> Men do not want to think they have bought sex from someone who is not 'free', so they will give evidence in court which supports a women's statement — that they are not organising themselves, they have a 'manager' who answers the phone, which makes clear that there is someone else selling her/profiting. They are 'the perfect witness'. Such managers are always female and speak Swedish, men think they are speaking to the woman they see in the internet ad, but the trafficked women do not speak Swedish (Interviewee 4).

An alternate position (Bucken-Knapp et al. 2012; Yttergren 2012) is that the Swedish prostitution and trafficking laws are in contradiction with the trafficking law when linked to the provisions of the Aliens Act penalising third-country nationals who are identified as having been trafficked. Here, rights to short-term residence permits and limited social welfare assistance are dependent on their cooperation with authorities investigating trafficking-related offences, as per the requirements of Directive 2004/81/EC. Such treatment is deemed at odds with the drive to end the inequality associated with the interconnected phenomena of prostitution and trafficking, which is a central tenet of Swedish domestic policy. Described as 'instruments to be used in the interest of the state' (Yttergren 2012: 19), namely in the prosecution of organised crime, it is argued that Swedish policy does not treat those perceived as 'ethnically other' equally (Yttergren 2012). One paper argues that implementation has prioritised security over equality (Bucken-Knapp et al. 2012). To the extent that this is the case, this places Sweden

alongside many other EU countries, where trafficked third-country nationals are less likely to be afforded protection and rights over an extended period (Askola 2007; Turner 2013).

Which of these efforts have been evaluated, what methods have been used, and what are the strengths and weaknesses of them?

Until 2013, the National Board of Health and Welfare, *Socialstyrelsen* (SoS), had a government mandate to monitor trends in prostitution in Sweden (this task is now undertaken by the Stockholm County Administrative Board, Länsstyrelsen, where the National Coordinator against Prostitution and Trafficking in Human Beings is based). This resulted in three official evaluations of the Swedish law. However, as different methodologies are employed in each report, it is not possible to trace a simple chronology. It needs to be stressed here that these reviews are primarily of the law as a response to prostitution rather than as an anti-trafficking strategy. Nevertheless, references to the impact on trafficking are made since the two are seen as inter-connected.

The first study, conducted in 1998-99 (SoS 2000), aimed to provide a picture of prostitution before the sex buyer law came into force. It included findings based on a range of primarily quantitative sources: a survey of regional police departments and districts, social services, a sample of restaurants and hotels and local branches of the Federation for Gender Equality; a survey of internet sites where sexual services were advertised; interviews with key informants and 19 men who had paid for sex. The report found that the number of women known to engage in prostitution had decreased in the three major cities of Stockholm, Gothenburg, and Malmö. The survey of internet websites found only a small proportion of sites that came up in their search criteria of 'Escort service, call girl, Sweden' to be offering sexual services.

In 2000, the National Council for Crime Prevention (BRÅ) published a report charting the implementation of the law in which it was claimed that a fall in both the level of prostitution and in the involvement of new women selling sex in Gothenburg, Norrköping and Stockholm had been observed since the law had taken effect. At that point, a total of 91 police offence reports had been filed in connection with the new law. Many of the cases had yet to be concluded, but a number had been discontinued due to lack of evidence.

Having found, during compilation of the first report, that the most fruitful information was gained from qualitative interviews, and also due to limited resources, the second report (SoS 2004) was based on interviews with 35 key informants from the police, social services, and NGO sectors and one woman in prostitution. The report found no significant changes in the extent of street prostitution since 1999, with the exception of Malmö. In Gothenburg and Stockholm, informants reported that the number of women engaged in prostitution was roughly the same in 2003 as 1999 (except for Stockholm police, who reported a much lower figure than social services), whereas in Malmö, more women were thought to be selling sex in 2003. However, in all three major cities, a decline in street prostitution was noted, alongside a reduction in the number of buyers and traffic on streets associated with prostitution.

The third report (SoS 2008) involved three elements: semi-structured interviews; surveys and follow-up interviews with representatives of Swedish municipalities and police authorities; and a systematic internet study. Surveys and interviews found mixed responses with increases, decreases, and no change all being cited by some respondents. The study of online prostitution found 299 unique URLs and a total of 304 sellers of sex.

As Kuosmanen (2010) points out, the Socialstyrelsen reports focus predominantly on the perspective of state authorities, with limited attention paid to the more hidden contexts of the internet and off-street prostitution. Others note the limited engagement of those who sell sex (Scoular 2004; Levy and Jakobsson, 2014). The third report (SoS 2007) did receive survey responses from two support projects that work with women selling sex and their perspectives are included in the full Swedish report but not the English summary.

In 2010, an independent committee of inquiry, headed by Chancellor of Justice Anna Skarhed, a former Supreme Court judge, was appointed to assess the application of the law and its effects on prostitution. This was never intended to be an evaluation of the law itself, but of its functioning in practice (SOU 2010: 4). Opponents have used this to argue that its contents are discredited as it sets out with forgone conclusions (Levy and Jakobsson 2014). The ensuing debate has contributed to a neglect of some critical recommendations, which are still to be implemented, especially the need for more consistent and holistic support services for women selling sex. The report sought to pull together existing data: the Socialstyrelsen reports; reports by the National Trafficking Rapporteur; National

Council for Crime Prevention data; studies by the regional Prostitution Units; and research studies, including those on attitudes to buying and selling sex. Additional interviews were conducted with a range of key professionals.

Key findings were that:

- street prostitution had decreased by half since the law was passed;
- there was no evidence that prostitution had been displaced or driven underground;
- unlike many neighbouring countries, the number of migrant women in street prostitution had not increased;
- like other countries, prostitution mediated through the internet has increased, albeit not at the rate of neighbouring countries such as Denmark and Norway;
- public support for the law is consistently high.

Thus the sex buyer law has been evaluated, with the contribution to anti-trafficking addressed, but not as the prime focus.

Is there evidence, and how robust is it, that shows an impact on the scale of trafficking?

Much of the commentary and data on the impact of the sex buyer law focuses on its effects on domestic prostitution. Niemi and Aaltonen (2014) argue that for the Swedish police, street prostitution is a ''shop window' for prostitution in general' (p. 25) and seeking to address it sends a public message that the authorities are serious about tackling it. For those who see demand for sexual services as a direct cause of trafficking, reducing the Swedish prostitution market is a clear ambition (SOU 2010), since this acts as a disincentive to traffickers who are viewed as rational profit maximisers.

There are three specific claims to assess in relation to the impact on trafficking: that there has been a reduction in the number of women selling sex; that there has been a reduction in the numbers of men seeking to buy sex; and that traffickers regard Sweden as an uncertain and less profitable market.

Reduction of women selling sex

A key claim is that street prostitution has been halved since the law came into force in 1999 (SOU 2010). A study from 2008 (cited in Waltman 2011a) found that before the law reform levels of street prostitution were similar in the capital cities of Denmark, Norway and Sweden, and that following the reform the numbers in Sweden fell to a tenth of those in Denmark and an eighth of those in Norway. This is significant, since the street sex market is the easiest to locate trafficked women in, and many European countries (for example, Denmark, Spain, France, Italy, Austria) have not only witnessed significant expansions, but also that the women involved are predominantly migrants, a significant proportion of whom have been trafficked. Skilbrei and Holmström (2013: 60) state that migrant women are increasingly in 'visible prostitution', but the low numbers in street prostitution overall suggests that trafficking is at a lower level than in other EU Member States.

Many studies cite a figure of 650 women in street prostitution before the law was passed, with an estimated two to three times this figure involved in off-street prostitution (see, for example, Waltman, 2011a and also the discussion on data on prostitution in chapter 5). This is based on a number of calculations and assumptions about levels of prostitution prior to the introduction of the law using reports from Swedish government inquiry commissions. In its summary of the scope of prostitution in Sweden, the 1993 inquiry (SOU 1995a) based its calculations on those used in the report of the previous inquiry (SOU 1981), in which the total number of women selling sex was estimated to be about 1 800. The 1993 inquiry team adopted a method of increasing the figure by 25-50 % to account for hidden cases, estimating the number of women in prostitution in Sweden in 1993 to be between 2 500 and 3 000 (SOU 1995a), with around 650 in street-based prostitution.

These figures are subject to two main criticisms, which apply to all estimates of the extent of prostitution as there is no consensus within social science on how to reach a robust estimate of the numbers involved. The first challenge is the 2:1 ratio of street to off-street prostitution. The 1993 Prostitution report (SOU 1995a) based these

proportions on a 1992 investigation by the ARENA project, where the Prostitution Group in Gothenburg surveyed indoor prostitution in the area, which concluded that one third of contacts took place on the streets and two thirds indoors or elsewhere (SOU 2010). With the development of the internet and e-commerce this ratio is regarded as increasingly arbitrary. A 2004 survey by BRÅ led them to propose that four-fifths of prostitution occurred in more hidden circumstances (SOU 2010). Secondly, critics point out that the figure of 650 does not specify if this on a given day, an annual estimate and whether it includes those who sell sex regularly or occasionally (Dodillet and Östergren 2011; Lyon 2014). Whilst these complexities are relevant, how to arrive at more accurate figures is rarely explored.

The Skarhed evaluation (SOU 2010) used data from the National Board of Health and Welfare (Socialstyrelsen) to establish that there had been a reduction in street prostitution in the three major Swedish cities since the introduction of the law (see Table 7.3). The large decreases in Gothenburg are also affected by a lack of data returns.

Table 7.3 Number of people involved in street prostitution 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Stockholm	280	170	N/A[1]	N/A[1]	N/A[1]	200	N/A[1]	150	200	N/A[1]	180
Gothenburg	286	90	N/A[1]	N/A[1]	N/A[1]	100	30	30	N/A[1]	N/A[1]	64[2]
Malmö	160	80	111	123	135	106	98	92	67	74	52

Source: National Board of Health and Welfare, data from the prostitution groups in Stockholm, Gothenburg and Malmö and Population Statistics from Statistics Sweden.
1 In some periods, no annual tallies were done in Gothenburg and Stockholm, only estimates based on information such as how many prostitutes were out per evening.
2 Refers only to the second half of 2008 because the prostitution group did not pursue any outreach that spring.
Source: SOU, 2010

Stockholm Police report continued reductions in street prostitution in the Stockholm area since 2008 (see Table 7.4).

Table 7.4 Number of people involved in street prostitution in Stockholm 2008-2013

Year	Number in street prostitution
2008	200
2009	191
2010	175
2011	163
2012	150
2013	120

Source: Stockholm Social Services (2014), cited in Häggström (2014)

Five interviewees (1,2,3, 4, and 5) argued that the reductions had continued over the last 3 years, with one (4) stating that it was rare to encounter more than 6-7 women on any day in Gothenburg.

Whilst we lack reliable methods for calculating the scale of prostitution, the comparison should not just be over time within Sweden, but also with other EU countries, especially since critics of the law claim that the reduction in street prostitution is merely a shift in the sex market, which can be seen in other countries (Skilbrei and Holmström 2013). **The estimates of those involved in selling sex in Sweden are significantly lower than those in other Nordic countries where prostitution is legal, such as Denmark and Norway (prior to 2009), despite Sweden having a larger population (Ekberg 2004; SOU 2010; Waltman 2011a).** Indeed, it has been the persistence, and in some instances growth, in street prostitution in EU countries outside the Nordic region which have caused some governments (for example, France, Ireland, and Scotland) to (re)open conversations about criminalising demand. That the introduction of a sex buyer law in Norway also saw a considerable reduction in street prostitution (Rasmussen et al. 2014) suggests that law may have such an impact.

A large degree of emphasis has been placed in both government and police policy on minimising street prostitution, and this is where the data appear to show reductions. However, due to both the change in the law and rapidly developing technologies, the internet and off-street locations are likely to have become alternate and more 'dispersed' contexts for prostitution and trafficking (Skilbrei and Holmström 2013) where, the Socialstyrelsen and Skarhead reports concede, levels are far harder to quantify (Socialstyrelsen 2007; SOU 2010).

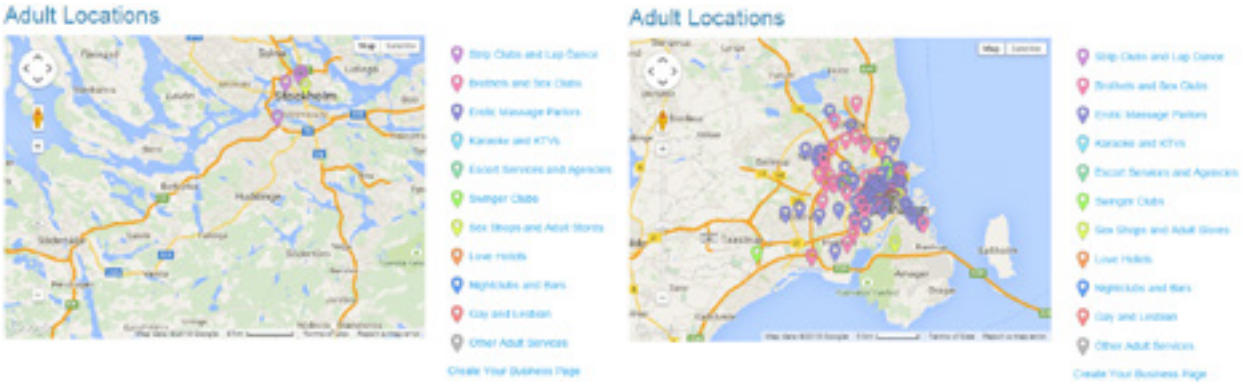
Whilst there is little data on off-street prostitution, information on prostitution mediated by the internet is available, but is not always based on a systematic methodology. In their 2004 report, Socialstyrelsen reported that Stockholm police estimated there were 200-250 women nationally selling sex via the internet. Based on Internet searches and information from their Internet outreach programme, which involves contacting those offering sexual services online to offer support, the Gothenburg prostitution unit estimated that about 250 women in Sweden were selling sex via this route. In its later report (SoS 2008), Socialstyrelsen commissioned independent research firm Glykol to conduct a study of actual sexual services arranged via the internet focusing on the number and content of relevant online advertisements. The study found around 299 unique URLs advertising mostly individuals selling sexual services in Sweden covering a total of 247 women and 57 men. The Skarhed report (SOU 2010) argues that this form of prostitution is much higher in neighbouring Denmark.

The most recent report (Länsstyrelsen 2015) found a far greater number of websites, but as a new study from the Netherlands (Daalder 2015) notes, the ratio between sites and persons is complex, with the number of persons always much smaller (p. 37). The Swedish study found 28 000 sites with 8 685 distinct phone numbers, but not all numbers were currently active and persons operated under multiple profiles. The monetisation of traffic through websites is also an issue here, since there are financial rewards simply for clicking on sites (Interviewee 5) which may have no direct connection to anyone selling sex. Without a method that can more accurately assess the ratio it is not possible to estimate the scale of the online sex market.

A focus in the annual reports from the Swedish National Rapporteur on Trafficking is on the profile of women known to be involved in prostitution. The report by the Swedish National Police Board (2010) states that no large groups of migrant women have become established either in street prostitution or on the internet compared to neighbours Denmark, Finland and Norway. Nevertheless, some changing trends are discernible, although these are not quantified. The nationality of migrant women identified in prostitution has changed compared to 2010 from Estonian, Polish and Russian to eastern European, Thai and Nigerian women (Swedish National Police Board 2011). In 2012, an increase was noted in Lithuanian and Romanian women in street prostitution (Swedish National Police Board 2012). Interestingly, the increase in the numbers of Nigerian women noted in the 2010 report, particularly in Gothenburg, is attributed to the introduction of Norway's new Purchase of Sexual Services Act in 2009 (Swedish National Police Board 2010). By 2013, there was also a reported three-fold growth in the number of Thai massage parlours (cited in Lyon 2014), although the link with prostitution and trafficking is not clearly evidenced.

A surprising confirmation of the claims made by the Swedish government and authorities can be found on the website 'wikisexguide.com', which offers information for those wanting to access sex industries across the globe. The pages for Stockholm, Gothenburg, and Malmo all refer to much changed sex markets, especially the lack of street prostitution. The reduced sex market can also be seen in the fact that there are only four locations marked on a map of Stockholm and there are no maps provided for the other two major cities. In contrast, Oslo has about 20 locations noted and Copenhagen many more than this, across a range of 'adult locations' (see Figure 7.1). The Stockholm page also remarks that the majority of Thai massage parlours are legitimate in that it is not possible to pay for sex there.

Figure 7.1 Screen grabs for Stockholm and Copenhagen from wikisexguide.com, 22 July 2015



Whilst the evidence is contested the preponderance points in the direction of a significant decrease in street prostitution, and that the levels of non-Swedish women selling sex on and off street is much lower than in neighbouring countries.

Less men buying sex

The proportion of men reporting that they have paid for sex has decreased by almost half since the law has been in place. In his study conducted before the law came into force, Månsson (2000) found that around 13 % of men reported having paid for sex at some point in their lives. By the time of Kuosmanen's (2010) study, this had fallen to 8 %, with the latest population study conducted in 2014 showing 7.5 %; and just 0.8 % of these within the last 12 months (Länsstyrelsen 2015).

In Kuosmanen's (2010) study, ten male and one female participant said the legislation had affected their purchase of sex: five of the 34 men who had paid for sex had stopped as a result of the law, two paid for sex less often, and one had found more clandestine ways of buying sex. In the most recent study (Länsstyrelsen 2015), barely half of respondents who reported paying for sex had done so since the introduction of the Act. Extrapolating these results to the whole population would suggest a significant number of men no longer pay for sex as a direct result of the law reform. One interviewee (5) noted that the latest research showed the proportion in the last year as the lowest ever, despite the increase in online advertising and globalisation: this was attributed to the sex buyer law.

Even the critics acknowledge that there are fewer customers (Dodillet and Östergren 2011; Levy and Jakobsson 2014). Furthermore, the latest research concludes that the law has had a normative effect on prospective buyers and thus had an impact on the extent of prostitution in Sweden (Länsstyrelsen 2015: 3). The evidence on demand reduction is, therefore, accepted by both sides of the debate.

A less lucrative market for traffickers

The evidence on the impact of the Swedish law on trafficking is especially lacking in recent data. **In 2004, the Swedish National Police Board estimated that 400-600 women were trafficked into sexual exploitation in Sweden each year, but no annual figures have been produced since then (SOU 2010) due to the uncertainties in making such assessments** (This refers to victims of trafficking and not to women in prostitution).

There are several mentions in the Skarhed report (SOU 2010) of findings derived from police surveillance work. Surveillance of phone and other communications is a routine part of trafficking investigations where a judge is convinced that there is sufficient evidence to justify its use. Police claim that they regularly hear traffickers stating that Sweden is 'a poor market' since the number of potential clients has decreased and there are fewer spaces and places from which to operate that can escape police surveillance (Interviewees 1, 2 & 4). This will undoubtedly have impacts on trafficking chains, making them more difficult to maintain and embed, especially where police extend enforcement and disruption efforts to hotels, the night time economy, and flat rental companies. The Skarhed report (SOU 2010) asserts, therefore, that the law has deterred the permanent establishment of large human trafficking organised crime groups in Sweden. Both police interviewees (3, 4) concurred that the detected groups were small scale, with the possible exception of a couple of Russian groups which they had been unable

to act against since cooperation was not forthcoming from Russian counterparts. Interviewee 2 argued that the sex buyer law had enabled Sweden to be 'ahead of the game' in dealing with trafficking compared to Denmark and Norway, and many other EU Member States.

Annual reports by the National Rapporteur on Trafficking (Swedish National Police Board 2010, 2011, 2012) record the number of investigations and convictions for trafficking and related offences. Due to the strict evidential requirements of the Swedish trafficking law the number of recorded cases is low, although an increase in reported cases is evident, with highs of 35 and 40 in 2011 and 2013 (See Table 7.5), connected, at least in part, to the increased police resources devoted to enforcement (Government Offices of Sweden 2009).

Table 7.5 Police reported cases of trafficking in adults and children for sexual purposes

'99	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	'14	TOTAL
-	-	-	-	22	29	44	27	15	15	31	32	35	21	40	31	342
Adult									1	22	25	25	12	29	26	140
Children									0	9	7	10	9	11	5	51

*2008 was the first year that data was collected separately for THB-SP of adults and THB-SP of children under the age of 18.
The National Council for Crime Prevention (Brottsförebyggande Rådet) [http://www.bra.se]

The offence of procuring involves the facilitation and exploitation of the prostitution of others. Reported cases are somewhat higher than for trafficking (see Table 7.6). Interviewees 2 and 5 revealed that half or more of these cases are, in fact, trafficking-related. The charge of procuring is sometimes preferred by prosecutors as the evidential requirements are not as exacting, since it is not necessary to prove that there was an exercise of power over the prostituted person (Kelemen and Johansson 2013; Yttegren 2012).

Table 7.6 Police reported cases of procuring

'99	'00	'01	'02	'03	'04	'05	'06	'07	'08	'09	'10	'11	'12	'13	'14	TOTAL
32	46	43	46	69	98	94	58	65	51	94	120	86	95	108	108	1 213

The National Council for Crime Prevention (Brottsförebyggande Rådet) [http://www.bra.se]

Regional and global comparisons

Two recent studies use economic framings, one European (Jakobsson and Kotsadam, 2011) and one global (Cho et al., 2013), through which to investigate the impact of prostitution laws on trafficking. Both conclude that the supply and demand effects of legalisation create a conducive context for trafficking. In both cases, Sweden is used as a case study and is found to corroborate the global findings, but in the opposite direction: that the criminalisation of paying for sex produces a less conducive context.

There is some evidence, therefore, that the sex market in Sweden is significantly smaller than in neighbouring countries with different legal frameworks, and that the enforcement of the sex buyer law creates a context which is less conducive to trafficking. The police interviewees and public officials (I, 2, 3, 4, 5) were united in arguing that the traffickers operating in Sweden were small scale and this was in part due to the influence of the law.

Is there any evidence of an influence on wider public attitudes, especially the willingness of men to pay for sex?

Whilst attitudes research is contested, since the connections with actual behaviour are never straightforward, it has a contribution to make to our understanding since markets are embedded in wider contexts in which norms are influential. A central aim of the Swedish legislation was to have a normative effect; to change public attitudes towards prostitution (Holmström and Skilbrei 2008; Länsstyrelsen 2015). A series of studies and opinion polls have been conducted over the last two decades that indicate substantial increases in support for the criminalisation of paying for sex. Though methodological differences (sampling, modes of implementation, and formulation of key questions) mean that they are not all directly comparable, support for the law remains widespread across studies since it was enacted, although the findings are interestingly gendered, with support amongst women appearing to increase whilst that of men has fallen.

An early study by Sven-Axel Månsson (2000) conducted in 1996 with 2 810 participants showed that only 45 % of women in Sweden and 20 % of men (33 % overall) wanted to criminalise paying for sex (cited in Waltman 2011a). After the introduction of the law, two telephone polls were conducted by Swedish opinion research company SIFO, each with around 1 000 people: the first in 1999 reported that 76 % (81 % of women and 70 % of men) wanted to criminalise paying for sex; the second, in 2002, also found that 76 % (83 % of women and 69 % of men) supported the law. A later study by Kuosmanen (2010), involving a postal questionnaire administered by SIFO, was conducted as part of the Prostitution in the Nordic Countries research project at the Nordic Institute for Women's Studies and Gender (NIKK). This study, with 1 134 participants, found that 71 % (79 % of women and 60 % of men) favoured the law. The most recent figures reported by the Stockholm County Administration Board (Länsstyrelsen 2015) suggest that support for the law remains high: 72 % were in favour of the law (85 % of women and 60 % of men).

An ongoing study led by Victor Lapuente at the University of Gothenberg is examining attitudes to the acceptability of prostitution in eight EU Member States and the connections to legal framings, drawing on the concept of normative feedback effects (Kotsdam and Jakobsson 2011). Initial unpublished results show that the Swedish samples regard it as least acceptable.

Despite the differences between studies, the results are consistently in the same direction. The finding that women are considerably more supportive of the law suggests that its gendered foundations resonate with them. A higher degree of support amongst young people offers some corroboration for the law's normative impact, especially since this finding has been replicated in Norway (Jakobsson and Kotsadam 2011).

Is there evidence of unintended consequences?

Critics of the Swedish law point to a number of unintended consequences of the law. Each of these is discussed below, and the evidence base for the claims assessed.

Selling sex is now more dangerous

This claim is made on the basis that there is now greater competition for fewer clients, leading to animosity, conflicts, and riskier behaviours (Dodillet and Östergren 2011; Chu and Glass 2013; Levy and Jakobsson 2014). With the exception of Jakobsson's study, which was part of a larger internet-based survey with HIV Sweden, the claims are based on qualitative research with small samples of interviewees, and there is no substantial data set that replicates the findings.

The argument is also sometimes made that violence has increased, with one Norwegian commentator suggesting that the ban has reduced the number of 'nice' buyers thus increasing the proportion of 'mean' ones (Bjørndahl 2012). The Skarhed report (SOU 2010) challenges this claim, arguing that reviews conducted by Gothenburg and Stockholm police found no evidence of increased violence against those selling sex, although no data are presented other than that the last murder of a woman selling sex in Sweden took place in 1986. Support for the claim often cites a Norwegian study conducted following the law reform in 2009 which showed an increase from 52 % to 59 % in those reporting having experienced violence in prostitution (Bjørndahl 2012). However, closer examination of the data reveals that the definition of violence in the post-2009 study was wider, including name calling, hair pulling and being spat at. It is these behaviours which account for the increase, whilst rape, physical assaults by regular customers/pimps and in a car with an unfamiliar customer actually decreased by half or more in the same period (Berg 2013).

The decrease in harm reduction interventions (such as free condoms) by the social work units is also criticised, but it was not possible to assess this claim during the fieldwork. Interviewees (1, 2, 5) noted that there was resistance by the social work units to these practices in the Stockholm and Gothenburg projects, but a more integrated practice had developed in Malmo.

Much research evidence confirms that selling sex is dangerous (see chapter by Susie Balderston) but there is little evidence to date which shows that banning the purchase of sex increases this in any specific ways.

There is increased stigma attached to women selling sex

This claim has limited data attached to it beyond that unspecified numbers in small samples have reported it in interviews (Danna 2012; Dodillet and Östergren 2011). The claim is said to apply to practitioners, anti-prostitution activists, and the general population and to be directly connected to increased violence (Chu and Glass 2013). This is considered to be an impact of changing attitudes to prostitution. In the absence of any robust data it is impossible to assess this claim.

Women are less likely to seek help

The stigma argument underpins the claim that women are less likely to seek help since it is seen as creating greater distrust of institutions (Levy and Jakobsson 2014). However, it is not the case that most women sought help before the law was passed: all of the prostitution units use outreach methods — on and off street — to offer support. An alternative argument is also proposed (SOU 2010) — that de-criminalisation makes it possible for police, social workers and other professionals to have more open relationships with women selling sex — was offered by a number of interviewees (1, 2, 3, 4, 5). Again the evidence base is not robust enough to support either claim.

The sex buyer law 'pathologises men'

If there is such an effect, it applies to the minority of Swedish men — less than 1 in 10 — who have bought or have an interest in buying sex. The implementation of the law also shows limited evidence to support this claim since the vast majority of men plead guilty and receive a fine. The process and sanctions are similar to those for traffic offences, which are not considered pathologising, although the fact that a conviction now counts as a sexual offence does lend some credence to this argument. If detected men were all required to attend counselling or 're-education' sessions, the claim could also be said to have some validity, but engagement with KAST/BOSS services is entirely voluntary.

Prostitution has been driven 'underground'

All prostitution regimes have some combination of legal and illegal sectors, and there is no EU Member State that does not have some form of regulation, albeit that implementation varies considerably (Kelly, Coy and Turner 2014). Sex markets are reliant, by definition, on buyers finding spaces and places where it is possible to pay for sex. In this sense, the underground argument has a logical fallacy at its heart since some level of visibility is required. The argument also has limited purchase given the challenge to claims that the numbers in prostitution have decreased by reference to the extent of advertising on the internet (Lyon 2014) which is entirely 'above ground'.

The law has facilitated 'aggressive policing'

This claim is again based on an unspecified number of reports from women in qualitative studies, so assessing how widespread such practices are is not possible. There are reports of heavy-handed policing across prostitution regimes and of the criminalisation of migrant women who do not have a right to stay (Turner 2013). There is no evidence to suggest this is specific to the Swedish case or that it is significantly worse in Sweden.

Sex buying has been displaced to online, adjoining countries and through sex tourism

The growth of online advertising is evident in Sweden as elsewhere in the EU, but we still lack an effective way of linking adverts to persons so the actual number of persons involved remains opaque. Cunningham and Kendall (2011) argue further that online access should be regarded as an expansion or at minimum a relocation of sex markets rather than displacement.

Whilst the data on Swedish men buying sex does show that a considerable proportion takes place in locations outside the national context, for this to be the outcome of the law would require evidence showing an increase in the regularity of this over time and especially in neighbouring countries. Data from 1996 (Månsson 2000) found that one in eight men had paid for sex, with more than half (58 %) doing this less than three times. The number of habitual buyers was 10 %. The vast majority (77.9 %) had done this when they were not in Sweden. In Kuosmanen's (2010) more recent study, 71 % reported paying for sex abroad; a reduction from the proportion found before the law was passed. The attitude data, especially that young men are more supportive of the sex buyer law, also suggests that simple displacement arguments are not supported by the current evidence base. Furthermore,

the fact that Sweden will soon criminalise the purchase of sex in other countries will be an interesting additional test of the normative functions of law.

Overall the evidence for the most cited unintended consequences is weak.

THE GENDER DIMENSIONS OF THE SWEDISH APPROACH

The sex purchaser law is rooted in an understanding of prostitution and trafficking for sexual exploitation as simultaneously an outcome and reproduction of gender inequality; in this perspective it is not possible to achieve equality whilst it is possible for one gender — men — to purchase the bodies of the other — women. In this sense prostitution could be said to be a gender regime (Connell 2009). Recognition of how central gender analysis and specificity is within the law itself and its implementation can also be seen in the academic contestation which is rooted in queer theory (Dodillet and Östergren 2011). Here, the stated intent is to 'complexify gender' — through recognition that those who sell sex include men and transgender persons and that some women are involved in the exploitation of prostitution, although the precise links with trafficking have not been fully teased out. The gendered dimensions of buyers — who are in the vast majority of contexts men — is less evident in queer perspectives. In this contestation gender is being deployed in two different ways: by the government as an analytic concept which refers to structured inequities between women and men and by the queer identified academics as referring to the proportions and presence of women and men in various aspects of the sex industry.

Equality between women and men is written into the Swedish constitution (and the EU Treaties and EU Charter of Fundamental Rights) and Sweden is consistently at the top of the EU equality index. Both gender equality and equal treatment have been drawn on in policy frameworks as a mainstreaming mechanism since 1994. Under a 2011 policy instrument, renewed in 2014, gender mainstreaming and gender budgeting are required at all levels down to municipalities. The current minority government has defined itself as a 'feminist government', with policy gender equality priorities summarised as: equal power and influence; economic equality; equal distribution of household and care work; and an end to men's violence against women.

The vision of gender equality underpinning the Swedish approach is one in which prostitution and trafficking do not exist. This future is one in which it becomes unthinkable for men to pay for sex, through the normative influence of law. An understanding of trafficking as profoundly linked to gender inequality also sits within Sweden's development policy — that decreasing gender inequality in countries of origin is a prevention strategy. Whilst it is not explicit in any of the official Swedish documentation, the position is one which chimes with Debra Satz's (2004) concept of 'noxious markets' and the implication of dangerous masculinities in them. The argument here is that some markets reproduce and deepen inequalities and have minimal public benefit since they harm individuals and the wider society. The limits to markets she seeks to highlight are linked to the standing of parties within the processes — if they begin as unequal and this inequality is amplified then such markets undermine the conditions necessary for equality and democracy to grow and thrive. They are, in short, 'toxic to important human values' (op cit, p3) and Satz includes prostitution and trafficking since the 'sale of women's sexual labour reinforces broad patterns of sexual inequality' (op cit, p135).

Gender equality is a core concept in the Swedish approach to prostitution, and perspectives on trafficking were deeply inflected by this. Recently, however, all forms of trafficking have been connected in implementation at a policy level, with some concerns that this may deprioritise the gender lens. **Human rights sit within this framework as the law is understood as being about the rights of classes of persons**: women and women who sell sex. In the government's national action plan on prostitution and trafficking, both are defined as restricting the enjoyment of human rights, with trafficking violating human dignity and the right of individuals to decide over their own lives and bodies (Government Offices of Sweden 2009). Within this framing both trafficking and prostitution are located as forms of violence against women, including the contested idea that prostitution constitutes an abuse of all women. Those who seek to promote a sex work framing in Sweden, in contrast, talk in terms of individual rights and freedoms: the right of individual women to choose to sell sex. They tend not to talk about men and the 'right' to buy, but have recently begun to argue that those supporting the law position men who pay for sex as 'deviant', since a conviction counts as a sex crime and is declarable in terms of criminal record with respect to employment. This is indeed part of the intent of the law — to shift the stigma and shame onto the purchaser (Interviewee 1).

Intersectional issues are articulated most commonly with respect to sexuality and race/ethnicity/nationality. In terms of the former, the queer position involves making an argument that gay men paying for sex is recognised as different and in relation to an argument that 'sex worker' is a specific sexual identity. The issue of race/ethnicity/nationality emerges with respect to trafficking and is most intense, currently, with respect to Roma women. There is an additional intersectional analysis that could be made which asks what the meanings and consequences are of the fact that the vast majority of Swedish men who pay for sex — at home and abroad — do so from non-Swedish women.

Most of the key actors in the development of the Swedish approach have been and are women, although the male police officers and policy officers interviewed during the study visit were all comfortable with and competent in gender analysis. In terms of gender expertise, the sex buyer law was developed and steered through parliament by a cross-party coalition of female politicians. The fact that the law is the same and implemented similarly across the country within shared values is one of its strengths.

The Swedish National Trafficking Rapporteur, Kajsa Wahlberg, is a female detective inspector at the Department for Police Affairs of the Swedish National Police Board. She has a mandate to investigate, monitor, and analyse the nature and scale of trafficking to and within Sweden, and to give recommendations to government, law enforcement, and civil society. In the late 1990s, the Social Democrat politician, Anita Gradin, held a leading position as EU Commissioner for Justice and Home Affairs, and is credited with helping to mainstream violence and trafficking in women and girls within the EU agenda (Zippel 2008). There is a Minister of Children, the Elderly and Gender Equality, located in the Ministry of Health and Social Affairs. With the introduction of a single equalities framework in 2008 the Ombudsman on gender equality became one for all equality strands. The Swedish Women's Lobby has called for the establishment of a specific gender equality agency in response to the most recent submission by the government to the CEDAW Committee ([101]).

In terms of policy fields, gender equality and violence against women are the twin framings, with the consequence that, in terms of law, women who sell sex are positioned as victims. Critics of the law argue that this diminishes women, leaving no space for the freedom to choose to sell sex. Supporters, on the other hand argue that the law strengthens their position, as they can report men who behave poorly (Interviewee 1, 5). One policy implication of the violence against women framing, in terms of service provision, is that trafficked women are housed in domestic violence refuges/shelters, there is still no specific provision for trafficked women, and nor is there an NGO representing their interests. Criticism of the lack of continuous funding for support services was voiced in the Skarhed report (SOU 2010) and by interviewees (1, 2, 5).

These twin pillars appear to have been strong enough to resist the securitisation of trafficking, which may also be connected to the strong sense in Sweden that laws are 'norm carriers', a possibility which has more traction in societies where there is trust in political and legal systems. In terms of conflicts between the policy fields in which trafficking can be located, two examples are offered by critics of the law of trafficked women being deported, with both accepted by key policy-makers (Interviewee 2) as examples of poor decision-making. In some practice contexts, therefore, immigration policy may be prioritised; however, to date, this is not a deliberate and consistent trend. Some critics argue that there is a tension between the gender equality agenda that inspired the sex buyer law and elements of a security agenda evident in trafficking-related policies. An example of this is that while some might see the granting of temporary residence permits to trafficked women, adopted in 2004 ([102]), as indicative of the strength of gender equality ideas, others highlight that such permits are dependent on cooperation with prosecution of traffickers, while the protection of victims is secondary (Bucken-Knapp et al. 2012).

The law is increasingly implemented, and since all prostitution is considered a form of exploitation, the purchase of sex is policed. More emphasis has been placed on trafficking investigations in the last decade, but some of this has reduced due to a recent problem with gang violence (Interviewee 4). The possibility of displacement of demand to neighbouring countries and to sex tourism has been raised, but there is limited data to support these claims. A high proportion of the minority of Swedish men who have paid for sex have always done so in other countries and there is no evidence to show that this proportion has increased since the sex buyer law was implemented. The displacement to neighbouring countries argument only works as an easy possibility for those living

([101]) http://sverigeskvinnolobby.se/en/wp-content/uploads/sites/2/2015/06/Swedish-CEDAW-network-submission-to-the-PSWG-for-the-63rd-session.pdf
([102]) As required under Directive 2004/81/EC.

close to borders, since it would require considerable planning and free time for those who do not. That Norway has enacted a similar law is extending the land mass in which it is illegal to pay for sex, thus limiting the possibility of simple displacement.

Limited research has been conducted by the National Board of Health and Welfare on prostitution mediated by the internet. Each of their reports on prostitution in Sweden (SoS 2000; SoS 2004; SoS 2008) has involved a study of online advertisements in order to identify women (and, in later reports, men) offering sexual services online. The most recent study in 2015 (Länsstyrelsen 2015) notes a considerable increase in such sites, whilst cautioning about taking this as an indication of actual numbers of persons.

More generally, there is some evidence of the increasing use of the internet by traffickers both as a method of recruitment and as a marketing tool for the sale and/or exploitation of women. Traffickers may access women through social media sites or place online advertisements for work, sometimes explicitly as recruitment into prostitution markets, but deceptive as to the conditions of work, or the ads may deceive as to the nature of the work. This use of technology is highly gendered. Young women are targeted and required to disclose personal information and photographic images which are then also used by other traffickers or procurers. Police in countries of origin often know which social media and internet sites are used for these purposes, just as anti-trafficking police units in destination countries are frequently aware of the major marketing sites. This brings benefits to traffickers but also carries risks. Benefits include easy access for sex buyers but the corresponding risk is that such sites can be identified and monitored by police, to track and disrupt networks and organisations which otherwise remain concealed and, hence, technology can also be an important tool in developing effective interventions.

To summarise; the Swedish gender regime made possible the sex buyer law, through applying gender analysis — that men are the vast majority of buyers and women sellers, positions which reflect their relative economic and social positioning, more/less resources, and more/less sexual autonomy/entitlement. Prostitution and trafficking are thus seen to be rooted within, and reproductive of, unequal gender orders/regimes. There is an implicit intersectional analysis in the recognition that more marginalised women along the axes of youth, race/ethnicity and class are most likely to be trafficked (Interviewee 2). Demand is gendered in so far as buying sex is considered masculine, and pimps and traffickers are disproportionately men, especially at upper levels in network hierarchies (Satz 2004; Shelley 2010).

This layered gender analysis, anchored in a commitment to creating gender equality, formed the context in which the sex buyer law could emerge and be implemented, with a normative and law enforcement intent. This raises the question of whether it could work in the same way, or as quickly, where there is a very large sex market in which buying sex is more normatively acceptable and/or where there is no social democratic contract between state and citizens with corruption undermining the rule of law. In such contexts considerable political work would need to be done before such a law could have traction and legitimacy. Whilst the principles of changing norms and pro-active law enforcement are transferable, without the sex buyer law an important lever in building evidence in trafficking cases would be lost.

CONCLUSIONS

The Swedish approach to prostitution and trafficking can be said to have clarity and coherence in that the legal framework and regulations are the same throughout the country. Implementation, however, as in all countries, depends on political commitment and resourcing — priorities for policing may shift over time as new challenges emerge, and much of the funding for anti-trafficking work and support services for those selling sex has been funded by earmarked funds from the government, through the previous National Action Plan or via specific projects and, as such, are variable over time. One of the recommendations across recent reports is that a 5 to 10-year strategy is put in place.

Whilst the government position discusses gender equality in terms of women as a social category, the opponents of the law focus on the rights of individual women who wish to sell sex. The sex buyer law sought to challenge underlying unequal relations between women and men that sustain both prostitution and trafficking. This underpins the legal practices of decriminalising women who sell, and criminalising men who pay for, sex. A national expert with over 15 years in the field regarded this framing as critical:

> The law is embedded in the politics of gender equality and the normative effect may not have been as evident if it were just used as an anti-trafficking response (Interviewee 5).

Several interviewees (2, 4, 5) mused on the shift in responses to the law which has taken place amongst politicians and practitioners from other EU Member States. Initially, and for more than a decade, the Swedish approach was dismissed, but it is now taken much more seriously, especially at international conferences where police are searching for effective anti-trafficking interventions.

This case study confirms that we still lack robust data on prostitution and trafficking; measuring its scale, increases and reductions, remains a challenge yet to be adequately met (see chapter 5). At the same time, a number of those interviewed for this case study argued that statistics are too often privileged over practice-based evidence. Whilst this state of knowledge limits the claims that can be made for the sex buyer law, all of the evidence assessed in this chapter shows a direction of travel in which demand has been reduced, and the scale of the Swedish sex market corralled at minimum, and shrunk at best.

In making an assessment of the impact of a law reform the starting point must be that few, if any, entirely end the behaviour they seek to outlaw. Moreover, effectiveness is connected to both law enforcement and the promotion of the new norms which laws seek to encourage.

With this in mind, that both Sweden and Norway saw large decreases in street prostitution when the sex buyer law was first introduced, and numbers then stabilised at lower levels than before, suggests that this is a direct response to this legislation. Swedish research also shows an ongoing decrease in the proportions of men who admit to paying for sex, with the 0.8 % in the previous 12 months in the most recent study the smallest recorded in data covering two decades and the lowest level in Europe (Länsstyrelsen 2015). There is also limited evidence to suggest any significant displacement effect. Whilst demand has been reduced, it has not been eliminated, and the process of change continues.

> This normative effect is the most important, this is what we want. Criminalisation does not create lasting change (Interviewee 1).

Credence can also be afforded to the claims that the law has curtailed the growth of the sex industry, which is considerably smaller than that in neighbouring countries with smaller populations and compared with many other EU Member States. This, alongside pro-active policing, has created a less conducive context for trafficking.

> We can say that the law enables a pro-active response to trafficking. Street prostitution has been cut in half, we have no red light districts. Online ads have increased but it is not clear that this an increase in persons selling sex, so many have their origins in Holland and the United Kingdom and at least three quarters are not links to an actual person. Just clicking on these websites generates money, so it is a business in itself (Interviewee 5).

The evaluation of the more recent Norwegian sex buyer law (Rasmussen et al. 2014) concluded that it had decreased demand and made the country a less attractive market for traffickers; the same claim can also be made for Sweden. Through a process of change that combines normative shifts, sanctions, and pro-active law enforcement Sweden has begun to reduce demand within its anti-trafficking strategy.

8. Law enforcement: justice and home affairs EU agencies ([103])

INTRODUCTION

This section of the study concerns the contribution of EU Justice and Home Affairs agencies to the EU Strategy Towards the Eradication of Trafficking in Human Beings. Law enforcement and criminal justice provide instruments of reducing trafficking that play an important role in the EU Strategy. The European Union (EU) Anti-Trafficking Coordinator has mobilised seven EU agencies to work together in this area, to coordinate and mutually complement their activities and avoid duplication. The challenge considered in this part of the project is the inclusion of the gender dimension in the work of these agencies.

This report has three parts: a review of the literature; original case study analysis of the agencies with a special focus on their training materials; and a discussion of the gender dimensions.

Research has shown that opportunities for profit in the migration process and the demand for low-wage labour in free-market economies have led to an increase in criminal activities centred on cross-border movement (Kyle and Koslowski 2001) ([104]). Trafficking in human beings for the purposes of sexual exploitation is a fast-growing part of the 'portfolio' of cross-border criminal networks, alongside human smuggling and trafficking in drugs and weapons (Miko 2003; UNDOC 2008, 2014). It challenges law enforcement agencies, understood broadly to include policing, border control, and the management of movement, to come up with ever more sophisticated approaches to detection, prosecution and the protection of victims (Krieg 2009; Danziger et al. 2011). Correspondingly, in line with the EU Strategy Towards the Eradication of Trafficking in Human Beings 2012-2016 (COM(2012) 286 final), addressing trafficking in human beings is a priority for the EU agencies involved in protecting and securing the European area of freedom, security, and justice (Justice and Home Affairs agencies, thereafter JHA).

JUSTICE AND HOME AFFAIRS AGENCIES

This report discusses the participation of JHA agencies in anti-trafficking actions from a gender perspective. It does so against the background of wider academic literature which interrogates how anti-trafficking fits within border control, law enforcement, and the protection of human rights. Reflecting their commitment to the 'multi-disciplinary, coherent policy' laid out in the EU Strategy (COM(2012) 286 final: 5), in the Joint Statement of the Heads of EU Justice and Home Affairs Agencies of 18 October 2011, JHA agencies agreed to take action against trafficking in human beings in a 'coordinated, coherent, and comprehensive manner' (European Commission 2011, 2014; Europol 2014). The Statement reaffirms that 'the fundamental rights of victims of human trafficking are central to EU policy in this field.' Therefore, the agencies resolved that:

> in addition to our specific mandate and activities, we are all committed to carrying out our work in full respect of human rights in line with the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights. We will also ensure that a gender perspective is integrated in our structures, policies, and programmes and that particular attention should be paid to the protection of rights and adequate treatment of vulnerable groups of victims of human trafficking, in particular women, children, and unaccompanied minors. (European Commission 2011)

([103]) Karolina Follis

([104]) The majority of trafficking in human beings takes place within the larger context of cross-border traffic. In the years 2010-2012, 36 % of victims of trafficking in the European Union were registered as victims in their country of citizenship. An equal percentage of registered victims held non-EU citizenship and 28 % were citizens of an EU Member State other than the one where they were registered as victims (Eurostat 2014). That is, in 64 % of cases, trafficking involved crossing national borders, either between EU Member States or the external border of the European Union. Border crossing is not a necessary component of the legal definition of trafficking (Protocol to prevent, suppress, and punish trafficking in persons, especially women and children). This part of the project is concerned with those aspects of trafficking for purposes of sexual exploitation that do include border-crossing into and within the European Union.

As part of the coordinated approach, designated representatives of the agencies have been meeting on a regular basis under the auspices of the EU Anti-Trafficking Coordinator to share information, exchange expertise, and plan and coordinate action. The participating agencies are Europol, Frontex, Eurojust, CEPOL, The European Asylum Support Office (EASO), FRA and EIGE Joint Statement of the Heads of EU Justice and Home Affairs Agencies (JHA) of 18 October 2011 (European Commission 2011) ([105]).

EU agencies

There is no formal definition of what constitutes an EU agency. The agencies have been set up over the years on a case by case basis in response to an increasing need for specialised expertise in different policy areas. The official website of the EU lists 34 decentralised agencies and states that they 'carry out technical, scientific, or managerial tasks that help the EU institutions make and implement policies. They also support cooperation between the EU and national governments by pooling technical and specialist expertise from both the EU institutions and national authorities.' ([106]) Decentralised agencies take over some of the operational functions of the Commission, freeing it to concentrate more on its core tasks (Andoura and Timmerman 2008). Within their mandates they support and assist Member State authorities in their tasks, but they cannot impose particular methods and solutions. It is up to Member States to draw on agencies' expertise and resources. Agencies are generally headed by a Director and a Management Board where the Commission and all Member States are represented.

Agencies active in the area of Justice and Home Affairs ([107])

Europol is the European Union law enforcement agency that handles the exchange and analysis of criminal intelligence. Its mission is to improve the effectiveness and cooperation between EU law enforcement authorities in preventing and combating serious international crime and terrorism. Established in 1999, based in The Hague, The Netherlands.

Frontex is the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union. Frontex coordinates operational cooperation between Member States in the field of management of external borders; assists Member States in the training of national border guards; carries out risk analyses; follows up the development of research relevant for the control and surveillance of external borders; provides Member States with technical and operational assistance at external borders; and supports Member States in organising joint return operations. Established in 2004, based in Warsaw, Poland.

Eurojust is the European Union's judicial cooperation unit whose role is to stimulate and improve the coordination of investigations and prosecutions among the competent judicial authorities of the European Union Member States when they deal with serious cross-border and organised crime. Established in 2002, based in The Hague, The Netherlands.

CEPOL is the European Police College, a EU agency dedicated to providing training and learning opportunities to senior police officers on issues vital to the security of the European Union and its citizens. Activities are designed to facilitate the sharing of knowledge and best practice and to contribute to the development of a common European law enforcement culture. Established 2005, based in Budapest, Hungary.

EASO is the European Asylum Support Office, an agency of the European Union that plays a key role in the concrete development of the Common European Asylum System. It was established with the aim of enhancing practical cooperation on asylum matters and helping Member States fulfil their European and international obligations to give protection to people in need. Established 2011, based in Valletta, Malta.

FRA is the European Union Agency for Fundamental Rights. Its goal is to provide relevant institutions and authorities of the Community and its Member States with assistance and expertise on fundamental rights when implementing community law, and to support them in taking measures and formulating appropriate courses of action. FRA has no mandate to examine individual complaints or to exercise regulatory decision-making powers. Established in 2007, based in Vienna, Austria.

EIGE is the European Institute for Gender Equality. It supports the work of Member State (MS) governments and EU institutions in the field of gender equality. It does so through the collection and analysis of data on gender issues, developing tools for the integration of gender equality in all policy fields and facilitating dialogue and the sharing of best practice among stakeholders. Established in 2007, based in Vilnius, Lithuania.

This review asks in particular whether and to what extent the institutions appointed to assist with the control of movement into the EU (Frontex, EASO) and to address serious and organised cross-border crime (Europol, Eurojust, CEPOL) have demonstrated the gender-sensitivity mandated by EU policy on trafficking in human beings. The discussion is divided into three sections. Following the theoretical background based on relevant academic literature, the first section provides a critical overview of agency anti-trafficking activities, particularly with regard to their gender dimension. It focuses primarily on the case studies of Frontex and Europol but also identifies where the work of other agencies may contain gender-specific elements.

The second section provides an in-depth analysis of a sample of handbooks and training materials developed by the agencies for use by law enforcement personnel in EU MS. The third section discusses the gender dimension of the work of these law enforcement agencies and a concluding section examines the policy implications.

([105]) The core group consists of the first six agencies. EIGE (the European Institute for Gender Equality) has not participated in meetings of the agency contact points but it contributes to this work, as discussed further in this report.

([106]) See http://europa.eu/about-eu/agencies/index_en.htm accessed on 4 May 2015.

([107]) All descriptions based on information available at http://europa.eu/about-eu/agencies/index_en.htm and agency websites.

METHODOLOGY

This report applies the 'narrative' literature review approach to two bodies of literature. Firstly, the review covers EU primary sources, such as official reports, statistics, and policy documents relevant to law enforcement and the control of movement. Secondly, it draws on secondary sources, such as academic research publications and NGO reports ([108]). The literature was accessed based on the author's expertise in the overlapping fields of migration, trafficking, and border studies as well as EU public policy, gender, and fundamental rights. Where it was possible, the literature review is augmented with interviews with JHA agency staff (two semi-formal audio-recorded interviews at Frontex and one informal interview at Europol, recorded in writing only). A separate section offers a critical reading of samples of the training materials developed by three of the agencies to identify their contribution to addressing the gender dimension of trafficking in human beings (Frontex, EASO, and CEPOL).

LITERATURE REVIEW: ANTI-TRAFFICKING, BORDERS AND THE AREA OF FREEDOM, SECURITY AND JUSTICE

People move across national borders for a range of purposes, including business, leisure, temporary or permanent migration. In its contemporary form, trafficking in human beings is 'inextricably linked to, and shaped by, the dynamics of contemporary global migration, including the interests, capacities and structures of nation states, international and non-governmental organisations, private companies and criminal groups' (Danziger et al. 2011: 261). The numbers recorded by Eurostat (see footnote 1) suggest that a significant part of trafficking in human beings is linked to the dynamics of movement into and within the European Union. The statistics have little to tell us about the specific nature of this movement, or about the chains of events that end with persons being registered as victims of trafficking outside their country of citizenship. Scholarship has shown, however, that trafficking is entangled with international migratory processes, particularly the movements of women from countries and regions characterised by minimal economic opportunity to more affluent Western states (Andrijasevic 2010; Chapkis 2003; Rivers-Moore 2014; GAATW 2010a). These processes are influenced by social and economic factors in countries of origin and destination, including matters of gender inequality ([109]). National borders are the sites where this movement is controlled, albeit the nature of this control is constantly changing.

Until the late 20th century, national borders were commonly understood to be the dividing line between two sovereign states. They were the sites where national authorities controlled the movement of people and goods into their territories. But since approximately the 1980s, borders have undergone profound changes (Ganster and Lorey 2005; Rumford 2006). Increasing global inequalities, the opening of markets and the development of transportation and communication infrastructures led to a rise in large-scale international and transcontinental migration. While some of it was and is seen as economically desirable, overall the flows of people from poorer to richer regions of the world are seen as threatening (Smith 2011). In the EU and elsewhere in the western world they provoke a strong imperative to control borders (Andreas and Snyder 2000). But at the same time these transnational flows associated with globalisation undermined older methods of border policing focused on the territorial frontier. Political decisions to lift some border controls to foster common markets also played a part in these transformations. Since the early 2000s, scholars of borders and migratory flows have been observing a global tendency to manage and control cross-border flows in locations physically removed from territorial frontiers, which has been termed the 'deterritorialisation of borders' (e.g. Lahav and Guiriardon 2000; Andersson 2014; Feldman 2011; Follis 2012; Van Houtum 2010).

The European Union pioneered many forms of the deterritorialisation of borders. The Schengen Agreement of 1985 abolished border controls between participating Member States. The establishment of the common 'area of freedom, security, and justice' simplified legitimate travel and economic activities between Member States, but it has likewise facilitated the cross-border movements of criminal networks, including the activities of traffickers and the travel of their victims. This 'de-bordering' of crime necessitated alternative ways of controlling movement into and across EU territory as well as the development of new methods in law enforcement and border security

([108]) Given the pace of developments in the policy field, the review of EU sources covers the years 2010-2014, i.e. the duration of the Stockholm Programme. The secondary sources review encompasses the years 2000-2014 to account for longer cycles of academic research and knowledge production.

([109]) For discussions of the gendered nature of labour migration see for example: Anderson 2000; Hondagneu-Sotelo 2007; Ehrenreich and Hochschild 2004; Sassen 2011; Anthias, Kontos and Morokvasic-Müller 2012. Other types of migratory flows (refugee or mixed flows) are also gendered, as documented by Spikerboer 2000; Bhabha 2004; Pickering 2011; Gerard and Pickering 2013.

(O'Neill 2011). Since the 1999 Tampere Summit, EU-wide coordination of relevant policy and practice gathered pace leading to, among other developments, the establishment of the specialised JHA agencies (see box above). Frontex and EASO are focused on movement from third countries (external border crossing and asylum, respectively), whereas the mandates of the remaining agencies cover various aspects of justice and home affairs within the EU, from criminal intelligence to judicial cooperation.

As stipulated in the EU Strategy, all agencies involved in protecting the area of freedom, security, and justice in the European Union play a role in anti-trafficking, supported by the EU Anti-Trafficking Coordinator.

FRONTEX: The gender dimension of anti-trafficking in border enforcement

From the perspective of the intersection between the control of borders and combating trafficking in human beings, Frontex represents itself as the key player, seeing its main role as 'the identification of victims and traffickers during border control procedures' ([110]). Based on the Joint Statement of the Heads of EU Justice and Home Affairs Agencies (JHA) of 18 October, Frontex cooperates with other actors in this field ([111]). In its published materials, the agency represents itself as a 'treasury of best practice' in anti-trafficking as much as in other fields of its activity (Frontex 2015). It declares that it operates in line with the EU fundamental rights charter, as outlined in its Fundamental Rights Strategy (2011b). The foundational concept of its operations is Integrated Border Management (IBM). IBM consists of five elements: (1) Border control (i.e. traditional border checks, border surveillance, and risk analysis); (2) Concerted political and legislative actions by Member States and EU institutions; (3) Inter-agency cooperation; (4) Detection and investigation of cross-border crime; and (5) the Four-tier model for the control of access to EU territory, where the four tiers are (a) actions in land, (b) border controls, (c) cooperation with neighbouring countries and (d) cooperation with countries of origin and transit. According to Frontex's anti-trafficking coordinator, 'integrated border management is a perfect tool in preventing and combating THB' ([112]). According to this official, 'border checks are a unique opportunity to combat trafficking, because they are systematic, unlike police checks, which require cause. Border guards could be the first, or in a bad case, the last authorities who could intervene and prevent trafficking.' ([113])

However, in spite of this frontline status, according to a 2011 report, 'a relatively low number of potential victims was identified by border control authorities' (Frontex 2011a:6). This is attributed to the fact that 'many victims are traveling with genuine documents obtained under false pretences, [and] it is very difficult for border guards to identify features which would mark migrants as potential trafficking victims' (Frontex 2011a: 6) ([114]). In an interview conducted for the purposes of this study, the Frontex anti-trafficking coordinator provided additional context to explain low detection rates. He explained that victim identification is 'not a moment in time' but rather a set of steps that have to be followed, where the first and second line border check is merely the beginning.

> Identification, in my opinion, is … a procedure, but there is no government in the EU that has the identification procedure for victims of trafficking. We, as the border guards, can start this procedure, like: 'we think this person is a victim', but we are not able to end it. And if there are border guards that claim they have identified a person, then maybe it was clear that this person was a victim, but I'm sure that they have no mandate to say this person is a victim. Quite often it is the police, some countries NGOs, sometimes a prosecutor, and sometimes even a judge has to say that this person is a victim ([115]).

Overall, existing Frontex documents adopt a gender-neutral language and characterise victims of trafficking as belonging to the larger category of 'vulnerable persons' who travel across borders as part of 'mixed flows' and who

([110]) Combating trafficking in human beings has been part of the remit of border services since the early 2000s, prior to the establishment of Frontex. The Schengen Borders Code stipulates that border controls should help combat trafficking in human beings (Recital 6).
([111]) Most relevant to the gender dimension of its work is the cooperation with FRA, EIGE and EASO.
([112]) CEPOL recorded webinar 'Preventing and Combating Trafficking of Human Beings,' 20 September 2012, available at https://www.youtube.com/watch?v=2C-1JPX-qT7o accessed on 8 February 2014.
([113]) See note above.
([114]) The report draws on numbers from 2008 and 2009 (respectively 2 075 and 3 023 reported cases across the EU), but it does not cite the proportion of cases detected by border guards (Frontex 2011).
([115]) Interview, Frontex, 25 May 2015.

must be given special attention ([116]). For example, Frontex's Fundamental Rights Strategy stipulates that Frontex risk analysis, which is the basis of its operations:

> shall specifically take into consideration the particular situation of persons seeking international protection, and the particular circumstances of vulnerable individuals or groups in need of protection or special care (e.g. separated and unaccompanied children, women, victims of trafficking, and persons with medical needs) (Frontex 2011b, par. 14, emphasis added).

As of 2015, the main challenge in terms of mixed flows are the seaborne migrations across the Mediterranean. Border guards at air and land borders are accustomed to screening arriving passengers in the relatively orderly, if fast-paced, environment of established checkpoints. This is not the case at sea, where border guards, coast guards, humanitarian and NGO workers and members of other services may be confronted at once with a humanitarian emergency, a crime scene of people smuggling and unauthorised crossing of borders. As noted above, the boundary between the smuggling of migrants and trafficking in human beings is not hard and fast. Therefore, in any given case of an intercepted boat or rescue operation, it is highly likely that there may be victims of trafficking among the migrants. Yet the response in the field is far from straightforward. According to our informant,

> [y]ou always have to bring them to a border crossing point, because a boat cannot be a border crossing. ... Then it is identification: who do you want to identify? So you want to identify people who are really sick. People who need medical care, people who are hungry, children. So there are identification procedures starting on the big boats. So, that you can inform the people [on land], like, two people are dehydrated, four who have sunstroke, we have six children. ... so they can already prepare on the land for the things that are coming. ... But to really start identifying, there are people in shock. Why are these people in shock? Quite often that is not your call ... you just do a first diagnosis ([117]).

In this context, identification of potential victims of trafficking emerges as neither a priority nor a practical possibility. The problem is compounded by the fact that 'the Member States do not enough facilities to even start identifying victims of trafficking because they all end up in the same facilities at the end [together with the traffickers].' ([118])

These concerns are shared by the Frontex Fundamental Rights Officer (FRO). In office since 2012, this officer's tasks include internal monitoring and reporting on a regular basis to the Frontex Management Board, to the Executive Director of the agency, and to the Frontex Consultative Forum on Fundamental Rights, i.e. the body consisting of representatives of international and civil society organisations, formed 'to assist the Executive Director and the Management Board on Fundamental Rights matters' (Frontex Regulation, Art. 26a (2)). The FRO post as well as the Consultative Forum are unique in JHA agencies. They were established in response to concerns that Frontex and European Union Member States 'have not been carrying out their joint border surveillance operations and joint return operations in full compliance with human rights standards' (Parliamentary Assembly of the Council of Europe 2013:1). While doubts persist whether these steps indeed address the problems with Frontex's human rights record (ibid., see also Aas and Gundhus 2015), the FRO carries out her duties, describing her own role thus:

> I see myself as an advisor, internally as well, but I am more of a monitor. I have to really oversee that things are complied with, that fundamental rights are complied with in daily activities...The framework of the job of the Fundamental Rights Officer is the Fundamental Rights Strategy, because it is actually what internally should be done, and my job is mainly internal. This is very important for me ([119]).

Trafficking in human beings falls within the Fundamental Rights Strategy, and therefore it is within the FRO's purview. She collaborates with Frontex's anti-trafficking coordinator and, like him, in the interview conducted for the purposes of this study, emphasised the present challenges with addressing the chaotic situation on the Mediterranean in general, and attending to the needs of victims of trafficking in particular.

([116]) The original definition of a 'vulnerable person' is contained in Article 17, Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers. It does not make specific mention of victims of trafficking, but includes persons who have been subjected to 'serious forms of psychological, physical or sexual violence.' However, in the recast Directive (available at http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=EN) there is explicit recognition of victims of trafficking in human beings as a particularly vulnerable group in Article 21.

([117]) Interview, Frontex, 25 May 2015.

([118]) Interview, Frontex, 25 May 2015.

([119]) Interview, Frontex, 29 May 2015.

The Consultative Forum on Fundamental Rights, in its first Annual Report, recommends that 'the consideration for the protection of fundamental rights should be mainstreamed in the entire range of Frontex activities' (Frontex 2013:19). The Forum praises the agency for establishing the post of the Fundamental Rights Officer and the staff becoming 'more sensitive to fundamental rights issues' (ibid.) ([120]). It emphasises however that the agency's Programme of Work does not 'yet sufficiently reflect that the protection of fundamental rights is considered a priority' (ibid.). The specific rights highlighted as needing particular attention in the course of Frontex's operations were the right to non-refoulement, respect for human dignity and data protection requirements (ibid.:18).

Gender equality or the gender dimension of trafficking in human beings were not explicitly mentioned in the Consultative Forum's report for 2013 as areas of concern; however, the report did recommend the inclusion of gender-sensitive provisions in the Code of Conduct for Frontex operations (Frontex 2013:26). The FRO emphasised, however, that there she is aware of the gaps in the area and that she is committed to leading this work. She noted that the Frontex Fundamental Rights Strategy 'includes trafficking, but it doesn't have a gender strategy, I spotted it on day one.' ([121]) This would have to be rectified in the next revision of the Strategy, due in 2016. She evaluated the training materials and other tools developed by Frontex to raise awareness and sensitise border guards highly, but she noted that more training and a deeper reach of these efforts was still a necessity. Of particular concern was the insufficient attention that some guards pay to possible indicators of trafficking:

> Me, as a human rights lawyer I tell you, always refer in case of doubt. If you have the minimal doubt that this woman can be a victim of trafficking, just send her to second line and do a proper check. Instead of refusing her entrance. And there are a lot of considerations about what happens when you refer somebody to second line. You need the tickets, the protection, you need... it is really such a hassle. ... It is much easier to refuse her [entry] because she doesn't fulfil the conditions of entry. It is much easier. It is the easy way. This is my perception ([122]).

Discretionary refusal of entry by border guards would block off potential victims' access to referral mechanisms and could constitute an important factor explaining low trafficking detection rates at borders (see also Mackay 2008).

While internally Frontex's gender expertise is effectively subsumed to Fundamental Rights, there is a new 'focal point on gender' within the Consultative Forum (established in 2015). The 'focal point' is a representative of the International Organisation for Migration (IOM), which is one of four Intergovernmental Organisations in the Forum. IOM has substantial expertise and experience related to trafficking and gender (represented by the Gender Coordination Unit within the Office of the Director General) ([123]). The Frontex focal point is, according to the FRO, helping to establish 'a baseline, where are we, in relation to gender mainstreaming?' ([124]) The revision of the Fundamental Rights Strategy

> ...could be the initial step. The good news is, is that this is happening at the beginning of next year. So, we have perfect timing to actually see where we are, and to see what could be a way forward. For me, as I said, as internal/Frontex we do have gender deficiencies in awareness, understanding of what is gender equality. As we did the basic training for fundamental rights, we need gender training. Like, you know, I have done this in many places, change of roles, gender neutral language, you know, this kind of very basic gender training. ... And then the joint operations dimension both in gender participation, like how many police women do we have and what roles they play? ... And then what guidelines in terms of border management and gender can we supply [MS] with. Because there are border management and gender issues for years ([125]).

Directive 2011/36/EU requires Member States to promote the regular training of officials likely to come into contact with victims and potential victims of trafficking. Frontex supports these efforts through its Common Core

([120]) On the appointment of the first Fundamental Rights Officer in 2012 see http://frontex.europa.eu/news/management-board-designates-fundamental-rights-officer-8IK8Im accessed on 8 February 2015.
([121]) Interview, Frontex, 29 May 2015.
([122]) Interview, Frontex, 29 May 2015. The high incidence of entry refusals to women perceived as potential prostitutes was also reported by the Frontex anti-trafficking coordinator.
([123]) The Working Group on Gender was created in 1995. See *Gender Mainstreaming in the IOM*, Geneva 1998, available at: http://publications.iom.int/bookstore/index.php?main_page=product_info&cPath=1&products_id=404 accessed on 9 February 2015.
([124]) Interview, Frontex, 29 May 2015.
([125]) Interview, Frontex, 29 May 2015.

Curriculum (common entry level training for border guards across the EU) as well as mid-and high-level training for senior officers. **The gender dimension at present is not emphasised, but according to the FRO, 'it will come, it will come. … To me, trafficking is a very good way to get into sensitising about gender**.' ([126])

Frontex's 'Handbook on Risk Profiles on Trafficking in Human Beings' has been made available by the EU Air traffic control (ATC) office for the purposes of this research and is discussed in the next section of this review ('Pedagogy of anti-trafficking and gender').

FRA: Fundamental rights at borders

In 2014, the FRA conducted studies on airport border checks at five international EU airports covering, among other issues, the treatment of presumed victims of trafficking (FRA 2014a). The questionnaire used for the research was developed in consultation with fundamental rights and border professionals, including Frontex (FRA 2014a:108). A related study was conducted at six land border crossing points (2014b). Based on interviews with border guards and immigration officers, the reports 'examine border guards' actions relating to presumed victims' (FRA 2014a:70), in light of the Reference document on Guidelines for the identification of victims of trafficking in human beings in particular for border guards and consular services published by the European Commission (European Commission 2013).

Out of six land border crossing points, border guards at five of them could not recall a single case of identifying a presumed victim of trafficking. Only at the Polish-Ukrainian border crossing in Medyka were the guards aware of three such cases from the 2000s. The report cites a shift leader from Kipi on the Greek-Turkish border who said '[w]e have not had a single case of human trafficking over the 7 years that I've been here' (FRA 2014b:23). Among the factors contributing to the difficulties in identifying victims is the fact that, contrary to the claims about their 'systematic' nature (see above), front line checks in practice do not generally involve border guards speaking to all third-country nationals (41 % of the border guards at airports interviewed by FRA said they did not do so).

> Of this 41 %, only a third (35 %) would consider substantial signs of protection needs (to be understood in the broad sense, also including asylum) a reason for addressing third-country national passengers. As groups are handled *without necessarily addressing all accompanying passengers*, according to shift leaders, the scope for interaction and proactive identification is limited during the check, and a large number of victims can be expected to pass unnoticed, particularly if risk factors are not obvious. (FRA 2014a:56, emphasis added).

The issue of handling large groups by addressing only one passenger (presumably the person who represents the group by handing over documents) suggests a missed opportunity for a gender-specific intervention. In some circumstances, where the group leader is male traveling with and handling the documents of one or more women, the relationship between him and the female passengers ought to warrant further examination.

The FRA finds examples of 'promising' fundamental rights practices with regard to trafficking in instances where border authorities cooperate with private actors (particularly airlines, on matters of staff training) and NGOs (mostly with regard to immediate support at the airport). In some cases, these 'promising practices' have a gender dimension. For example, at Schiphol the Royal Dutch Marechaussee, together with the NGO La Strada, prepared a booklet for airline personnel on signs of human trafficking. Since 2011, this booklet has been handed out to participating staff during their training with the Marechaussee (FRA 2014a:78). At Manchester airport, 'the Salvation Army steps in to provide safe housing for women victims of trafficking' (ibid.). Overall, however, the FRA studies look at fundamental rights without applying the gender lens. General conclusions focus on human dignity, non-discrimination, access to protection, effective remedy, data protection and the special needs of children at borders (ibid.:97-8), but **the gender dimension of trafficking in human beings and the opportunities for gender-specific intervention remain unexplored.**

([126]) Interview, Frontex, 29 May 2015.

Europol: Gender, law enforcement, and criminal intelligence

Europol's mission is to support its Member States in preventing and combating all forms of serious international crime and terrorism ([127]). Since the original adoption of the Europol Convention in 1995 to its transformation from an intergovernmental organisation into an EU agency, Europol has grown in size and competences. This gradual empowerment has enabled Europol to claim a central role within EU police cooperation, as the key node for the pooling, exchanging, and interpreting of data (Carrapiço and Trauner 2013). The agency has had a dedicated THB response unit since 2003 (JHA Agencies 2014) and today trafficking in human beings is one of Europol's nine priority areas (Europol 2014). Europol Focal Point Phoenix facilitates the meetings of the European Multidisciplinary Platform against Criminal Threats (Empact) on Trafficking in Human Beings under the EU Policy Cycle on Serious and Organised Crime. FP Phoenix is a tool to support live investigations in the field of trafficking of human beings. Europol is also an agency which explicitly embraces the principle of gender equality (indexed on its website as 'the female factor') and declares active work to improve gender balance in its workforce and senior management roles, with a view towards embedding 'gender diversity in the DNA of the entire organisation' (Europol 2013:7). This approach is consistent with a body of literature in feminist criminology, where scholars have argued that 'equal employment opportunities for women and their adequate representation in the policing profession are issues of social equity and influence how women are treated in the organization' (Schuck 2014:161). As in the case of Frontex, the objective of this review is to analyse the materials concerning Europol's operations and to develop an account of how gender considerations inform the agency's practices in the area of anti-trafficking.

Europol represents itself as an organisation which recognises the importance of a gendered perspective in law enforcement (Europol 2013). Europol published documents, however, fail to make clear if and how this declared gendered perspective translates into gender-specificity in anti-trafficking operations. Unlike Frontex, Europol does not deploy its officers in Member States except as part of joint investigative teams (JITs). Europol officials have no direct contact with the victims, where, according to our Europol informant, gender sensitivity really matters. Female victims of trafficking ought to be interviewed by female law enforcement officers, but that work is carried out at the level of Member States and Europol has no influence over how it is conducted by domestic law enforcement. Academic research on gender and policing indicates that, at least in the context of domestic violence, female officers may indeed 'be more responsive to victims than male officers' (Schuck 2014:162, see also Homant and Kennedy 1985). This is also likely to apply in the case of victims of trafficking. On the other hand, the hegemonic masculinity (Connell and Messerschmidt 2005) that has historically characterised police organisations is not an artefact of the past and may exacerbate instances where victims of trafficking are mistreated by law enforcement agencies ([128]). Europol's main area of work is, however, removed from the immediacy of ground level policing. Its main remit, i.e. criminal intelligence, is represented as a gender-neutral terrain, in the sense that it demands expertise and analytical skills which are in themselves seen as not gendered.

Europol public information reflects an understating of the aforementioned ambiguities of trafficking and describes it as complex and 'not easy to define' because 'criminal activity related to trafficking can be hidden within other criminality, such as prostitution, illegal immigration, and labour disputes' (Europol 2011:3). The data on trafficking collected on and shared via Europol's computer networks is disaggregated by gender and thus contributes to the compilation of gender-specific statistics. According to Europol, there are multiple risk factors for trafficking, related to social vulnerability and marginality, employment status, and 'behavioural attitudes', among other issues. The descriptions of persons at-risk are partly gendered ([129]), including women under the age of 30, migrants and persons intending to migrate, women engaged in voluntary commercial sex work and women and young girls from at-risk families (Europol 2011:5-6). The gendered dynamic of criminal networks involved in trafficking for the purposes of sexual exploitation is also reflected in the published materials, revealing the differential roles of men and women in recruitment, smuggling, pimping, subjugation and surveillance of victims, and profit distribution. For example:

> [r]ecent investigations confirm that the proportion of female offenders involved in trafficking for sexual exploitation is increasing. Although normally involved in the recruitment process and likely to be former victims of trafficking, there are more and more examples of women controlling victims and organising the

([127]) See https://www.europol.europa.eu/content/page/europol's-priorities-145 accessed on 19 February, 2015.
([128]) See for example http://www.theguardian.com/law/2010/jun/16/trafficking-victims-let-down-rights accessed on 6 May 2015.
([129]) This is, of course, a particular interpretation of gender relations.

> business operation. This *modus operandi* is especially relevant in respect of Nigerian sponsored trafficking where the role of a 'madam' or a female supervisor is integral. (Europol 2011:7)

Such information is collated into publications termed 'knowledge products' (see Europol 2011) but it remains unclear how they are utilised in the actual practices of policing on the ground. Direct control over this is not within the mandate of Europol or any other JHA agency. A separate agency, CEPOL, provides training for law enforcement officers in Member States which potentially could act as a source of normative pressure leading to gradual changes in policing in the direction of increased gender sensitivity. This is discussed in the section below ('Pedagogy of anti-trafficking and gender').

Eurojust: The investigation and prosecution of trafficking in human beings

Trafficking in human beings is one of the operational priorities for Eurojust (Eurojust 2012) ([130]). However, in 2012 Eurojust's President, Michèle Coninsx, noted that 'statistics show that the number of THB prosecutions and the number of THB cases referred to Eurojust for assistance remains low' (Eurojust 2012: i) ([131]). In that year, the agency has undertaken a strategic project to understand 'what are the reasons underlying such a small number of THB prosecutions and such limited involvement in THB cases? What can Eurojust do to improve this situation?' (Eurojust 2012: i). Since then, Eurojust has been fully involved in the JHA joint efforts based on the Joint Statement of 2011. The agency has a dedicated anti-trafficking team and an action plan. Among its other anti-trafficking activities, it cooperates with third countries and international organisations (JHA 2014). A full review of the findings of the strategic project is outside of the scope of this report, however, from a gender perspective it merits noting that the document does not specifically thematise gender issues or distinguish between female and male victims of trafficking. It is based on an analysis of a sample of 29 cases, where 55 % were cases of trafficking for the purposes of sexual exploitation, without a breakdown of victims by gender.

The main difficulties in the investigation and prosecution of trafficking cases were identified as '(1) Evidentiary difficulties in THB cases; (2) Problems in the identification of THB cases and victims; (3) Problems related to the complex, multilateral dimension of THB cases; (4) Lack of specialised knowledge and experience in THB cases' (Eurojust 2012: 8). Under the first two rubrics, the highlighted issues included problems with obtaining victim testimony, the collusion-control dynamic between traffickers and victims, and fearful and uncooperative victims. The report also links all of the identified difficulties to the lack of knowledge and awareness and lack of resources. Proposed solutions include protection and assistance to victims, non-prosecution and compensation of victims, covert investigations, enhanced collaboration between agencies, education, awareness and training (Eurojust 2012: 8-26). An analysis of the gender dimension of the cases could reveal with more precision the sources of victims' reluctance to testify and the nature of their fear and lack of cooperation, which in turn could help address the problem. A gender-specific approach to the proposed solution of protection and assistance to victims likewise could lead to better outcomes in prosecution (see Balderston, this report).

EASO: Vulnerable groups, mixed migration and gender in the asylum process

The European Asylum Support Office's (EASO) role is to support the implementation of the Common European Asylum System (CEAS) by assisting Member States with many aspects of asylum, including direct on-the-ground assistance in crisis situations (European Commission 2015). The EASO has a relatively short history, but since its establishment in 2010 it has worked to raise awareness of trafficking among asylum authorities (JHA 2014). As part of its mandate, the agency focuses on vulnerable groups within mixed migration flows. Potential victims of trafficking are a special group within vulnerable groups who pass through the asylum process. They require identification and referral to specialised services based on their status as potential victims, regardless of the outcome of their individual asylum procedure. The EASO operates under the premise that asylum caseworkers are in a unique position to detect such victims. Unlike border guards, who may come across potential victims only briefly in the compressed environment of a border crossing (see section on Frontex above), asylum caseworkers review applications and conduct extended interviews which give them a deeper insight into the personal circumstances of asylum applicants. Appropriate training is deemed necessary for this sensitive work, and the EASO has identified

([130]) See also https://ec.europa.eu/anti-trafficking/publications/eurojust-strategic-project-and-action-plan-against-thb-2012-2016_en accessed on 12 October 2015.

([131]) Eurojust's Case Management System registered 470 trafficking in human beings cases between 2004 and 2011; that is 5.6 % of the total number of cases registered at Eurojust (Eurojust 2012:2).

gender as a key dimension. In 2013, and as a result of the coordination work of the Agencies on THB, it recruited a full-time officer focused on gender, gender identity, and sexual orientation issues, whose role includes addressing the gender-specific phenomenon of trafficking in human beings (JHA 2014). The specialised officer liaises with other JHA agency contact points as part of the joint anti-trafficking efforts and, as of 2015, she coordinates the development of the EASO Training Module on Gender, Gender Identity and Sexual Orientation, discussed in the section below. Of the six JHA agencies actively involved in the joint efforts, the EASO is the only one with such a specialised post ([132]). It carries significant potential to mainstream gender expertise into agency practice and as such ought to be considered by other JHA agencies.

CEPOL: Trafficking in human beings in police training

The European Police College (CEPOL) 'is the European agency tasked with organising training for senior police officers in Member States of the European Union (EU). It brings together senior police officers across Europe to encourage cross-border cooperation in the fight against crime and in maintaining public security and law and order' (CEPOL 2014a: 2). CEPOL's role, among other tasks, is to create common curricula which are of relevance to all Member States. They are delivered through national senior police training colleges. Beyond that the agency organises between 80 and 100 courses, seminars, and conferences annually on topics of interest to police forces in Europe. It also carries out specialised projects such as the rapidly growing CEPOL European Police Exchange programme.

As in the case of other priority topics within Empact, CEPOL's role in the EU anti-trafficking Strategy is to support it with a relevant training package. This includes a common curriculum to support national training, an online learning module for self-paced learning and awareness raising, courses and webinars for the development of specialised skills, and the exchange of good practices at the EU level via European Police Exchange. **CEPOL training in the area of trafficking in human beings does not at present have an explicit gender dimension.** The CEPOL Common Curriculum and the representations of gender within it are discussed in the section below.

EIGE: Levels of violence against women as a measure of equality

Of the seven JHA agencies, EIGE remains the most remote to the anti-trafficking efforts based on the 2011 Joint Statement. According to the mid-term report on the Implementation of the EU Strategy towards the eradication of trafficking in human beings, EIGE has thus far been unable to attend any of the agency contact points meetings, but it contributes to the joint activities by participating in expert meetings and assisting with the development of specialised training materials by CEPOL and EASO (European Commission 2014).

EIGE is responsible for the EU Gender Equality Index which is a synthesised measure of different aspects of gender equality across the EU-28. The index maps gender gaps in the EU across eight domains identified according to the EU policy framework. The six main domains are Work, Money, Knowledge, Time, Power and Health and the two 'satellite' domains are Intersecting Inequalities and Violence (EIGE 2013) ([133]). According to an EIGE representative, there were attempts to incorporate trafficking data into the 'satellite' domain of violence.

> For our part we have been working with Eurostat and the Anti-trafficking unit to assess the data collected during the recent [trafficking] study to see how it could be further used in EIGE's Gender Equality Index. The satellite domain of Violence has for the first time been developed to include all available data available at the EU level (FRA, and Eurobarometer). Unfortunately, at this time the data collected during the recent study carried out by the Anti-Trafficking unit was not able to be used for the specific circumstances of the Index ([134]).

([132]) The EU hub for gender expertise is EIGE which contributes to the joint efforts of the agencies. One of the nine areas of the work of FRA is discrimination, including discrimination based on sex. FRA recognises gender equality as a key component of the protection of fundamental rights and many FRA reports foreground gender analysis. See http://fra.europa.eu/en/theme/gender accessed on 21 May 2015.

([133]) The domain of violence is separate from the six main domains as 'satellite' because of the nature of the data on violence. The comparison here focuses not on gender gaps but on levels of violence, reflecting the fact that the policy goal is not to close the gap in violence between men and women, but rather to eliminate violence altogether (EIGE 2013:31).

([134]) Email correspondence, 16 June 2015.

Considering that, for the purposes of the Gender Equality Index, violence is defined as 'an expression of power linked to the domination of some forms of masculinity, mostly over women' (EIGE 2013:31), the future incorporation of trafficking data into this domain would enhance the overall robustness of the Index.

PEDAGOGY OF ANTI-TRAFFICKING AND GENDER

Introduction

Following the review of the literature, we investigated the pedagogy concerning anti-trafficking and gender in case studies of the EU JHA agencies Frontex, EASO, and CEPOL in depth. The materials produced by each agency are not directly comparable as in each case they were developed for a different purpose. In the case of Frontex, the object of analysis was a handbook on trafficking risk profiles designed to be used by border guards directly on the job. EASO made available its Module on Gender, Gender Identity and Sexual Orientation for the training of Member States' asylum officers. The module covers a wide range of topics including trafficking. The sub-unit on trafficking was the focus of this analysis. CEPOL shared its Common Curriculum on Trafficking in Human Beings. The gender dimension of trafficking does not feature as a separate topic in the common curriculum but the review focused the extent to which this dimension is present in the overall representation of the problem. In spite of the diversity of the source material, the combined analysis offers a good insight into the varied approaches to conveying gender knowledge to law enforcement practitioners.

Case 1. Frontex 'Handbook on Risk Profiles on Trafficking in Human Beings' (2013)

Context and purpose. The Handbook is a hardbound publication in limited distribution designed 'to assist border guards at air, land and sea borders in the identification of potential victims of trafficking in human beings (THB) especially during the first- and second-line checks on entry into the EU and the Schengen Associated Countries. It is also intended to be used during Frontex Joint Operations' (p. 5). The authors emphasise that it is not a tool that is sufficient on its own and that only an integrated approach involving 'cooperation with other competent stakeholders' and 'information sharing on a national and international level' will lead to more victims being identified and directed to National Referral Mechanisms (p. 6).

Structure and content. The Handbook is organised as a reference manual by country of origin. The 2013 edition has eight chapters, each dedicated to a country of origin on which Frontex was able to gather sufficient information to establish 'profiles, indicators and trends' (p. 7). The countries included are Albania, Brazil, China, Ghana, Nigeria, Russia, Ukraine and Vietnam. Chapters are easily accessible by colour-coded tabs, and each includes visual material and colour-coded charts to be consulted at a glance. The design reflects the presumption that border control is a fast-paced environment where border guards have little time to dwell on the complexities of individual situations and must make quick decisions based on a limited number of indicators (Frontex 2015). Each chapter opens with a map showing the main routes along which victims of trafficking from a given country may arrive. It lays out, in simple visual form, on a single page each, 'first-line check indicators to help identify victims of THB' and 'second-line check indicators to help identify victims of THB.' First-line indicators include the age range of potential victims broken down by gender, typical travel documents used by potential victims from a given country, the purpose of travel that they tend to declare and some characteristics of physical appearance. For example, according to the Handbook, Chinese potential victims are characterised by 'simple clothing' and 'calm behaviour, passive attitude' and 'rather low-self-confidence' (p. 36). Second-line indicators are organised by observations and conclusions from the interview, details of the facilitation process and personal belongings. Accordingly, victims from China offer 'statements that appear memorised or fabricated' and show 'persistent fear, shame, and low level of self-esteem.' They travel 'in groups and are accompanied by a facilitator but enter the EU individually' and 'do not possess more monetary means than absolutely necessary' (p. 37).

Representations of gender. The Handbook treats the crime of trafficking as a gender-specific phenomenon, in the sense that it is based on gender-specific data and is designed to alert border guards to gender-specific characteristics of potential victims of trafficking. Five out of eight of the country chapters (Albania, Brazil, Ghana, Nigeria and Ukraine) cover solely female potential victims, on the grounds that that the trafficking of men from those countries is rare or there is insufficient information on it.

The first-line check indicators underscore the difficulty of the task of identifying victims at the border. Many of the proposed characteristics of the potential victims, such as modest clothing, calm demeanour, 'no outstanding behaviour' and declaring work, study, or tourism as purpose of travel are generic in nature. They could apply to almost any third-country migrant attempting to enter the European Union, whether with genuine or forged documents. In some aspects they also conform to gendered national stereotypes, thus potentially blunting further their potential to sharpen the guards' attention. The more specific characteristics, such as traces of physical violence on the bodies of victims (Nigeria) and tattoos of a crime group's symbols to indicate which group controls them (Albania), are said to appear in 'rare cases'; it is therefore far from certain that border guards would remain vigilant about such signs, or even have the opportunity to spot them in the first place.

The second-line check indicators offer an insight into the challenges and ambiguities of the situations that many border guards would encounter in their work. For example, in the chapter on Russia, women are said 'not to consider themselves as victims and look forward to a new job opportunity in Europe' (p. 67). A similar note applies to women from Ukraine. How does the presumption of potential victimhood arise in such context, if it arises at all? As noted above, the findings of the two FRA reports on airport and land border checkpoints (FRA 2014a, 2014b) suggest that very few cases of trafficking are detected at borders, which may indicate that such general observations to guide the border guards are not very helpful. Nigerian victims are said to 'make contradicting and presumably false statements about their travel and personal and family situation as they present a story memorised with the help of a facilitator' (p. 57). The statements of victims from Vietnam likewise 'appear memorised and fabricated' (p. 87). These conclusions are based, as the methodology explains, 'on intelligence gathered from law enforcement agencies and non-law enforcement sources. Information gathered through Frontex Joint Operations has also been used' (p. 9). In spite of these trusted sources however, such indicators appear potentially prejudicial and may lead to lines of questioning that would further increase the fear and uncooperativeness of the victims (cf. Eurojust 2012).

Critical assessment. In spite of its generalisations and ambiguities, the Handbook is a potentially useful tool in terms of providing border guards with a quick reference on specific situations of women who may be victims of trafficking traveling from non-EU countries into the territory of the EU. In certain limited circumstances it may assist guards in making the first-line decision to pursue secondary checks and thus open up the possibility of providing support to the victims. However, the second-line check indicators require further refinement so as not to prejudice the border guards' perception of the persons they interview. The achievement of measurable effects would require universal or near-universal uptake of the Handbook and an understanding among border guards that gender-sensitivity in general and alertness to the possibility of trafficking in women for the purposes of sexual exploitation are not optional distractions from the job of securing the border but a responsibility inherent in the border guard's role. As FRA border check reports make clear, the uptake and diffusion of the knowledge is inadequate (2014a, 2014b). FRA recommends that:

> Member states should ensure proactive dissemination and promote systematic use of tools developed at the European and international level to assist border guards in identifying victims of trafficking in human beings. Frontex should ensure that border guards use its anti-trafficking materials more systematically. They should target front-line officers deployed at BCPs [border check points] and especially those deployed within Frontex-coordinated operations. (FRA 2014b:53)

Tools like the Handbook accomplish little in isolation; together with appropriate training, they may, **however, be a useful element of a multi-pronged strategy to increase awareness of the gender-specific nature of trafficking among Member States' border guards and Frontex officers participating in Joint Operations**.

Case 2. EASO 'Training Module on Gender, Gender Identity and Sexual Orientation'

Context and purpose. The module on 'gender, gender identity and sexual orientation' is a new module in the common EASO training curriculum for asylum officers and decision-makers. According to EASO, 'a genuine common EU culture in the field of asylum can only be built on the basis of common values, shared ethical and professional standards and mutual trust between all professionals in the field of asylum at the national and EU level' (EASO 2013: 12). EASO's role involves developing training materials in consultation with external stakeholders and training the trainers who deliver the common curriculum to asylum officers in Member States. Core aspects of the asylum procedure are covered, following a blended learning methodology combining online and face-to-face sessions.

The module on gender is one of two new modules developed in 2014-2015, supplementing the existing curriculum consisting of 13 modules on topics ranging from 'Refugee and International Human Rights Law,' to 'Interviewing vulnerable persons' and 'Evidence assessment.'

Structure and content. This review is based on the manuscript of the e-learning content for the 'gender, gender identity and sexual orientation module' (version 1.0) made available by EASO and it focuses on the sections relevant to trafficking in human beings. The module opens with an introduction which informs the trainee that '[t]his is an advanced module that is aimed at making you aware of your, and society's, attitude towards gender, gender identity, and sexual orientation.' Trainees will 'gain knowledge on issues related to gender, gender identity, and sexual orientation and ... the skills for processing a claim based on gender, gender identity, and sexual orientation' (EASO 2015: 6). Following the statement of learning objectives, the content is divided into the five following sub-modules: Norms and definitions; Gender and Sexual Orientation and Gender Identity (SOGI) based human rights violations; European and national legal frameworks; The interview; and Decision-making. Each sub-module is divided into between three and five units covering major themes, which in turn are split into sub-units, leading the trainee through specific topics. Trafficking in human beings is featured in sub-module 2, 'Gender and SOGI-based human rights violations,' unit 2.3 'Specific types of SOGI and gender-based violence.' It is covered alongside domestic violence, forced and early marriage, female genital mutilation (FGM) and forced sterilisation and abortion.

Sub-unit 2.3.5 on human trafficking opens with the definition of trafficking according to Article 2 of the Palermo Protocol and a discussion of the definition which draws attention to its three 'essential and interlinked elements,' namely the act, the means, and the purpose of trafficking (EASO 2015: 99). Trafficking is framed overall in a gender-neutral manner as a 'violation of a person's fundamental human rights,' but this perspective is supplemented by a focus on the gender-specific aspects of the crime. For example, the authors cite the UN statistic showing that 80 % of all human trafficking victims are women and girls who are predominantly trafficked for the purpose of sexual exploitation (EASO 2015: 100). It also draws attention to Article 1 of the Trafficking Directive, which reaffirms that a gender perspective is necessary to strengthen the prevention of the crime and the protection of the victims (ibid.).

The sub-unit continues with coverage of the indicators of trafficking, including physical, emotional, and practical indicators and behavioural cues. It leads the trainee to an exercise where he or she must assess three hypothetical cases of asylum applicants who display various combinations of 'indicators of human trafficking.' The exercise is to conclude with feedback from a senior colleague. The trainee must also complete an assignment where he or she collects indicators of trafficking used in their home department and information on any internal procedure to be followed. These findings are to be discussed in face-to-face seminars.

Beyond the dedicated sub-unit, trafficking is also discussed elsewhere, for example in the context of case law on gender-based human rights violations (sub-unit 3.3.3). Trainees learn about the European Court of Human Rights (ECtHR) case *Rantsev* v *Cyprus and Russia*, Application No 25965/04 of 10 May 2010:

> The judgment of the Court provides a decisive human rights benchmark with clear obligations for Member States to take the necessary steps to address different areas of trafficking in human beings. These include recruitment, investigation, prosecution, protection of human rights, and providing assistance to victims. If the authorities are aware of a case of human trafficking, they are obliged to take appropriate measures. (EASO 2015:133).

It also appears in the context of the discussion of asylum applicants' credibility assessments, where the module emphasises that 'particular attention should be paid to the credibility assessment of women because often their inferior status in society causes some particular features that you should bear in mind to avoid inappropriate credibility findings' (EASO 2014: 199). For example, 'a female victim of trafficking might be less able to ask for help than a male victim because she may feel ashamed about what has happened to her' (ibid.).

Overall, the structure of the module maps closely onto the structure of the asylum procedure, providing case officers with key theoretical background on gender and the variable operation of gender norms in different societies followed by information on gender and sexual orientation-based human rights violations, and applicable legal frameworks. This knowledge is necessary when facing asylum applicants of both genders as some of them will have experienced such violations. The module closes with the themes of gender-sensitive interviewing and decision-making, which are designed to equip case officers with the tools not only to reach appropriate decisions

regarding refugee status and subsidiary protection, but also to help them refer potential victims of gender-based violations to relevant authorities.

Representations of gender. Gender is the key theme of this EASO module. Throughout the training it is represented primarily as a sociological concept, distinct from biological sex, with an emphasis on social norms and norm systems (such as heteronormativity) that shape the perceptions of gender in society. The core definition is drawn from the United Nations High Commissioner for Refugees (UNHCR) Guidelines on International Protection: Gender related persecution within the context of Article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees:

> Gender refers to the relationship between women and men based on socially or culturally constructed and defined identities, status, roles and responsibilities that are assigned to one sex or another, while sex is a biological determination. Gender is not static or innate but acquires socially and culturally constructed meaning over time.

Further distinctions are made between gender identity, gender expression, and sexual orientation. 'Norms surrounding gender and SOGI are … old and very hard to change' (EASO 2015:15). They are socially reinforced, but they can also be transgressed, as the module shows, with significant consequences for the transgressing individual.

> Sometimes it is about that person's behaviour, sometimes about identity and sometimes it is because a person belongs to a group or is perceived to belong to a group that society might think is different from the norm. Sometimes society upholds norms in ways that lead to sanctions against people and behaviour. (EASO 2015:11)

The module explores the relationship between norm conformity and power. Persons who do not conform to prevailing gender and other norms, either by choice or by virtue of belonging to a non-conforming group, have diminished access to power or are actively disempowered. The concept of intersectionality is explained as follows:

> [N]orms also interact with each other and the number of norms you break will also influence your position in society. If you conform to many norms, you will have more power and influence. If you break numerous norms, your power and influence will diminish.

The trainees deepen their knowledge by engaging with real and hypothetical examples, but ultimately are reminded that 'every person's access to power and influence as well as the risk of being subjected to human rights violations is individual and situational' (EASO 2015: 18). They are urged to 'remember this when meeting an applicant who claims to be at-risk for not-conforming, by group membership, by choice or by nature' (ibid.). Ultimately the purpose of the module is to assist in the refugee status and subsidiary protection determination procedures, where individual circumstances are decisive.

The 1951 Convention definition of a refugee is based on the concept of a *well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion* (Article 1A (2)). Gender is not recognised per se as a ground for persecution ([135]). However, according to the module, 'it is widely accepted that [gender] can influence, or dictate, the type of persecution or harm suffered and the reasons for this treatment' (EASO 2015: 210) and notes that a proper interpretation of the refugee definition covers gender related claims, with the most common applicable Convention ground being 'membership of a particular social group.' It is noted, however, that the 'the practices and the interpretation of this Convention ground varies among the member states' (EASO 2015: 211). The module does not take any prescriptive stance in this regard, urging trainees only to put on their 'gender and SOGI glasses' (i.e. awareness of the socially and culturally constructed nature of gender and sexuality) when assessing cases and to 'leave their stereotypes and normative assumptions behind when going to meet an applicant' (EASO 2015: 55). The importance of doing so may be particularly relevant in cases of women applicants who have engaged in sex work, experienced sexual violence, or in other ways found themselves outside the prevailing norms governing gender roles and sexual conduct.

([135]) There has been debate in feminist circles about the relative merit of adding gender as the sixth prohibited ground for persecution, with some arguing in favour and others pointing out that in itself, the addition of 'gender' to the definition would do little, without a simultaneous redefinition of the meaning of persecution that would give credibility to women's experiences in the private sphere (Pickering 2011: 62).

Critical assessment. This review identified one shortcoming of the sub-unit of the module dedicated to trafficking. It emphasises that women are most likely to be victims. At the same time, beyond a brief acknowledgement that among those most likely to be trafficked are 'people in poverty that have been tricked by the promise of a better life in another country and orphaned, or neglected, [or] children who do not have an adult to protect them from being trafficked' (EASO 2015: 100), there is no reference to the specific ways in which poverty affects women. The sub-unit would benefit from the addition of content pertaining to the diminished economic opportunities for women (relative to men) that may compound the disadvantages they suffer as a result of conflict or ethnic strife, and push them into risky migratory situations. It should also draw attention to the porous boundaries that divide sexual violence, sexual exploitation, and trafficking. The theoretical sub-unit introduces the concept of intersectionality, that is, the situation when a person is disempowered or rendered vulnerable when she falls outside of a number of societal norms. The concept, however, does not appear to be taken further. In the trafficking sub-unit an intersectional approach could highlight, for example, how in certain countries of origin, economically disadvantaged women of a minority ethnic group are at a heightened risk of being sexually exploited and trafficked for that purpose (Beyrer 2001).

Beyond this weakness, the EASO training module on gender, gender identity and sexual orientation is a valuable addition to the EASO asylum curriculum and potentially a model to be followed by other JHA agencies. EU legal and policy framework places emphasis on the gender-specific nature of trafficking and requires gender-specific action. This module is a rich and comprehensive resource that has the potential to enhance the gender competence of asylum officers across the EU, and, as such, it meets the goals of the policy. A universal roll-out would help promote a set of shared standards and understandings in a complex and sensitive area, not only contributing to the creation of the 'genuine common EU culture in the field of asylum' that EASO is keen to advance (EASO 2013: 12) but also equipping front line staff who may come into contact with victims of trafficking with a substantial level of gender knowledge. In many Member States, asylum officers would not have any alternative opportunity to acquire this competence. Promoting it in turn could lead to more-gender sensitive practices and increased numbers of specialist referrals for potential victims of trafficking. From the perspective of the EU anti-trafficking strategy, the training contributes to Priority A, i.e. 'Identifying, protecting, and assisting victims of trafficking' and Priority D, i.e. 'Enhanced coordination, cooperation, and policy coherence.'

Case 3. CEPOL 'Common Curriculum on Trafficking in Human Beings' (2014)

Context and purpose. The subjects of CEPOL Common Curricula are determined according to priorities at the European level. The Common Curriculum for the module on Trafficking in Human Beings, like other Common Curricula (for example, on Counter-Terrorism, Domestic Violence or Drug Trafficking), is intended to 'contribute to the harmonisation of police training among the Member States, while respecting national autonomy with regard to the organisation and implementation of police training and education programmes' (CEPOL 2014a: 3). All Common Curricula are developed by groups of five or six experts from different Member States and regularly reviewed with the contribution of JHA agencies. In the development process, experts draw, in particular, on established good practice and police research findings (ibid.). According to the Curriculum Description, during a course based on the Common Curriculum on Trafficking in Human Beings,

> the participants should acquire a wide range of knowledge of, and insight into, the existing legal instruments; the commitments of European and international organisations; the ways in which different national legal procedures overlap; a clear understanding of the complex and global problem of THB; identifying the victims; the need to give assistance, support and protection to victims; the identification and profiling of the criminals engaged in THB and ensuring their prosecution before courts; the knowledge and possibilities of tracing and freezing the proceeds of THB-related crimes; and also a consideration of the challenges and opportunities provided by new information and communication technologies (ICT) that constantly transform the modus operandi of criminals engaging in THB. (CEPOL 2014a: 10)

The course is adaptable to the learning needs of the particular cohort undertaking training, but it has been designed for two key target groups, at the basic and advanced level. Firstly, it is addressed to frontline police officers who may encounter victims or perpetrators of trafficking and other signs of the crime in their daily work (basic). Secondly, it targets investigators, specialists, and senior law enforcement officers whose specific area of work is trafficking in human beings (advanced).

This review is based on CEPOL Common Curriculum on Trafficking in Human Beings (CC06C version 3), revised and updated in 2014. It focuses on the gender-specific aspects of trafficking and seeks to identify how gender is represented and taught. The materials under review consisted of the Curriculum Description, Trainer's Manual and Study Guide (CEPOL 2014a) and Handbook (CEPOL 2014b).

Structure and content. The Trainer's Manual (CEPOL 2014a) is designed to familiarise the trainer with the content, learning objectives, and suggested delivery methods. In keeping with the general principles of professional adult education, it aims to blend theoretical and practical aspects of trafficking and to help participants relate the content to their everyday practice. The trainers are encouraged to use a 'mix of delivery methods' (CEPOL 2014a: 34), with suggestions for multimedia presentations, films, case studies, group work and guest lectures. Throughout, emphasis is placed on engagement with actual operations and on-going investigations. For example, in Module B/2 'Different types of exploitation', in section B/2.2 on 'Sexual exploitation', some of the proposed delivery methods are:

> Brainstorming session: this could be started with a video or photos showing a case/operation/victim of sexual exploitation. Then participants could be encouraged to share any knowledge or experiences on the subject for mutual learning.
>
> Multimedia presentation by a subject matter expert on sexual exploitation in general … followed by a discussion or a simple Q & A.
>
> Multimedia presentation of a detailed operational case study given by a law enforcement officer; this could include on-going investigations or closed cases and/or a JIT (Joint Investigation Team) example. (CEPOL 2014a: 48)

Apart from these guidelines, a recommendation is made that a suitable speaker for the presentation on this topic could be a psychologist or a social worker working with victims. Moreover, 'asking a participant to read the victim's testimony will create a different mind-set and is therefore recommended' (CEPOL 2014a: 49). These points, as well as the following Module B/3 on the 'Identification of victims', suggest an effort to keep the curriculum 'victim-centred' in accordance with the EU policy framework. However, the section on sexual exploitation is presented in a gender-neutral manner and the gender dimension is neither explicitly mentioned nor discussed. The same applies to the section on identification, where the participants are exposed to 'short films with the statements of victims' and where they discuss victim profiles (CEPOL 2014a: 53-54), but where no theoretical background on gender is introduced.

The Trainer's Manual ends with practical annexes on issues ranging from 'Potential indicators of a trafficking situation,' which also covers guidelines for interviewing victims, to investigative 'Areas of inquiry' and 'Financial investigations'. The annexes likewise fail to foreground gender, even as they cover content which has clear gender dimensions, such as the need to investigate 'night clubs, massage parlours, … modelling agencies, au pair agencies' (CEPOL 2014a: 86) and the fact the victims often suffer from 'physical and psychological signs of abuse' and 'violence (sexual and otherwise) for the purpose of submission and control' (CEPOL 2014a: 83).

The Handbook (CEPOL 2014b) contains textual reference material, covering the following aspects of trafficking in human beings: (1) Overview (with definitions); (2) types of THB; (3) modi operandi; (4) victims; (5) indicators; (6) frontline interviews and other reports; (7) investigations; (8) protection; (9) cooperation; (10) prevention; (11) legislation. The chapters are co-authored by teams of national and EU JHA agency experts. The Handbook maintains a victim-centred approach and emphasises that victim cooperation, while helpful, is not essential for investigation and prosecution (Ch. 6 and 7) ([136]). It discusses practical challenges to trafficking detection and investigation, and offers accessible advice regarding the conduct of police work in this area. While 'DOs and DON'Ts' regarding investigation, protection, and prevention are discussed in the text, this review has not found such guidelines that would pertain in particular to the gender-specific aspect of the EU approach to trafficking as mandated in the EU Anti-Trafficking Directive and Strategy.

Representations of gender. Gender is mostly an implicit concept in the Trainer's Manual and in the Handbook. It is visually present, in the form of stock photographs illustrating the concept of victimhood with images of women's

([136]) The Handbook has unnumbered pages. All citations from the text are referenced by chapter numbers.

faces with a sad expression, and scantily clad faceless women's bodies, presumably intended to evoke the imagery of sex advertising. Gender is mentioned, but not foregrounded in the chapters on victims, indicators, frontline interviews, protection and prevention. For example, 'labour market not open to women and gender discrimination' is listed among the nine identified 'push factors' for trafficking. The remaining ones are presented as gender neutral and include 'poverty' and 'escaping human rights violations'. 'Demand for commercial sexual services' is listed among the ten 'pull factors'. However, the gendered nature of this market, and of police intervention into it, is left mostly unexplored, save for the observation that 'in the field of sexual exploitation the victims are mostly women' (Ch. 4). The most detailed passage on the relationship between the gendering of the low-wage labour market and vulnerability to trafficking is found in the section on THB for Labour Exploitation, which states that

> Women are particularly vulnerable due to their often lower economic and social position and the gendered character of the labour market. Also women are often affected differently to men with respect to the form of harm and the consequences of trafficking. They are more often trafficked into work in informal and unprotected sectors (domestic labour, entertainment, and sex industry) while men are trafficked more often into agriculture and the construction industry. (Ch. 4).

While the content of the handbook highlights the sex industry as a site of exploitation and trafficking, it does little to dispel the stereotypes and prejudice that are attached to this market and to which police officers are not immune (Andrijasevic 2007). Chapter 5 on 'Indicators' cautions trainees not to 'stereotype people' and not to 'assume people working in the sex industry always do so voluntarily or that persons who have consented to sex work are not being coerced' (Ch. 5). These points however are scarcely sufficient, unless augmented with robust targeted discussion in the classroom aimed at challenging common assumptions about prostitution/sex work.

Critical assessment. This review of the Common Curriculum on Trafficking in Human Beings focused not on its general fitness for purpose, but on the representation of the gender dimension of trafficking. Consequently, the following comments are limited strictly to this aspect of the Curriculum content.

This review revealed, firstly, that there is no explicit and theoretically informed discussion of gender in the Trainer's Manual or in the Handbook. Gender is not defined and it remains largely decontextualised. This means that there is no information concerning the differing status of the sexes in various social and cultural contexts. There is no discussion of the consequences of such distinctions or of their fundamental rights implications, in or outside the EU. It may be a matter for debate whether the correct place for such general training in gender awareness is within the framework of the training on trafficking, or whether it should be introduced separately (for example as a stand-alone module, as in the case of EASO). Likewise, it is up to police training experts to determine exactly the depth and nature of gender knowledge needed in everyday police practice in general, and in trafficking investigations in particular (and this is likely to differ from one Member State to another). At a minimum however, the Common Curriculum materials should reference relevant gender-specific material, encourage guest lectures by gender experts and/or direct the trainee to particular CEPOL or external resources.

Secondly, the Common Curriculum makes no acknowledgment of the gendered nature of policing itself. The trainee/police officer is presented throughout as a gender-neutral subject. No reflection or group discussion is encouraged concerning how being a man or a woman may affect one's own investigative work, one's interactions with the victims and perpetrators, and crime scene dynamics more generally (Schuck 2014). Exercising such reflection is particularly important in the context of trafficking for the purposes of sexual exploitation, where most victims are women, most perpetrators are men and the clients who pay for sex are also men. As the Handbook acknowledges, having experienced violence, deception and abuse at the hands of these men, victims may perceive male police officers as untrustworthy on account of their gender (Ch. 6). This may compound the more general distrust of law enforcement related to the fear of traffickers' retaliation, or the fear of revealing irregular migration status. Such multi-layered distrust may affect particularly those officers who have little awareness of gender sensitivities and/or little experience in trafficking cases. Future iterations of the Curriculum might highlight how strategic deployment of trained female officers, particularly for frontline interviews, could mitigate this factor.

Finally, a specific area within the Handbook that requires a deepened engagement with gender issues is the nexus of migration and trafficking. In several places the Handbook notes that victims might be reluctant to cooperate with the police because of the fear that revealing their irregular immigration status will hurt them. This, however, is not explored beyond the statement that 'it is imperative that the police treat victims unambiguously as victims without any reservations pertaining to their residency status' (Ch. 8). Yet this guideline, important as it is, may not

be enough. Research shows that for third-country women, for whom legal opportunities to live and work in the EU are absent, the economic situation back home often offers no meaningful alternative. Trafficking thrives in these conditions, exploiting not only women's desire to migrate but also their willingness to accept myriad trade-offs in return for a chance to send money home or to leave another desperate situation behind (Andrijasevic 2010, Anthios, Kontos and Morokvasic 2012). Gender-sensitive law enforcement in the area of anti-trafficking ought to be founded on the understanding of women's agency and entanglements in these complex socioeconomic dynamics.

While detention of victims of trafficking in immigration detention facilities is a fact that has been documented and condemned by independent bodies (see, for example, HM Inspectorate of Prisons 2012 for a discussion of cases in the United Kingdom, and HMN 2013 on Sweden), the shortage of specialised shelters and protection services in many Member States may indeed compel law enforcement to resort to this solution. Women who have been detained 'for their own good' in this manner may, however, be far less likely to cooperate with the police than those who have received specialised assistance based on respect for their dignity and a non-judgmental understanding of their situation.

Overall, the CEPOL Common Curriculum is comprehensive and rich in practically relevant victim-centred content. By promoting specialised and professionally relevant knowledge of trafficking, it contributes to all of the priorities of EU Anti-Trafficking Strategy. It falls short, however, of the policy goal of a gender-specific approach. Nevertheless, the text presents numerous opportunities for a deepened engagement with gender. Consultations and/or contributions from appropriate experts could address this problem in subsequent editions.

DISCUSSION OF THE GENDER DIMENSIONS

Various dimensions of gender relations are found to be applicable, to a greater or lesser degree, to the policies and practices of all or some JHA agencies.

Gender specific

As this review has shown, most JHA agency documentary sources acknowledge that women are the majority of victims of trafficking, and that within that category most are trafficked for the purposes of sexual exploitation. 'Victims of trafficking' are gendered as female and described as 'vulnerable,' a status that in some contexts extends to all women on the move, as in the Frontex Code of Conduct (Frontex n.d.). Trafficking in men is discussed almost exclusively in the context of labour exploitation, which is cast as a growing concern (see Frontex 2011a, CEPOL 2014b). In spite of these acknowledged distinctions, trafficking tends to be represented above all in a gender neutral manner as a violation of human rights. In this way the specificity of women's experiences, particularly in terms of sexual exploitation, is subsumed to the larger generic rubrics of violation and exploitation. This gender neutral representation of trafficking is connected to the domination of the ostensibly gender neutral approach in law enforcement, as reflected in the CEPOL Common Curriculum where police officers are represented as gender neutral subjects. In reality, law enforcement is a male-dominated field, which may contribute to the unease in the relationships between the police and border guards, and female victims of trafficking. There are signs in some areas of the targeting of practices to meet the gender-specific needs of victims, as exemplified by the EASO gender training module (EASO 2015) and the gender-sensitive revision of the Frontex Fundamental Rights Strategy planned for 2016 (see section on Frontex above). Overall, however, most law enforcement activities, from criminal intelligence (see section on Europol above) to ground-level policing (CEPOL 2014b), are represented in a gender neutral manner.

Gender equality

The legal principle of 'equal treatment' is relevant to this section of the study insofar as the research revealed that, in some contexts, prostitutes/sex workers (or suspected prostitutes/sex workers) may be less likely to access support mechanisms for victims of trafficking. This is the case in two contexts, namely (1) at external borders of the EU, when border guards choose to refuse entry to women who appear to be prostitutes/sex workers on the grounds that they do not meet the conditions of entry, while at the same time those women might be meeting the criteria warranting their referral to the Referral Mechanism as potential victims of trafficking (see section on Frontex above); (2) in domestic contexts within the EU when lack of sufficient training leads police officers to make stereotype-based assumptions about sex workers/prostitutes (CEPOL Common Curriculum cautions trainees not to 'stereotype people' and not to 'assume people working in the sex industry always do so voluntarily or that persons who have consented to sex

work are not being coerced,' however not all officers will have been reached through that training). There is no empirical data that would allow assessment of the scale of these phenomena, however they foreclose, at least temporarily, the possibility of identifying some proportion of victims of trafficking, and hence also the possibility of assisting them.

Human rights

As noted above (see section on gender neutrality), when trafficking is represented above all as a violation of human rights, the specificity of women's experiences, particularly of sexual exploitation and violence experienced behind closed doors and at the hands of partners and relatives, become invisible. Because these aspects of the crime of trafficking are not foregrounded in JHA agencies' risk analysis, 'knowledge products' and training materials, they remain largely unaddressed. More generally, unlike in the case of men, for women most threats to their security originate in the private sphere and in the realm of economic activity. Subsuming gender equality to fundamental rights, as in the EU Security Agenda (2015), does not help in the task of directing the focus towards such hidden and less visible threats, of which the risk of trafficking is an inherent element.

Gender and intersecting inequalities

The concept of intersecting inequalities, or 'intersectionality' is not widely used in the JHA agency documents and practice. The EASO training on gender introduces it as a theoretical notion, however, the trainees are not instructed on how to apply it in practice (see the EASO module review above). CEPOL, Frontex and Europol materials note that poverty and lack of economic opportunity exacerbates the risk of trafficking, but it is not clear how the acknowledgment of this fact influences practice. Child-sensitivity appears to be a principle that is more strongly embedded in JHA agencies' policies and activities than the principle of gender-specificity. CEPOL Common Curriculum dedicates a separate section of the Handbook to child victims of trafficking. Frontex officers interviewed for this study emphasised prioritising the needs of children who are victims (or potential victims) of trafficking in the management of the current crisis in the Mediterranean. FRA has been active in the wider area of the rights of children, including several projects on child victims of trafficking (see FRA 2009, FRA 2014).

Gender expertise

Two agencies where this research identified explicit recognition of the need for gender expertise and moves to embed such expertise are EASO and Frontex (see relevant sections above). In 2013, EASO recruited a full-time officer focused on gender, gender identity and sexual orientation issues, whose role includes addressing the gender-specific phenomenon of trafficking in human beings (JHA 2014). Her post is located at the headquarters in Valetta, Malta and her role involves liaising with the EU ATC coordinator's Office and drawing on other experts, located in partner organisations, NGOs, and MS civil service to develop gender-sensitive tools for EASO, such as the gender module reviewed above. Frontex does not have an equivalent internal post, however the Frontex Fundamental Rights Officer (based at the HQ in Warsaw), declares that gender mainstreaming is a priority in her work. Frontex's gender expertise is located in the Consultative Forum, a body external to Frontex but central to its Fundamental Rights Strategy. As of 2015, the Consultative Forum has a 'focal point on gender', a responsibility presently held by an IOM representative based in Vienna (see section on Frontex above).

It is a paradox that EIGE, the JHA agency specifically dedicated to accumulating and disseminating gender expertise across the European Union, is relatively distanced from the anti-trafficking activities of other JHA agencies. It consults on and contributes to the development of training materials relevant to the eradication of trafficking but beyond that its role is limited (see section on EIGE above).

Gender balance in decision-making

The fact that law enforcement EU agencies and national law enforcement are male-dominated institutions was acknowledged by all the informants in this study. As technical bodies, the agencies do not report on the gender composition of their management boards or staff and thus figures relevant to assessing gender balance in the JHA field are not available. As noted in the section on Europol, there has been an effort in that agency to improve gender balance in its workforce and senior management roles, with a view towards embedding 'gender diversity in the DNA of the entire organisation' (Europol 2013:7). The extent to which this has been achieved has not been made public,

however, according to our informant there are now more women in senior positions in departments like finance, IT and administration. This is not the case, however, at the operational level. Of the 21 organised crime project teams only one (trafficking in human beings) is led by a woman. Europol recruits from national law enforcement agencies which are heavily male-dominated in all but a few Member States (the Nordic countries and Germany). If women do not rise through the ranks at home this makes them less likely to be recruited for Europol in the first place. Thus it would certainly require a continued targeted effort to achieve greater balance. Similar considerations would pertain to Frontex; however, no evidence has been found of direct action aimed to improve gender balance in the agency.

Gendered policy fields

From the standpoint of JHA agencies, trafficking in human beings cross-cuts across a range of policy fields which are primarily represented as gender-neutral. It is primarily conceived of as transnational organised crime and a fundamental rights violation. Although not necessarily involving the crossing of borders, trafficking is also associated with migration and border security as discussed above. Thus detecting it is within the remit of national border agencies and asylum authorities, in addition to the police, labour law enforcement, and prosecutorial authorities. As a result of this ambiguous and cross-cutting location, the agencies' efforts to address trafficking attempt to balance victim-centeredness with the investigation and prosecution of perpetrators. Most of the trafficking related activities of Frontex and EASO focus on the identification and referral of victims, while Europol and Eurojust are dedicated primarily to investigation and prosecution. One of the gender implications of this location of trafficking across policy fields is that it exacerbates the impact of intersecting inequalities, such as being a woman and an irregular migrant. This adversely affects particularly those women who are victims of trafficking but who, for various reasons, do not wish to return to their country of origin. The twin status of many victims of trafficking as both victims and irregular migrants continuously impedes their access to referral mechanisms and specialised services. This is, on the one hand, due to the fact that the authorities may perceive them as irregular migrants and fail to identify them as victims. On the other hand, the victims' own fear of being exposed as irregular migrants may prevent them from seeking help or taking up assistance when it is offered.

Identifying data that would allow for direct comparison of the resourcing of different policy fields was outside of the scope of this research; nevertheless, some indicative facts merit mention. Frontex is an agency with 300 staff members. There is one officer dedicated to trafficking in human beings and one Fundamental Rights Officer (FRO), who shares an assistant with the Consultative Forum. The FRO indicated that she does not expect that Frontex would appoint a gender officer in the near future. From the way the operational budget is broken down it is not possible to see the proportion which is spent on anti-trafficking. The same lack of transparency applies to Europol's budget, where 21.7 of its total EUR 84.2 million budget is spent on operations, which includes all 21 organised crime areas. According to the officer we spoke to at Europol, there has been an improvement in the internal perception of the relative importance of trafficking. It is now taken seriously, especially at the highest levels, although not consistently so by middle management, where there might still be some confusion and a lack of awareness and understanding ([137]).

Competing priorities of policy fields

Examples of tensions between immigration policy and gender equality and human rights have already been listed above. Although, in principle, victims of trafficking ought to be treated unambiguously as victims without any reservations pertaining to their residency status, in practice the lack of legal residency status may directly cause the victim to not be recognised as a victim, either because of the victim's own avoidance of law enforcement and other representatives of official bodies, or because of the officers' bias towards meeting other policy goals, such as limiting irregular migration (as in the example given by the FRO at Frontex of border guards who choose to refuse entry to persons who do not meet criteria for entry even when they fit the profile of a potential victim, see section on Frontex above).

Security

Considering the events of the spring and summer of 2015 at the southern coasts of Europe, and the responses by the European Commission and the European Council, the only plausible way to describe the European security and migration agendas is that they are in flux. In spite of the publication in April 2015 of the European Agenda

([137]) Interview, Europol, 23 May 2015.

on Security and in May 2015 of the European Agenda on Migration, the exact ways in which the stipulations of these documents will be implemented continue to be subject to much debate and controversy. Stemming the flow of migrants into Europe is the shared preoccupation of most Member States. Ministers across the EU made calls for accelerated return procedures for migrants not entitled to international protection. Plans are advancing for a military operation against migrant smugglers in the Mediterranean. All of these policy responses carry human rights implications which remain to be addressed. It is also far from clear how and where the gender specific, anchored in human rights, child-sensitive and victim-centred strategy against trafficking in human beings will fit into the emerging policies. The findings from this research, particularly from Frontex, suggest that the magnitude of the crisis and the logistical challenges at sea and in ports of entry presently exceed the authorities' ability to respond in a manner consistent with the anti-trafficking strategy. Elsewhere, in trafficking cases where no third-country victims are involved, the tension between immigration policy and anti-trafficking is less pronounced and other considerations, such as the right to legal employment, come into play. However, in such contexts, consistent focus on victims and their gender-specific needs is a promising avenue towards effective rehabilitation, reintegration, prevention of re-trafficking and effective prosecution of perpetrators.

CONCLUSIONS AND RECOMMENDATIONS

The purpose of this section is to discuss the implications of the above discussion of gender dimensions for policy development, together with proposing recommendations where appropriate.

The findings from this research and the above analysis of the gender dimensions of the JHA agencies' contribution to the eradication of trafficking in human beings suggest that much progress has been made since the inception of the Strategy Towards the Eradication of Trafficking in Human Beings 2012-2016 (European Commission 2012), particularly with regard to inter-agency cooperation and the coordination of activities. However, the gender perspective remains unevenly embraced.

A consistent finding, which recurs throughout this review of JHA agencies' policy and practice, is that trafficking in human beings is uniformly seen as a complex and often hidden crime, difficult to detect and challenging to prosecute. According to documents produced by Europol (Europol 2011), Eurojust (Eurojust 2012), FRA (FRA 2014a and 2014b), CEPOL (CEPOL 2014a and 2014b) and Frontex (Frontex 2011), a major source of this challenge are the often fearful, distrustful and uncooperative victims who are reluctant to come forward, report the crime or testify against the traffickers, and who often collude with their exploiters and/or do not see themselves as victims in the first place.

The barrier between law enforcement authorities and victims of trafficking can be attributed in part to the inherently divergent interests of trafficked women on the one hand and law enforcement officers on the other. The rubric of trafficking for the purpose of sexual exploitation subsumes very diverse trajectories and (subjective) experiences of sex work and exploitation (Bernstein 2010), and many women, even those subjected to coercion, are unwilling to accept the label of a victim of trafficking. However, the lack of trust between trafficked women and the police is in the interest of the traffickers who evade prosecution when victims do not cooperate. The women may not want to risk the wrath of their exploiters or the possibility of being detained and eventually forced to return to their country of origin. Hence they choose to resist the surveillance and control inevitably associated with entering the criminal justice process. Police officers, on the other hand, seek not only to protect the victim, but also to apprehend the perpetrator. One of the ways this may be achieved is through subjecting the victim to surveillance and control (for example, through detention).

This inherent tension between the interests of victims and of law enforcement is underpinned by a radical power imbalance and, as such, it can only ever be partly mitigated. This partial mitigation, or elimination of barriers between victims and law enforcement, can be achieved through the consistent deployment of an anti-trafficking strategy that is victim-centred, gender specific, anchored in human rights and child-sensitive. Accordingly, victims should not be viewed chiefly through the prism of their vulnerability but also as agents who may have found themselves under very severe constraints but who within those limits are still able to make choices and decisions. An understanding of the gendered dynamic of their situation should inform all efforts to detect, identify and investigate the crime. Further developments in this policy area should address some of the current deficiencies in gender specificity through the following six moves.

Firstly, gender-specific language, policies, and practices should replace gender-neutral ones. While it is vital that trafficking be understood as a violation of fundamental rights, the fundamental rights framework must make more room for the recognition of the specificity of women's experiences, particularly in terms of sexual exploitation and violence experienced behind closed doors and at the hands of intimate partners and relatives. For women, most threats to their security originate in the private sphere and in the realm of economic activity. Awareness raising around those types of fundamental rights violations could have an empowering effect on women who become victims of trafficking.

Secondly, a consistent application of the principle of equal treatment is needed to combat the discrimination and prejudice against women who work, or are thought to work, in the sex industry. As this research has shown, in some contexts prostitutes/sex workers (or suspected prostitutes/sex workers) may be less likely to access support mechanisms for victims of trafficking because of the a prior assumption that their involvement in commercial sexual services is voluntary and not coerced. Law enforcement officers and border guards should be trained to abandon such assumptions and to offer women access to support services on an equal basis regardless of the specific nature and circumstances of the work they perform.

Thirdly, JHA agencies whose remit encompasses the development of training materials should consider designing either specialised gender curricula or incorporating explicit and detailed gender components into their existing materials on trafficking in human beings, according to the specific professional needs of their target groups. Agencies should study and emulate the EASO 'Training Module on Gender, Gender Identity and Sexual Orientation,' which represents gender primarily as a sociological concept, distinct from biological sex, with an emphasis on social norms and norm systems that shape the perceptions of gender in society. A universal deployment of such training across JHA agencies would help promote a set of shared standards and understandings in a complex and sensitive area. In many Member States, law enforcement officers do not have any alternative opportunity to acquire gender competence. Promoting such knowledge could in turn lead to more-gender sensitive practices and increased numbers of specialist referrals for potential victims of trafficking. Current deficiencies in the content and reach of training have been a consistent theme in this research and ameliorating them is a relatively low-cost response to a persistent problem of what Eurojust has described as the 'lack of specialised knowledge and experience in THB cases' (Eurojust 2012:8).

Fourthly, JHA agencies should develop a sustained programme of improving gender-balance in decision-making relevant to trafficking. The first step should be releasing the figures on the gender composition of their management boards and staff. This should be followed by opening discussions with Member States on the benefits of equitable recruitment and promotion in law and border enforcement services. In the long-term, programmes such as Europol's Female Factor discussed in this report should be rolled out across the most male dominated JHA agencies on a periodic, rather than one-off, basis.

Fifthly, JHA agencies ought to import gender expertise (specialised officers or seconded national experts) into their everyday operations. Such internal actors could coordinate gender mainstreaming across the organisation with more ease and familiarity than external experts and facilitate activities including, for example, the development and roll-out of training tools such as those discussed in the above recommendation. At the same time, this research recognises that agencies are autonomous and diverse, and that as such they have different needs. There is no one model of an internal gender expert and in each case the role requires appropriate tailoring. Concurrently with developing ways to import gender into the agencies, the JHA community as a whole ought to explore more robust ways of collaborating with EIGE, whose contribution to the anti-trafficking efforts thus far has been minimal. Equally, EIGE should also explore how to take further initiative in this respect.

Finally, the European Commission should consider bolstering and ring-fencing the resources for the JHA agencies, particularly to enable the appointment of gender-trained agency officers in those Member States which are faced with increased mixed migratory flows. Relevant stipulations should be included in a revised version of the EU Agenda for Migration (2015). The new 'Hotspot' approach outlined in the Agenda, where EASO, Frontex and Europol 'will work on the ground with frontline Member States to swiftly identify, register and fingerprint incoming migrants', must not be limited to quick processing and clearing of backlogs, but instead must include a proportionate anti-trafficking component geared towards the effective referral of potential victims. This is unlikely to be achieved solely through the brief first- and second-line checks. Gender-trained agency officers, male and female, should be dispatched to support local police, to collaborate with and collect intelligence from staff at reception centres, local employers, and migrants themselves. It is in the uncertain circumstances directly following arrival that many vulnerable persons, particularly women, may become exploited prostitutes or victims of trafficking.

9. Emerging cyber technology ([138]) ([139])

The EU Strategy towards the Eradication of THB 2012-2016 recognises the role the internet plays in recruitment of victims. In order to mark the **Seventh EU Anti-Trafficking Day**, the Lithuanian Presidency and European Commission organised in Vilnius on 18 October 2013 a conference entitled '*Exploring the Links between the Internet and Trafficking in Human Beings: Cyberspace for Prevention, not Recruitment*'. On this occasion, experts, governments, law enforcement, national rapporteurs or equivalent mechanisms, civil society organisations and academics, as well as the private sector and the media met in order to discuss the role of the internet in the phenomenon of trafficking in human beings. Here, the gender dimensions of trafficking were clearly articulated and discussed in the context of the internet. In taking this focus on cyberspace and trafficking forward, the gender dimensions of the relationship between technology and trafficking are researched through the example of sexual exploitation in which the overwhelming majority of victims were women and girls (96 %) and comprised the most widespread form of trafficking, exploitation (62 %). This focus enables inquiry into the many ways that the internet and dark net have become critical tools in the perpetration of trafficking in human beings and opened up new human technology relations. Traffickers use websites to advertise their victims, extending the role of the pimp on the street to the pimp online. Trafficked women use the internet and social media to identify 'clients' on mainstream websites such as Facebook, Twitter, LinkedIn and MySpace and an increasing number are also forced to offer sex online. However, the internet and technology also offers the potential for prevention of THB in the future by changing the digital image of THB and by harnessing technology towards demand reduction, by offering escape routes and sources of support and by opening up new methods of disruption for law enforcement and civil society actors.

The last decade has seen the increasing importance of the role that technology plays in the trafficking of women and girls for the purposes of sexual exploitation (Europol 2014). The digital world of ubiquitous computing encompasses most gender-based violence in some form, ranging from virtual rape to the solicitation and stalking of women and girls both on and offline. Over the last decade, the use of digital technology has rapidly expanded both the opportunities for, and the scale of, trafficking for the purposes of sexual exploitation (Europol 2014; Hughes 2001, 2014; Leary 2014; Sarkar 2015). The internet has become an essential component in the procurement, demand, and business dealings of traffickers and in the detection of women and girls who have been trafficked (Sykiotou 2007; Latonero 2011, 2012).

Despite a large proportion of activity occurring in the online domain, trafficking is still primarily presented as an offline crime that is facilitated and extended in scope and reach by digital technologies. As such, it is more often understood as a cyber-enabled crime in contrast to a cybercrime, a term that refers to crime targeted at computers or information systems or crimes that use these means as a primary tool (European Commission 2013). This may be because, in the majority of cases, the act of sexual exploitation is perpetrated offline, though even this is now transformed by internet pay-per-view sex sites (Europol 2014; Leary 2014). However, an approach that artificially divides the offline and online elements of trafficking of women and girls for the purposes of sexual exploitation will work against its reduction and prevention and will not protect victims. In cyberspace, women and girls become informational objects, no less real than their embodied offline personas, and they are targeted as such by traffickers and consumers of sex who are also online. Europol (2014: 70) refer to a 'blurring (of) the line between the online and 'real world' crime' yet the distinction between on/offline still influences the ways in which such crimes are monitored and investigated. For example, Leary (2014) conducted a comprehensive review of judicial opinions between 2000-2012 in the United States and found 78 % of 700 cases of child sex trafficking involved technology. However:

> While that figure includes a role in either the perpetration of the crime or the investigation of the crime, rarely did law enforcement use technology to investigate a child sex trafficking event where no technology was used in its perpetration (Leary 2014: 309).

([138]) A digital world perspective accepts that understandings of being in the world are fluid and textual and recognises that on/offline distinctions do not represent separate social spaces (May-Chahal et al., 2014).

([139]) Corinne May-Chahal, Awais Rashid, Matthew Edwards, Emma Palmer and Maggie Brennan.

The division between on/offline sexual exploitation is not limited to law enforcement but is replicated through the multitude of civil society actors who offer support to victims so that, if trafficking is understood as perpetrated through technology, responsibility for its investigation is often deferred to law enforcement specialists (May-Chahal et al. 2014). Yet almost every case of trafficking in this context will have some online presence; whether that is through the business transactions of traffickers, the purchase of encryption software and false documents, the creation of web services to meet demand, or the use of mobile phones by all concerned, including almost all women and girls who are trafficked (Sarkar 2015; Europol 2014). Bifurcation of on/offline dimensions of trafficking in the micro-practices of investigation and victim support reduces opportunities to become more effective in tackling the problem. It also has the effect of making the trafficking of women and girls invisible in EU cyber security policy (European Commission 2013).

The approach taken in this review is to understand trafficking as a complex adaptive system, ontologically changed by the digital world, which includes a wide spectrum of actors and activities across digitally connected spaces and time. This system is a critical component of the social organisation of gender relations across the globe, of which Europe is a major part. Gender is as present online as it is off it, though this is rarely recognised in any of the literature on technology and trafficking. Adopting a gendered digital world lens opens up many possibilities with regard to the prevention of trafficking for the purposes of sexual exploitation at primary, secondary, and tertiary levels.

The literature reviewed in this paper falls broadly into three types:

- research and theoretically informed literature on the trafficking of women and girls for the purposes of sexual exploitation that mentions digital technologies as relevant to this activity;
- technologically informed research that positions trafficking as relevant to its application in the digital world; and
- technology research that holds some potential to develop a gender sensitive response to trafficking for the purposes of sexual exploitation in the digital world.

Research in the first category is more likely to be developed from a feminist/gender theory perspective, whereas the second two categories have a tendency to report research from a gender-neutral perspective. The findings from this review are summarised under four key themes:

Digital world identification of sexually exploited women and girls reflects much of the technology development in the field that is focused on victim detection. It aims primarily to free women and children from trafficked situations but also to prosecute perpetrators and, in some countries, those who benefit from the services of trafficked women and girls;

The digital world trafficking sexual exploitation nexus focuses on trafficking for the purpose of sexual exploitation in the context of connections and ties between different forms of trafficking, crimes, state, NGO and civil society actors in the digital world;

The sexual exploitation trafficking system digital world image refers to some of the many different objectifications of trafficked women and girls for the purposes of sexual exploitation online and explores their utility, particularly for the anti-human trafficking movement and the victims of such trafficking, but also for consumers of sexual services offered by trafficked women and girls;

Technical work on tracing traffickers' activities online with respect to open source intelligence and privacy identifies key themes in the technical literature that may assist in the identification and prevention of trafficking women and girls for the purposes of sexual exploitation.

Digital World Identification of Exploited Women and Girls

The largest catalyst for technology development to combat trafficking for the purposes of sexual exploitation appears to be victim identification. Several papers put forward different uses of technology to enhance the detection of women and girls who are trafficked.

Some of these detection methods are unspecified, and referred to simply as 'technological advances'. Law enforcement in Europe and the United States are recognising 'digital evidence' as crucial to their detection work (Europol 2014; Kimberley and boyd 2014). In addition to technologies designed to identify victims at borders such as holographic interferometry methods to analyse the authenticity of documents (Greičius et al. 2014) and infra-red imaging (Biemann 2005), there are those that mine cyberspace for identification data. For example, detection of illegal pornography may provide indications of potential trafficking victims. Hu et al. (2007) target the detection of pornography, but do so with reference to illegal or offensive activity — whether the authors suspect that pornography is illegal, or target illegal pornography particularly but work with proxy data, is unclear. Their method addresses not only image recognition, but also the text processing of suspected pornographic web content, combining this information in their classifier. Their contour-based detection method appears to perform better than region-based skin detection, specifically with regard to false positive rates including bikini or face-focused images.

Victims of trafficking will have little access to privacy and opportunities for seeking help themselves even with access to technology such as mobile phones. Mitchell and boyd (2014) found 14 % of 144 investigators from Internet Crimes against Children (ICAC) had seen cases where victims of child sex trafficking were able to use technology to contact help (13 %), find services (11 %), escape (8 %), or find shelter (6 %). There does not appear to be parallel research for adult women. However, Sarkar (2015) reports on technology use following interviews with traffickers (N=64), trafficked women (N=97) and 'clients' (N=85) through field surveys in five countries, two of which were EU Member States (Hungary and the United Kingdom). Each of these groups utilised technology in several different ways but, in terms of detection, over 90 % of traffickers used prepaid mobile phones that allowed anonymous contact with 'commissioning agents' (relatives, friends, and community members who procured the women) while changing phones regularly to avoid detection themselves. 92 % of traffickers used online sites to advertise their business and attract women under spurious pretexts such as marriage brokering or employment. Buyers of trafficked women were also found through the internet with payment transferred electronically to the trafficker. So, **both traffickers and users of women victims of trafficking find what they are looking for though online sources.** As for the women and girls who were trafficked, all had a mobile phone (even though only a third had this before being trafficked) and 83 % had unlimited internet access which they used to identify clients and establish contact. For over half the women (54 %), Facebook was the most commonly used social networking platform and over 80 % used this, along with Twitter and LinkedIn to communicate with clients, surfing these sites for 4 to 6 hours a day. There is no reference made in this study to women using their phones or internet access to seek help to escape their situation and it is noted that phone use was 'dictated by their captors' (Sarkar 2015).

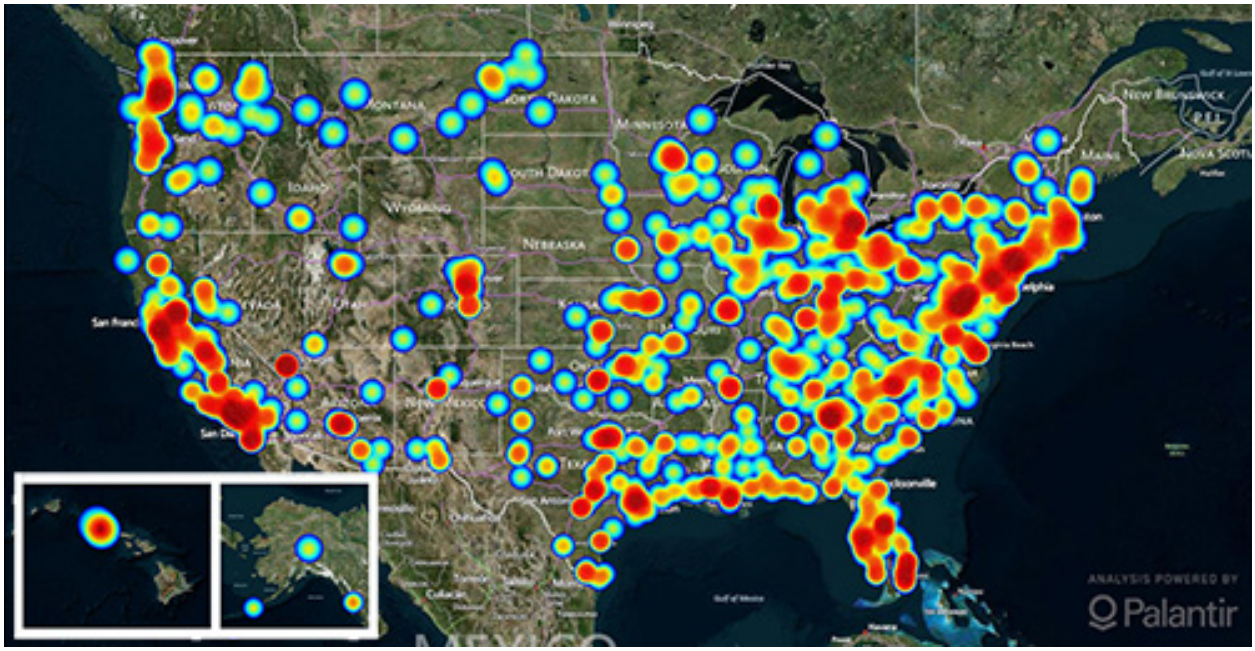
Emms et al. (2012) discuss similar challenges faced by victims of domestic violence with regards to privacy (from the abuser) of their activities to seek support. They highlight this as a major barrier to social inclusion of victims and discuss the limitations of existing privacy modes (e.g. private browsing) in this regard. They propose a variety of solutions to support victims. QR codes can be embedded in otherwise everyday objects such as postcards to enable access to suitable support websites. Location-based URLs can be used so that the victim may access a support service from a particular location but the browsing history is irretrievable away from that location. Other proposals by the authors include history sanitisation agents on computers and phones, secret graphical gateways on otherwise unsuspicious (to an abuser) websites and single use URLs whereby particular codes available to victims can unlock hidden web pages for support services (with the public URLs only showing unrelated content). The effectiveness and consequences of extending such innovative practices to assist women and girls who are victims of trafficking for the purposes of sexual exploitation requires further research.

Digital technology is enabling a new approach utilising 'big data' analytics to harvest data for producing 'hot spot' maps to support detection primarily in the United States (Figure 9.1). The Polaris project is funded by Google under its ideas programme (http://www.google.com/ideas/projects/human-trafficking-hotline-network/) working in partnership with Liberty Asia, La Strada International, and Palantir Technologies who have donated data integration software and a data analytics platform. This project aims to:

> Use data to find out where and how traffickers operate so that we can put them out of business, keep them from harming more people, and help survivors find the services they need.

Figure 9.1 Map of hotline and publicly available data on trafficking in the United States

http://www.polarisproject.org/what-we-do/data-analysis-program



The Polaris Project website reports that this use of technology has enabled detection of 19 724 cases of trafficking and 17 345 victims and survivors have been identified in America. The majority were female adults (see Table 9.1).

Table 9.1 Demographics of trafficking cases identified through signals to the Polaris project (NHTRC, 2014)

Identity Category	Number	%
Female	15 620	84.4
Male	2 847	15.4
Transgender	38	0.2
Adult	11 859	66.4
Minor	6 014	33.6

To give some measure of annual activity, in the period from January to December 2014, 5 049 unique cases of trafficking were identified through 24 062 signals (hotline calls, emails and texts). Of these unique cases, 3 598 (71.4 %) concerned trafficking for the purposes of sexual exploitation, of which females made up 90.3 % and adults 61.2 %. All these data refer to trafficking in the United States, of which 36.6 % was internal in 2014. Very few victims came from European Member States (Spain 3, Romania 6, United Kingdom 5), whilst 16 came from Russia and 7 from Ukraine. Polaris have announced that they are extending their data analytics to Bulgaria, the Czech Republic, Greece, Moldova, Poland, Serbia, Turkey and Ukraine over the next year.

Despite the finding that sexual exploitation is overwhelmingly gendered, in the majority of cases there is no reference to gendered solutions on any of the websites; rather the focus remains on the gender-neutral concept of human trafficking. Nevertheless, this approach does seem to encourage women's help seeking and assist in the detection of some of those who are trafficked for sex.

The Digital World Sexual Exploitation Nexus

Several writers refer to a nexus, however, there appears to be a lack of agreement about which nexus should be the priority in the digital world. Is the nexus greater than the sum of its parts and what is/are the nexus/nexa with the greatest potential for digital technology development that will effectively combat sexual exploitation trafficking?

Hughes (2014: 6) concludes that 'gender, sexual exploitation and digital technologies, converge to create enhanced victimization'. She proposes that, rather than focusing research on the three areas as separate, the three together create a nexus that requires further research. In contrast, earlier work focused on the 'migration-security nexus' (Ross 2007) that binds trafficking for sexual exploitation with other legally contested mobile flows such as arms and drugs trafficking and those associated with terrorism. The former would encourage digital technology research and solutions that are targeted to both gender and sexual exploitation specificities that aim to enhance the security of vulnerable women and children. The latter has the effect of flattening women, children, sexual exploitation, guns, heroin, body parts, their traffickers, consumers, law enforcement and anti-traffickers as actors (Latour 1989) in a commodities market network that includes digital technologies, leading to research that aims to enhance the (cyber)security of states and their publics, in the hope that one or more unwanted activities are stopped or reduced. The application of technology to understanding trafficking for the purposes of sexual exploitation opens up the important issue of privacy rights. For example, Musto and boyd (2014) provide a critique of the trafficking technology nexus, exposing the unintended consequences of private sector, NGO, and law enforcement partnerships in the field. Based on a series of interviews with law enforcement exploring their use of technology in suspected trafficking cases, it is argued that technological solutions place prostitutes/sex workers and trafficked women under increasingly intrusive surveillance without consent.

Europol (2014) identify emerging elements of cybercrime, many of which apply to the trafficking of women and girls for the purposes of sexual exploitation. The EU is identified as a key target for cybercrime due to relative wealth and connectivity, which also makes it a target for sexual exploitation. Cyber activity reduces effort and risk for the cyber-criminal and trafficker alike. The trans-national nature of trafficking, as with cybercrime, creates challenges for law enforcement, particularly in securing and analysing electronic evidence that is constantly shifting and changing in form and location. A 'digital underground' is led by market forces and open to the highest bidder for 'crime as a service' and 'dark nets' (internet spaces not accessible through search engines such as Google) offer high levels of anonymity to traffickers. Cyber-crimes are so pervasive that the law enforcement focus is on dismantling criminal infrastructures (of which trafficking might comprise one part) and disrupting key services which would have some impact, albeit unknown and unquantified, on the trafficking of women and girls.

With the exception of Hughes (2014) (who presented at the EU Anti-Trafficking day in Vilnius) we have found no research that takes the digital/Commercial Sexual Exploitation/gender nexus forward. However, a theoretical model recently proposed by Blair (2014) develops the nexus approach to human trafficking with an emphasis on 'nexus peering', combining data from a wide range of different sources in a secure, trusted cloud based system. This work does not include a gendered analysis but may have some potential if one is applied. Blair takes 19th Century slavery as analogous to modern day trafficking and draws on the 'Boxer Model' to identify the conditions that lead to the suppression of an illegal market (for example, the conditions that led to the end of the Atlantic slave trade). These conditions can be applied to the present with cyberspace described as the 'new Atlantic' which includes positive transaction costs and a domestic commitment (support for suppression). It is proposed that the anti-human trafficking (AHT) movement is insufficiently coordinated or motivated to collaborate (see also Thakor and boyd 2013), whereas the trafficking movement is technologically ahead, highly adaptable and converges to meet demand. Blair (2014) proposes the solution is to direct anti-trafficking funding and action to create an AHT 'synthetic market' underpinned by a 'three tiered data ecosystem' (p. 29) for the effective abolition of trafficking for the purposes of sexual exploitation (see Figure 9.2). This data ecosystem depends on 'dynamic ontology' and 'nexus peering' (both digital technologies developed by Palantir ([140])) that enable enhanced extra-large scale data sharing and depend on data reciprocity for successful implementation (all parties who share data will benefit in some way from it, hence the recommendation that funding be targeted to encourage collaboration).

([140]) Dynamic Ontology Palantir, accessed 26 August 2014, http://palantir.com/pt_media/dynamic-ontology/

Figure 9.2 Natural market, NGO scramble 'anti-market', synthetic market (Blair, 2014)

Critically, much as the earlier slave trade, Blair maintains that the contestation of trafficking also depends on strong social movement support. The present search retrieved websites of Abolitionist movements that have mobilised around the general issue of human trafficking. Those identified include: Abolish Slavery (http://abolishslavery.org), the Coalition to Abolish Slavery and Trafficking (Castla) (http://www.castla.org/homepage), the Coalition to Abolish Modern Day Slavery in Asia (CAMSA) (http://www.camsa-coalition.org/en/) and New York's New Abolitionists (http://www.newyorksnewabolitionists.com). Most AHT organisations have a digital presence with web pages that present facts about human slavery and trafficking, contact details, 'about us' pages, and information for donations/funding. With the exception of CAMSA, all those identified above are based in the United States and their websites do not appear to reference each other. Social network analysis could identify how connected such AHT agencies are within the trafficking system and, thus, how far away they are from becoming the 'synthetic market' proposed by Blair. The sexual exploitation of women and girls is featured on all sites but often indirectly, as part of the wider problem of human slavery. Victims' stories and accounts of rescue operations are presented alongside stories of trafficking for domestic labour and other forms of human slavery involving boys and men. Whilst most of these narratives are about women and girls some of the sites are careful to present a distinction between women who 'choose' to be sex workers and those who are trafficked. *Abolish Slavery*, for example, runs a documentary on their front page that reveals a 'sting' operation in Thailand where frequent reference is made to women who 'choose' to do sex work (21st Century Sex Slaves Documentary Human Trafficking | Extraordinary Documentary HD at http://abolishslavery.org). An exception is *New York's New Abolitionists* whose supporters provide general AHT statements but also include gender-specific messages that contest prostitution as a choice (Figure 9.3). Thus, the internet mirrors policy debates concerning the different ways in which trafficking for the purposes of sexual exploitation should be addressed.

Figure 9.3 The New Abolitionists

http://www.newyorksnewabolitionists.com

The Arts Effect: Vikki Eugenis, Odley Jean, Mira Maxwell, and Darci Siegel 'We stand with survivors. We stand with our fellow girls out there. They are us and we are them—and we won't stop telling our stories until we're all free from the threat of commercial sexual exploitation. Girls are not for sale.'	
Taina Bien-Aimé Executive Director, Coalition Against Trafficking in Women 'I never understood why prostitution is so often considered an exception to gender-based violence and discrimination when, in fact, prostitution exists only because of it.'	

The Sexual Exploitation Trafficking System Digital World Image

> Techniques used in the production of victimizing images might have paradoxical effects and even contribute to the objectification of women as they capture women's bodies within stereotypical representations of femininity and hence, demarcate the limits within which women can be imagined as active agents... The representation of trafficking relies on an extremely simplistic dualism that sets apart young and innocent victims from malevolent traffickers who lure them into migrating abroad. (Andrijasevic, 2007)

As the AHT movement has grown the images available online have proliferated, but a cursory search of Google Images using terms such as 'Sexual Exploitation' or, alternatively, 'Trafficking' support Andrijasevic's claim. Many of the images are of very young girls representing the simplistic dualism she describes, although primarily they picture the victim rather than the trafficker. The majority link to NGO websites and act as vehicles to promote public support to the charity or organisation concerned. There is arguably a need to disrupt this imagery of the innocent victim (as the realities of trafficking for commercial sexual exploitation (CSE) clearly do), to situate the image in the everyday contexts of those who may become victims. Biemann (2005: 182) attempts to do this through her film 'Remotely Sensed', which reflects her interest in how 'satellite visions of globality are producing a sexual economy in which it has become thinkable to reorganise women geographically on a global scale'. In the film, satellite views of CSE trafficking routes and border crossings are overlaid with the narratives and images of women who have been trafficked (https://www.youtube.com/watch?v=0YQCF1I550Q). The details of their movement,

where and how their journey begins, and the electronic record of mobilities through ports and across borders, to destinations previously unknown and not anticipated, renders a more authentic account. However, the video clip, post-dated 2013, has only had 2 005 views to date (10.5.15) and is clearly not being accessed by the volume of women and girls who may be vulnerable.

Websites advertising sex workers are a further manifestation of the digital image in the sexual exploitation trafficking system. Several authors make reference to attempts to regulate websites, citing the example of the taking down of Craiglist and Backpage in the United States. Thakor and boyd (2013) maintain that such websites have emerged as 'new battleground spaces' where longstanding disagreements amongst AHT organisations are played out, but which have dubious impact on reducing or preventing trafficking for the purposes of sexual exploitation. Primarily, this can be explained by crime displacement theory, which predicts that if a crime is stopped in one space it will most likely move to another if the motivation for the crime remains. Some would argue that it is better to keep the crime in view, rather than drive it to the 'dark net' (Heil and Nichols, 2014). As one AHT activist in Thakor and boyd's study noted:

> And so, I guess my fear about restrictions on technology or closing down certain websites is 'Are we just building our freeway around the issue and not actually tackling the issue?' (Thakor and boyd, 2013).

Wang et al. (2012b) present an approach to combating the sexual trafficking of children through examination of open sources such as classified advertisement sites and bulletin boards. They examine such resources for evidence of trafficking networks and introduce techniques to search for victims under aliases and misspelt names. Though the authors do not present an evaluation, they discuss ongoing trial deployment, highlighting challenges specifically related to anonymising the toolkit's interactions with sites to prevent counter-intelligence, and with scaling their approach to wider monitoring. Romaniuk (2000) approaches the same problem from a different angle, applying intelligent agents to identify missing children on the internet by connecting information in open databases of missing children with web crawling and IRC chat monitoring. The approach was partially implemented as the SADIE system, which outlines a high-level mechanism for multiple data source integration, but leaves many implementation matters unresolved. The proposed ecosystem of agents dealing with specific data sources appears flexible, but the exact means of calculating results' similarity to a short query — a very key detail for any of the agents — is left unspecified. A common theme to both these sexual anti-trafficking technologies is the integration of information from multiple sources, although the approaches appear to focus on different sources for their information.

Technical work on tracing trafficker's activities online with respect to open source intelligence and privacy.

Much of the literature explored thus far has focused on victim identification and networks against trafficking in human beings (THB). While there is a growing body of technical literature on tackling the originators of sexual exploitation on the internet, particularly of children (see, for instance, [Rashid et al. 2012] for a survey and [Rashid et al. 2013; Peersman et al. 2014] for more recent advances), there is a lack of technical literature on tackling the traffickers of women and girls for the purposes of sexual exploitation.

Drawing on Ihde (1991) and Bakardjieva (2005), sexual exploitation trafficker-technology relations will be of four different kinds. Two of these have no need to understand how the technology is working: these use open source technology to extend human practices ('embodiment relations' such as advertising women for sex — traffickers and those who buy sex through websites, for example, know what they want to use the technology for), and uses that 'other' the technology ('alterity' relations where the technology is positioned as an 'other' to be mastered — traffickers find new uses for technology). Uses that enhance traffickers' knowledge/understanding ('hermeneutic relations' — traffickers and those who use trafficked services can find new ways to connect to women and girls and each other) can require technical knowledge (e.g. software design), though not necessarily. A fourth category, 'background relations' (Ihde, 1991), described by Bell (2007) as equivalent to plumbing or wiring, has little relevance to the user but provides the infrastructure to make existing and emergent crimes possible. In this domain, traffickers require sophisticated technical capacity, which they can now access through purchase, force, or exchange. Here, we cover these four uses by reviewing relevant technical work on trafficking as well as general work on open source intelligence that may hold promise with regards to disrupting trafficking networks.

Web mining trafficker networks

Marjuni et al. (2009) attempt to extract crime information (Who, Where, When, How, What, Why) from chat logs, drawing on published examples of sexual abuse from adult dating and scam interactions as their data source. Tokenisation and part-of-speech tagging of the data is discussed. Classification accuracy results for their crime information categories are also presented, though how these results were derived is unclear. While mining instrumental crime information, as would fit the given categories, could well prove useful to investigators (and also potentially to those investigating trafficking for the purposes of sexual exploitation), the paper does not present a coherent solution for this purpose.

Frank et al. (2010) examine the structure of online child exploitation networks, building networks of websites based on their links and a set of predefined 'bad' keywords, with the ultimate goal of identifying the major nodes whose removal would most disrupt online exploitation. They demonstrate their deployment on four networks crawled from websites identified through search results, identifying the key nodes through the top 10 values for severity of content as identified through keywords. They also find that centrality (how key nodes collect together) does not correlate with severity of content, but severe websites were highly linked to each other, suggesting scope for targeting sub-networks of the most extreme material where law enforcement resources are scarce.

Peng and Wang (2008) provide a case study where link analysis — with links in the form of webpage co-occurrence — is used to trace a notorious violent criminal, producing link charts for known members of his gang and related individuals. The method presented relies on Google search results to identify relevant web pages, which may lead to narrowed results due to personalisation if countermeasures are not taken. Hosseinkhani et al. (2012) provide a review of web mining for input into criminal network analysis. They propose a framework which integrates the identification of crime hot spots and criminal communities into the workflow of a web crawling agent. Detail on how the more relevant tagging modules will be implemented is omitted. Tseng et al. (2012) focus on term networks, presenting a novel algorithm for key term extraction, and presenting a case study similar to that of Peng and Wang (2008) where news related to a particular gangster was gathered and mined to describe relationships between gangsters. This term model appears more powerful than simple entity co-location, but the study only demonstrates simple relationships that could be found through more traditional means.

Technical approaches have also been proposed to analyse data from social networks in order to uncover potential criminal networks. Lauw et al. (2005) describe attempts to discover the social networks of criminals by mining spatio-temporal events such as web usage. A detailed explanation of the problem and algorithmic approach are given, and the theory is validated against a data set collected from a university campus' wireless network. Barbian (2011) theoretically demonstrates a means of detecting hidden friendships — relationships in a network that are not formal connections. While their system appears technologically sound and has potential in terms of developing valuable intelligence tools to identify and disrupt trafficking, the way in which these could be scaled up and applied in this context would require further research.

Al-Zaidy et al. (2012) describe the process of mining and analysing criminal networks from collections of unstructured text documents. The method relies on the recognition of named entities and the detection of prominent communities of connected names. Their approach was validated in a case study from a real cybercrime investigation, with an instant messaging database provided by law enforcement and their investigation being compared to an expert's manual analysis of the chat logs. It is notable that the analysis was guided by the researchers' own identification of suspicious information — while fully automated analysis is not necessarily desirable, for purposes of evaluation it is necessary to distinguish the performance of the support tool from the performance of the authors.

Wang et al. (2012c) use Twitter as a source of general crime prediction, drawing on automatic semantic analysis, event extraction and geographical information systems to map crime hotspots. In an evaluation of actual hit-and-run crime data, their system outperforms a baseline uniform model. While there may be scope for improvement in the predictive technique, more interesting developments are likely to be found in modification of the model for deployment on a streaming Twitter feed. Wang et al. (2012a) do so, using Twitter data to model criminal incidents geographically. They apply a spatio-temporal generalised additive model to a combination of geographical and demographic features of an area and textual features extracted from the Twitter feed of a news agency, evaluating their performance against actual crime incidence rates. Their analysis shows that the textual features provided by the Twitter data improve prediction accuracy as compared to the previous model using only geographic and demographic information.

Other approaches

Web mining tools have been deployed to crawl targeted sites advertising sexual services. Silva et al. (2014) crawl six specified sites daily (Backpage, Cityvibe, Eros, Humaniplex, MyRedbook, and SugarDaddyForMe) and use natural language processing and data linking techniques to identify geographic data at three levels (city/neighbourhood, metro area, and region). No evaluation is given and the tools have been designed to focus on children only so the potential to expand to adult women who may be trafficked for the purposes of sexual exploitation is unknown.

Organised crime groups involved in trafficking have adapted easily to new technologies that reduce risks to them (of detection and prosecution) whilst still retaining high profitability (Europol, 2013). A key problem facing law enforcement in identifying and investigating the trafficking of women and girls is addressing what has come to be known as 'hidden crime'. Crime, as a service offered through the internet, is proliferating rapidly (Europol, 2014), hosted on the 'dark net' in communities of peer to peer networks facilitated through TOR and similar software products that allow anonymity. Activities cover different elements relevant to traffickers, including virtual financial services and money laundering, web design, hacking and 'specialised criminal market places' that offer forged identity documents and encryption devices to anonymise demand for sexual exploitation (Europol, 2013; 2014). Breaking anonymity and tracking such hidden services supporting the trafficking of women and girls is a major challenge. One study, presented by Dudas (2013), was retrieved that may have potential for doing so, albeit in a limited way. This focuses on the detection and analysis of 'dark networks', with specific interest on visualisation tools for handling networks parsed from Twitter and placed by geo-location. No formal evaluation is provided, but the author discusses trial usage on real networks of interest.

Internal organisational data may be harvested to better effect. For example, data are constantly accumulated through law enforcement investigations but may not be efficiently connected. Johnson et al. (2012) look at relationships between unstructured law enforcement texts (emails) and use these to help augment information of interest, analysing the semantic relatedness of documents and linking identified entities. A demonstrative application is presented, acting on a sanitised corpus of real law enforcement emails. Given appropriate consideration of scalability and the lack of law enforcement resources to combat trafficking, this tool would appear to be an impressive resource for augmentation of police intelligence. Research that explores how an approach could be extended to the wider AHT networks (as noted by Blair, 2014) in order to synthesise knowledge rapidly may have potential to enhance prevention.

Key thematic questions addressed by an 'expert evidence' Sexual Exploitation Trafficking Futures workshop (for attendees see Appendix)

The review suggests several possibilities for considering future research directions that will lead to effective actions in combating trafficking women and girls for the purpose of CSE. Three theme question areas were proposed as starting points for an interdisciplinary workshop (inviting technologists, social scientists, law enforcement, policy actors), which considered the gender dimensions of trafficking, technology priorities, and research for future resilience:

Should big data analytics be gendered in more meaningful ways to enable gender sensitive analysis and actions, and if so how? For example, many women victims refer to difficult care responsibilities such as being single parent mothers bringing their children up in poverty, and to the lure of certain types of jobs (escorts, domestic labour, bar and restaurant work). Their shopping patterns and movements may be gendered making them more vulnerable to trafficker identification; can this kind of data be reflected back to potential victims to present more authentic images of their vulnerability, or to THB organisations to enhance detection of vulnerability at earlier stages of the trafficking journey?

What are the implications (strengths, weaknesses, opportunities and threats) for the Polaris project to extend into Europe and EU Member States? Can/should more be done to develop digital world abolitionist movements focused on the trafficking of women and girls for the purpose of sexual exploitation in Europe? How are European AHT movements coordinated and networked, as evidenced through social network analysis, and if insufficiently networked should this be improved to promote a 'synthetic market'?

Web-mining approaches generally appear to suffer from a lack of rigorous evaluation. Could identification of a means of better evaluating the performance of information-gathering agents such as these help focus research efforts?

Theme 1: Digital world identification of sexually exploited women and girls

The workshop confirmed the centrality of the internet for recruitment of victims and the selling of their services. Escort websites were a particular target for law enforcement attention; identifying victims through data analytics of images, phone and contact details and credit card or other financial information. The need for multi-disciplinary teams that include forensic profiling, technical and policing expertise in key areas such as financial investigation was emphasised. Some national law enforcement agencies have such resources; however, at the regional level this multi-disciplinary approach may be less comprehensive. The participants acknowledged that fragmented approaches and insufficient resourcing within the regions could act as a barrier to identification and intervention. These conditions imposed particular limitations on the capacity of relevant actors to recognise trafficking situations and victims of trafficking, or to share information between agencies in support of formal victim identifications.

It was also noted that websites that rate prostitutes/sex workers may be a source of open source intelligence data for victim identification, particularly where women and girls are moved or re-trafficked but also where descriptions such as 'she wasn't very happy' or 'she had bruises' might indicate the need for further investigation. Workshop contributors also described how these sites could be successfully used as a resource for 'crowd-sourcing'; identifying data and related intelligence from the public regarding trafficking situations. In the Netherlands, for example, 'consumers' of sexual services who use such rating websites are routinely prompted to anonymously report identifying information to law enforcement authorities for investigation. All categories of actors in the trafficking system increasingly have an online presence (victims, traffickers, 'customers' and facilitators) that leave digital traces. There is potential to develop analytic software tools that can connect these data traces and assist in identifying those involved although the design challenges are not insignificant.

A dominant theme in discussions was the tracking of financial gain or exchange in digital environments. It is clear that further research on this element of the trafficking system is urgently needed, particularly in-depth analysis of actual cases to identify the financial processing mechanisms that could then be matched by advances in digital forensics analysis. Financial investigations were recognised as labour and time intensive, involving different law enforcement specialisms and investigator training. **They also require close cooperation with private sector financial institutions such as banks, Visa, MasterCard, PayPal and Western Union in order to identify and block accounts and stop malicious transfers. Such action is supported by the EU Directive (2011/36/EU), including Article 7, which states that with regard to THB offences 'Member States shall take the necessary measures to ensure that their competent authorities are entitled to seize and confiscate instrumentalities and proceeds'. Europol (2015) have noted the need for cooperation with financial institutions and money service businesses that are 'most at-risk' of being exploited by organised crime groups through money laundering activities linked to the proceeds of THB.**

Regional differences across EU Member States create both challenges and potential preventative directions. The variation in age limits across Europe for both sexual consent and prostitution/sex-work were seen as a challenge in victim detection online. Software has been produced that can identify images of sexually exploited children online and in peer to peer networks (Rashid et al. 2012) but the identification of adults in situations of sexual exploitation is far more complex since, in some Member States, they will be working legitimately. **A raising of the age limit for prostitution/sex-work could make some victims of trafficking for the purpose of sexual exploitation more identifiable online using software tools, while diminishing the vulnerability of children to re-trafficking and sexual exploitation as they move into adulthood, although this would require further research.** Language also varies across websites with many being country- and language-specific in targeting consumers of prostitute/sex-worker services. However, the same trafficked women and girls may appear on websites in several countries under different names. Thus, language synthesis is key to the development of appropriate forensic software tools. Moreover, it was suggested that wider application of image analysis strategies used in other law enforcement domains (e.g. child sexual exploitation) could support digital world identification of trafficking victims and the criminal networks that support their exploitation. While the same trafficked women and girls may appear on websites delivered in different languages across a range of countries, the same images are generally used for a specific girl's 'avatar', with multiple identities often controlled by the same organisers between sites. Thus, our law enforcement contributors proposed that by interrogating image data, e.g. searching by image using crawler

systems, it would be possible to form linkages between escort sites and other online platforms offering sexual services so as to understand the organisation of these networks, identify new trafficking victims, potential trafficking routes and other intelligence in support of intervention.

A recent report of research conducted by Thorn and Bouche in the United States was made available to the workshop. This identifies a significant change in recruitment and grooming practices in the trafficking of women and girls for the purposes of sexual exploitation ([141]). The younger the victim the more likely it is that they will meet their controller online, with the mean age of victims being 16 (Thorn and Bouche, 2015). Furthermore, victims increasingly appear to have unmonitored access to technology and the internet (supporting findings by Sarkar, 2015) and use mainstream websites such as Facebook and MySpace. This opens up possibilities for prevention in terms of awareness raising and the potential to disrupt through key messages and links to safe exit strategies. For example, based on its survey of survivors of child sex trafficking, Thorn has pioneered the 'BeFree' texting helpline in the United States, which offers victims a more discreet and effective way to access assistance than traditional telephone hotlines. However, the psychological strength of grooming practices cannot be under-estimated, with romance being a recurring feature similar to some of the dynamics operating in romance scams online (Whitty and Buchanan, 2012).

Theme 2: The digital world and trafficking for sexual exploitation nexus

Is greater collaboration in cyberspace a feasible goal? Who would be the key collaborators in the EU? Could funding or legislation lever such collaboration in the EU?

The call for improved EU collaboration in tackling cyber-enabled trafficking of women and girls was a clear theme in the workshop. Participants had experience of collaboration on government and civil society platforms with reference to child sexual exploitation and it was felt these should extend to adult trafficking and human slavery. An EU collaborative platform could encourage greater coordination within the NGO sector and between NGOs, law enforcement, and key players in the online industry such as the operators of escort sites and social media companies, which currently occurs on a project to project basis. **The participants maintained that greater interdisciplinary integration between law enforcement, NGOs, and other stakeholders within EU-sponsored platforms and networks (such as Empact** ([142])**, NREMS and the EU Civil Society Platform against THB)** would promote closer cross-stakeholder collaboration in combating cyber-enabled trafficking for sexual exploitation, both at the level of the regions and across EU Member States.

Theme 3: The sexual exploitation trafficking system digital world image

Discussion under this theme strongly supported the review findings that the digital world image of sexual exploitation works to reinforce a 'simplistic dualism' of the innocent female victim and a brutally forced trafficking situation. **Anti-trafficking organisations could use their websites more effectively to play an important role in combating the trafficking of women and girls. The way in which many are currently depicting the trafficking of women and girls for the purposes of sexual exploitation represent stereotypical images that emphasise disempowered victims. Whilst this can be an accurate description, these images may not be helpful to victims and could be more effective if they change to promote a more empowering message that reflects the complex realities of the trafficking system.** Images and promotional material could also be targeted at users with greater attention on reducing demand. The participants proposed that a major aim of such messaging should be to promote awareness and recognition of trafficking situations amongst victims or others who might encounter them, particularly those situations which may be more nuanced than this 'simplistic dualism' suggests, and to encourage attendant reporting and identification.

Blocking websites is sometimes proposed as a method to reduce demand and deter users of women and girls who are sexually exploited. A concern regarding displacement was identified in the review and in the workshop, with reports that demand does not reduce but merely moves elsewhere. In a practical context, the taking down of

([141]) On child sexual exploitation, see Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011L0093

([142]) European Multidisciplinary Platform against Criminal Threats (Empact) Group on THB under the EU Policy Cycle on Serious and Organised Crime.

websites is becoming increasingly difficult in cloud computing environments where hosts can move rapidly. Counter to these arguments, the workshop consensus was that it was preferable from a law enforcement perspective to keep websites used to advertise women and girls who were trafficked for the purposes of sexual exploitation in view. This allows access to large amounts of data that can be used to identify and protect victims as well as to track traffickers. Furthermore, as Sarkar (2015) and Thorn and Bouche (2015) found, the most frequently used websites are Facebook, Twitter and LinkedIn, for which a 'take-down' response is not feasible. It may be that pressure to cooperate within an anti-trafficking coalition could emerge from placing greater emphasis on 'the exploitation of the prostitution of others' or, at the very least, on providing services that aid and abet the prostitution of others with particular reference to these sites.

Theme 4: Technical work on tracing trafficker's activities online

In addition to the measures proposed to improve data analytics and digital forensics for financial investigations, proposals were also made regarding the potential of leverage analytics to reduce demand. Where victims of the trafficking of women and girls for sexual exploitation can be identified, clear messages could be encoded in the click business to alert customers of prostitution/sex-workers to the possibility that they are exploiting victims further. Proposals were put forward to take an economics of information security approach to encourage research and collaborative action that will disrupt or disturb the trafficking market and considerably increase the cost to both the traffickers and consumers of trafficked sex.

One notable proposal advanced by the workshop stakeholders concerned the development of a European coalition of stakeholders to combat the commercial viability of trafficking for the purposes of sexual exploitation. In the CSE domain, coalitions such as the US Financial Coalition Against Child Pornography and the European Financial Coalition Against Commercial Sexual Exploitation of Children Online have achieved significant international successes in their fight against the online sexual exploitation of children by joining forces to take action on the payment and ICT systems that are used to run these illegal operations. However, no equivalent mechanism exists to identify and disrupt the financial flows and payment-processing mechanisms that underpin cyber-enabled trafficking for sexual exploitation. The participants maintained that a comparably-constituted European programme, comprising key actors from law enforcement, the private sector and civil society could similarly compromise the market for cyber-enabled sex with trafficked women and girls by working together to directly target the revenue streams of traffickers, controllers, and other financial beneficiaries of these crimes.

SUMMARY OF THE GENDER DIMENSIONS

The analysis of the gender dimension of trafficking in relation to technology identifies several different issues. The purpose of addressing them here is to make observations on the contribution of attention to gender to the more focused question of what works to eradicate trafficking in human beings from a technological perspective.

The digital world image of trafficking for the purposes of sexual exploitation is deeply gendered. Trafficked women are advertised on websites as escorts and as prostitutes/sex workers. Their gender is clearly visible and the majority are women selling sex to men. Men and boys are also advertised and a group that are considered additionally vulnerable by law enforcement are LGTBI young men and women. Gender disaggregated data is provided by tip lines (such as the Polaris project) and these show that the majority (over 80 %) of victims accessing the internet and mobile contact points are adult women.

Gender equality principles do not appear to feature explicitly in the technological dimensions of trafficking. The review found no evidence of a disproportionate focus on male or female victims when technologies are applied by law enforcement agencies. However, the digital world image of trafficked women and girls for the purpose of sexual exploitation plays on gender stereotypes and women are far more frequently portrayed in these images as forced victims. Women are not encouraged to feel or be empowered to escape from trafficked situations, but rather their victim status is reinforced.

The EU Cybersecurity Strategy emphasises the importance of protecting the same fundamental rights that apply offline. However, the focus on fundamental rights within the strategy is on freedom of expression, privacy and surveillance and censorship. Articles 1, 4 and 5 of the Charter of Fundamental Rights of the European Union are not referred to directly. Article 1 maintains that human dignity is inviolable. A much more gendered approach to

cyber-enabled crime is needed within the cybersecurity policies of the EU; one which recognises the way in which human dignity and trafficking are gendered and how cyberspace extends the reach of trafficking and the depth of violations of fundamental rights.

Intersecting inequalities are evident in cyberspace as they are in the offline world. Firstly, considerable emphasis and resources have been deployed to address the trafficking of children. This is partly because children are easier to detect in cyberspace (through image and text analysis) and also because the crime of sexual exploitation is clearly defined in relation to minors as consent is not possible. Technology-enabled practices to prevent the trafficking of children for the purposes of sexual exploitation are, therefore, far in advance of such practices as they might apply to women. The intersection of age and gender could be reframed as a positive element if the age of prostitution/sex-work was raised. If, de facto, it was not possible for women to consent to sex work before the age of 21, technologically enabled tools designed for minors could be extended to include young women.

Workshop participants also emphasised the vulnerability of two further intersecting groups: women and girls with learning disabilities and LGTBI young people, both of which have been identified through their online profiles as being vulnerable to sexual exploitation.

Gender expertise is underdeveloped in the technology field. Some gender tracing expertise exists in the field of natural language processing and image analysis but this is mainly held by technical specialists in universities rather than by law enforcement agencies (both regional and European) or NGO's. Technology is often assumed to be gender neutral despite the fact that there are known gender differences in access to and use of cyberspace and also that informational traces are gendered in some contexts.

A growing problem is identifying victims in what is referred to as 'non-location bound prostitution' (National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children [Netherlands], 2013). Speaking from the perspective of the Netherlands (see Chapter 6), she recommends that:

New methods should be developed and experts in electronic media should be hired. One instrument that could help in this respect is a multimedia covenant (similar to the covenant on erotic advertisements), requiring sex businesses to give their licence number and the address of their establishment in advertisements. This instrument is only useful, however, if the information can also be verified. Another idea might be to require these sex businesses to have a permanent telephone number, which is also used by clients. (NRM7, recommendation 29).

In this model, we would add that such experts in electronic media must be aware of the gender dimensions of trafficking in order to utilise the full range of tools that would aid detection.

The gender balance in decision-making that contributes to policies and expert groups on cybercrime, cyber-enabled crime and cyber security is not transparent. Many committees give organisational rather than individual membership. However, the major focus of committees working in this area is on protecting legitimate market interests and, whilst this is of central importance, it does mean that illegal markets, including those involving the trafficking of women and girls for the purposes of sexual exploitation, are marginally addressed in a cybersecurity context.

Technical competence in relation to combating trafficking of women and girls for the purpose of sexual exploitation is primarily understood as a law enforcement responsibility, located in home affairs and with Europol. As a topic it does not feature strongly in cybersecurity policy which is more appropriate to the expansion in both the trafficking market and in developing policies to combat trafficking. This is particularly relevant to tracking and disrupting financial flows connected to these growing markets.

The advertising of trafficked women intermixes with advertising for prostitution/sex work on many websites. Keeping these and other linked websites in view and mining them for data that indicates trafficking, force and coercion can aid in detection of victims but privacy and other fundamental rights are also a consideration that requires further research.

CONCLUSIONS AND RECOMMENDATIONS

Sexual exploitation trafficker-trafficked gender technology relations are primarily 'embodiment relations', using technology to extend human practices. As such they are intrinsically gendered. The workshop reinforced the finding of United States research (Thorn and Bouche, 2015), that traffickers use the internet and social media as tools to groom and recruit victims. Approximately 75 % of known traffickers are male (Eurostat, 2015) and grooming techniques are likely to be similar when applied to both adult women and children. Tools have been developed to enable the detection of age, gender and deception in online environments, primarily for detecting the grooming of children. Such tools may, with further research, be extended into detecting grooming for trafficking. This will require close collaboration with law enforcement and NGO's to begin to build profiles of cases that have been proved and to develop a very detailed anatomy of the trafficking of women and girls. **Traffickers also use websites to advertise their victims, extending the role of the pimp on the street to the pimp online. The majority of victims of trafficking for the purposes of sexual exploitation are female. They primarily use the internet and social media to identify 'clients' on mainstream websites such as Facebook, Twitter, LinkedIn and MySpace. An increasing number are also forced to offer sex online.**

More could be made of 'hermeneutic relations' for victims; providing opportunities for them to search and learn how to empower themselves and break free from their trafficked situation. 'Background relations' are clearly needed by traffickers to gain access to financial services, cryptocurrency transactions, website hosting arrangements and specialist services to forge identities. The gender dimension is less relevant to the technical expertise required in this domain but that does not mean it is insignificant. Background relations fall under the policy domain of cybersecurity where the fundamental rights of women to human dignity and the prohibition of forced labour and trafficking in human beings become reduced priorities in the context of financial security, privacy, data protection and the free market. Yet these are exactly the cyberspaces that enable the trafficking of women and girls for the purposes of sexual exploitation to flourish. In the context of emerging technology and the trafficking of women and girls for sexual exploitation we conclude with the recommendations that follow.

A gendered approach to cyber-enabled crime is needed within EU cybersecurity policies; cyber security policy is not gender specific and, therefore, not able to address gender equality in relation to issues such as trafficking for the purposes of sexual exploitation that differentially impact women, girls, men and boys.

The primary focus of fundamental rights within the European cyber security strategy is on freedom of expression, privacy, surveillance and censorship. Article 1, 4 and 5 of the EU Charter of Fundamental Rights are not referred to directly. A gendered approach to cyber-enabled crime would enable recognition of the way in which violations of human dignity are intrinsic to trafficking for the purposes of sexual exploitation and how cyberspace extends the reach and the depth of violations of the fundamental rights of women and girls.

Understanding intersecting inequalities in the digital world can strengthen prevention. There are many intersections between age and gender in trafficking for the purposes of sexual exploitation. Girls who have been sexually exploited are known to transition into adult sex work and age assessments are a key focus for first responders. Cyber-enabled anti-trafficking measures and actions at the European and Member State level have been disproportionately focused on minors in comparison to adult women. This is primarily because sex with a minor is de facto illegal and thus easier to trace through digital methods. A policy of no consent to prostitution/sex work before the age of 21 would enable extended deployment of technology tools. Ethical and legal considerations would require careful consultation and further research.

There is some evidence from NGO's and law enforcement that women and girls with learning disabilities and LGTBI young people may be more vulnerable to trafficking for the purposes of sexual exploitation ([143]). Civil society actors working with vulnerable adults and children should therefore be educated on the signs of grooming and exploitation and NRM procedures.

The technology field must develop gender expertise. Technical specialists are primarily in universities and technical resources are limited in law enforcement (both regional and European) and NGO's. Technology expertise is

([143]) This was the consensus opinion from law enforcement participating in the workshop conducted for this study. For more on vulnerabilities to trafficking in human beings, see the European Commission Study on Children as High Risk Groups to THB, available at http://ec.europa.eu/anti-trafficking/node/4921

often assumed to be gender neutral but in the field of anti-trafficking it is essential to take a gendered perspective to technical development. Greater collaboration is required between women who have been victims of trafficking for the purposes of sexual exploitation and technical specialists, to enable the co-production of technical tools.

Measures should be taken to strengthen the gender balance in cybersecurity decision-making. The gender balance of decision-makers contributing to policies and expert groups on cybercrime, cyber-enabled crime, and cyber security is not transparent. Often, committee members represent organisations and industry and individuals are not named. Cybersecurity committees focus on protecting national security and legitimate market interests; illegal markets, including those involving the trafficking of women and girls for the purposes of sexual exploitation, are marginally addressed.

Joining up the gender dimensions at the EU policy level will aid prevention. Technical competence in relation to combating the trafficking of women and girls for the purpose of sexual exploitation is primarily understood as a law enforcement responsibility, located in home affairs and with Europol. It is not a clear priority in cybersecurity policy, which misses the expansion in the trafficking market that is highly relevant to tracking and disrupting financial flows connected to these growing markets.

APPENDIX: METHODS AND SEARCH STRATEGY

The following search terms were applied to databases (see Table 9.2) accessible through the Lancaster University Library that are recommended for structured and systematic review on social justice topics (SCIE 2010):

[Traffick* & Technology] & [Women] OR [Child*]

[Traffick* & Internet] & [Women] OR [Child*]

Publications were not included if they were:

- outside the last 10 years unless mentioned in the bibliography of recent articles and offering different information;
- those where technology and/or internet are not included in the subject terms;
- not available in an English language version.

The technical search triangulated the general search on CSE, trafficking, and gender violence (various search terms that would capture these topics) with a search on technical approaches used to support law enforcement. Search terms here included ‘crime’, ‘police’, and ‘law enforcement’ combined with more focused terms:

- artificial intelligence;
- data fusion;
- data mining;
- information fusion;
- natural language processing machine learning; and
- social network analysis text mining.

Databases searched were IEEExplore, the Association for Computing Machinery (ACM) Digital Library, SpringerLink and ScienceDirect.

Table 9.2 Search results

Database	Traffick*	AND Technology	AND Internet	AND Women	OR Child*
Applied Social Sciences Index and Abstracts (ASSIA)	2 236	58	90	14	22
British Education Index	13	0	0	0	0
CINAHL	701	2	13	1	3
Proquest Dissertations and Theses	3 334	149	154	37	45
Medline	30 606	1 081	1 117	7	6
PsycINFO	2 957	112	484	14	47
Web of Science	4 230	59	62	9	22
ZETOC	24 735	160	7	2	2

Table 9.3 Technology and trafficking workshop attendees

Name	Title/Position
Margaret Brennan	Psychologist/Advisor to Europol
Joanna Campbell-Waggott	CEOP
Celia Hodgson	Organised Crime Command / UKHTC, National Crime Agency
Professor Corinne May-Chahal	Professor of Applied Social Science and Associate Director Security Lancaster
Emma Palmer	Lecturer — Lancaster University
Erik van de Sandt	Advisor to the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children, Netherlands Police
Professor Awais Rashid	Director Security Lancaster
Kate Richardson	Director of Programmes, Lumos
Staca Shehan	Director, Case Analysis Division, National Center for Missing and Exploited Children, Washington
Sylvia Walby	Unesco Chair Gender Research, Distinguished Professor of Sociology and Associate Director Security Lancaster

10. Conclusions from gender analysis ([144])

INTRODUCTION

As stated above, 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 of Eurostat, as well as data from Europol and UNODC, according to which the most reported form of exploitation of victims is that of sexual exploitation, which has a strong gender dimension (96 % women and girls). However, beyond the scope of this study, it should be noted that there are many different forms of exploitation of victims of trafficking with gender dimensions, such as domestic work, in addition to forced and sham marriages.

This chapter is structured around the five priorities of the EU Anti-Trafficking Strategy: assistance to victims; law enforcement and prosecution; demand reduction; new knowledge; and coherence and coordination.

Assistance to victims concerns their well-being and special needs. Law enforcement requires the identification and support of victims to aid more effective prosecution of traffickers. Demand reduction is addressed through consideration of the different ways in which prostitution can be regulated. New knowledge concerns emerging technologies and the development of methodology to better measure trafficking. The issues of coherence and coordination involve how the prevention of trafficking and the promotion of gender equality might be better integrated within the wider strategies of the EU.

The gender analysis of the implementation of these five strategic priorities is addressed using information from the literature reviews and the in-depth case studies. This includes consideration of the causal pathways through which interventions to reduce and eradicate trafficking in human beings proceed together with an assessment of the evidence. There are four main types of empirical evidence: administrative statistics; surveys; studies; and expert judgement. This evidence has been considered in the in-depth case study chapters, while its methodological underpinnings have been addressed in the measurement chapter.

Within each of the five sections on the Strategic priorities, the gender issues are identified, discussed and conclusions drawn. This draws on the five clusters of gender equality issues identified in the literature and reviewed in Chapter 3. The clusters are: gender specificity and equal treatment; gender expertise, gender balance in decision-making and gender mainstreaming; gendered systems and the theory of prevention; the relationship between the regulation of prostitution and trafficking; and gendered policy fields and strategic priorities.

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). Furthermore, according to Article 18 of the EU anti-trafficking directive, entitled 'Prevention', Member States have a legal obligation to discourage and reduce demand that fosters all forms of exploitation. Prevention requires a range of measures, identified in this article, 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.

([144]) Sylvia Walby

ASSISTANCE TO VICTIMS

Introduction

Assistance to victims through the provision of services is important in the mitigation of the harms of trafficking suffered by its victims. Looking after the victims of trafficking also has importance for the prevention of trafficking, since improving their well-being is likely to increase the contribution of victims to the prosecution of traffickers, thereby reducing their impunity, reducing re-trafficking by assisting their re-integration into society and by creating wider impacts through educating the public and providing expertise derived from experience to policy-makers.

Assistance to victims needs to be gender-specific since the harms are gender-specific and the harms from trafficking for purposes of sexual exploitation, of which women are overwhelmingly the victims, are different from the harms from trafficking for other purposes which are more evenly experienced by women and men. The **principles of equal treatment of women and men, of gender balance in decision-making and of the mainstreaming of gender expertise are important in ensuring that the services are tailored to the needs of victims**.

Victims of trafficking for purposes of sexual exploitation can be hard to identify in mixed populations of prostitutes that include those that are independent or exploited as well as those that are coerced. While some policies concern the specific identification of victims of trafficking in order to assist them, there are further policies concerning all prostitutes that are relevant to the assistance of the victims of trafficking that can be hidden within this group. This means that policies that reduce the harms of prostitution, improve the conditions of the life of prostitutes, and increase capacity to exit prostitution are also likely to assist victims of trafficking for purposes of sexual exploitation. Outreach to victims of trafficking for purposes of sexual exploitation is facilitated by outreach to all prostitutes.

Addressing the regulation of prostitution is an important part of addressing trafficking for purposes of sexual exploitation. **The findings are that decriminalising the sale of sex reduces the further victimisation of the vulnerable and aids prosecution of traffickers since these depend upon the cooperation of victims. The decriminalisation of prostitutes needs to be addressed separately from changes in the criminalisation of those who exploit the prostitution of others and of those who purchase sex.**

Identifying the best way to provide assistance to victims of trafficking is relevant to the articulation of several ostensibly diverse EU strategic priorities.

Gender specificity and equal treatment

The harms of trafficking in human beings are gender specific. As reported in the chapter on measurement, women are overwhelmingly the victims of trafficking for purposes of sexual exploitation, while both men and women are victims of trafficking for labour and other forms of exploitation. This means that a special focus on trafficking for purposes of sexual exploitation is needed when the gender dimension of trafficking is being discussed.

The harms from trafficking for sexual exploitation are different from the harms from trafficking for labour and other forms of exploitation. Their seriousness is related to the specific ways in which the bodies of trafficked prostituted 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 the purposes of sexual exploitation. The nature and seriousness of these harms is reported in the chapter on assistance to victims.

The processes of identification of victims of trafficking in human beings have significant gender-specific components. Difficulties in identification can result from the way that victims of trafficking for purposes of sexual exploitation can be hidden within mixed populations of independent, exploited and coerced prostitutes and inside mixed migration flows. Victims are understandably fearful of both traffickers and authorities. These issues are addressed in the chapters concerning: outreach to victims by specialist services; the EU Justice and Home Affairs agencies addressing law enforcement; the intersection of prostitution and trafficking in Germany and the Netherlands; and in cyber-technology developments.

The provision of specialist services needs to be gender-specific in order to address the particular needs of victims stemming from these gendered forms of trafficking. These gender-specific needs, flowing from the gender-specific harms, include: harm mitigation; gender-specific safe shelter, advice, and advocacy; access to justice and compensation; and prevention of re-trafficking and victim re-integration. The best providers of these services are usually gender-specific, expert, specialist, non-governmental organisations which provide coordinated harm reduction, services, and advocacy for wider prevention measures.

Access to mainstream services is also needed. This may require the mobilisation of the principle of the equal treatment of women and men in access to the sale and distribution of goods and services, in order to ensure that there is no discrimination against trafficked and prostituted women alongside other prostitutes, disproportionately female, who can sometimes suffer illegal discrimination in accessing health, welfare, and criminal justice services.

Victims of trafficking need access to a source of livelihood. This requires specialist services to assist re-integration into the labour market. Beyond this, it requires a reduction in gender inequality in employment so that there can be appropriate access to income and to quality work. This, in turn, requires the development and **implementation** of the EU Strategy on Equality between Women and Men (COM(2010) 491 final) and the prominent inclusion of gender equality goals within the EU Strategy 2020 (COM(2010) 2020 final) on economic growth.

Gender expertise, gender balance in decision-making, and gender mainstreaming

The provision of appropriate services for victims of trafficking requires the development of gender expertise and its mainstreaming which, in turn, requires an appropriate gender balance in decision-making. Victims often have few successful means of safe exit from violence without expert civil society interventions to reduce harm and build trust with survivors who usually have no economic means when they exit.

Expertise that is gender-specific is required in providing services. As shown in the chapter on services for victims, this has been developed most effectively by civil society organisations, especially those which are run by women and incorporate lessons drawn from the experiences of survivors of trafficking.

The development of mainstream services sensitive to the needs of those that have been trafficked requires the mainstreaming of this expertise, involving processes of public education, alongside engagement with policy- and political decision-makers. This is shown in the chapter on victim support.

Gender expertise needs to be utilised in the training processes of law enforcement agencies to enhance the identification and respectful treatment of victims. Such improvements are necessary to gain victims' confidence and thereby increase the likelihood of their cooperation in supporting the prosecution of traffickers. The need to embed gender expertise in the training materials of law enforcement agencies is demonstrated in the chapter on law enforcement.

The chapters on measurement and on new cyber technologies both further highlight the ways development of gender expertise and its mainstreaming are required.

The institutional developments necessary to fostering gender expertise and gender-specific practices are unlikely unless there is gender balance in decision-making at all levels. This may be a challenging requirement in the fields of law enforcement, statistics, and cyber technology that have traditionally and disproportionately employed men but gender balance in decision-making has long been a priority of the EU Strategy for Equality for Women and Men for good reason.

Gendered policy fields and strategic priorities

Improving assistance to the victims of trafficking is not only an important part of the anti-trafficking strategy, but is relevant to other EU laws and strategic priorities. Attending to the gender-specific needs of victims is a necessary part of the implementation of the Directive on Victims' Rights, the Strategy for Equality between Women and Men, and Agendas on Security and on Migration. Consideration of the wider issues of reducing the likelihood of victimisation through trafficking requires the inclusion of gender equality goals in the EU 2020 Strategy (COM(2010)

2020 final) for EU economic growth and in EU external strategies so as to improve the economic independence of women and girls in 'source' countries.

Ensuring the best outcome in the inevitable competition for scarce resources requires the gendered needs of victims to be made visible and taken fully into account. The chapter on law enforcement identified the difficulties that occur when the strategic priorities concerning security and migration do not adequately identify such gender specificity.

Gendered systems and the theory of prevention

Attending to the gender-specific needs of victims of trafficking has implications for many other aspects of the processes needed to prevent trafficking. The gender-specific needs of victims for assistance are important in their own right; they are also important for the prosecution of traffickers needed to end their impunity, to prevent re-trafficking of victims by assisting victim re-integration, and to facilitate the inclusion of their experience in public education and for informing policy-makers. Attention to victims might initially appear to concern the mitigation of the consequences of trafficking, but the extent of the interconnection of the different aspects of trafficking means that this is of concern to the prevention of trafficking as well.

NEW KNOWLEDGE: MEASURING TRAFFICKING AND ITS CAUSES

Two forms of new knowledge were addressed in this study: the measurement of trafficking and its causes; and the emerging uses of technology and cyberspace.

There are four major ways of collecting data on trafficking in human beings: administrative statistics; large-scale surveys; studies; and the expert judgement of key actors. These are also the major sources of data available for prostitution. 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, which could be mitigated.

Administrative data on the number of victims of trafficking that are registered with administrative authorities offer a minimum floor to estimate of the number of victims of trafficking in human beings in the EU-28. Official administrative data on the number of traffickers suspected, prosecuted, and convicted is likewise a minimum floor to estimate traffickers. They offer our best estimates of the disaggregation of trafficking by type and by the sex of the victim, even though these are not always consistently achieved. The mechanisms that establish responsibilities at the national level and connect these to the EU level in both Eurostat and the EU Anti-Trafficking Coordinator's office potentially provide a robust mechanism for the consistent delivery of this information and for the gradual improvement in its quality over time. Innovative statistical methodologies such as 'capture-recapture' offer a way of drawing the maximum information about the number of victims out of administrative data. However, these are known to be serious under-estimates of the extent of trafficking, since only a proportion, and probably a small proportion, of victims and traffickers come to the attention of the authorities. Further, it is not known whether an increase in the number of registered victims (or traffickers) is indicative of an increase in the real underlying number of victims (or traffickers) or of an increase in activity by the authorities concerned. Likewise, it is not known whether a larger percentage of registered victims in one country's population as compared with another is indicative of a higher rate of trafficking or of greater activity by the authorities concerned. Thus, while administrative data is important, and its incremental improvement with more consistent definition and gender disaggregation is likewise important, it is far from sufficient for an analysis of the most effective ways to eradicate trafficking.

Nationally representative surveys offer the potential to go beyond at least some of the limits of administrative data, since they might offer a means to establish the real rate of trafficking (and prostitution) and, further, to support comparative analysis between policy regimes that vary over time and between countries. In order to analyse variations over time and between countries, it would be necessary to have large scale, nationally representative surveys to collect comparative data from different countries and to conduct repeated sweeps over time. Unfortunately, there are major limits to the available data. The quantitative data on variations in trafficking (and also in prostitution) is insufficient to provide the evidence needed to make strong claims as to the effectiveness or otherwise of policy developments. However, with caution and attention paid to the necessary caveats, it can be used to contribute to the debates. Nationally representative surveys on trafficking are intrinsically limited by the size of the sample needed to include such a small population and by the difficulties in ensuring that the sampling

frame includes those who are most likely to have been exploited. Nationally representative surveys relevant to prostitution, such as those that include questions about experiences of selling or buying sex that are repeated over time, could be developed into useful instruments to deliver relevant evidence.

Other studies make important contributions to the evidence base about trafficking (and prostitution), even though they cannot provide robust and comparable data for the EU-28. They offer significant findings about the relationship between trafficking and other phenomena. They are important in aiding the process of teasing out the nature of the relationship between specific aspects of trafficking with specific aspects of prostitution and other related institutions. They provide a significant contribution to the development of measurement methodologies.

Expert judgement is used when there are no other options. Practitioners on the ground will have considerable knowledge about trafficking derived from their experience working with victims of trafficking as well as traffickers. This knowledge may be entered into databases run at a local or organisation level, but not generally shared with the public, or it may be more informally shared among a group of practitioners. Such practitioners include the police and those that provide services to victims of trafficking and to prostitutes. While expert judgement obviously has shortcomings as the basis of social scientific research, in some instances it may be the best available knowledge about particular processes. We have identified where we have used such knowledge and have applied the appropriate caution.

DEMAND REDUCTION BY REGULATING PROSTITUTION

Introduction

Demand reduction, as stipulated in the 2011 Anti-Trafficking Directive, is a strategy to reduce 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. The issue for this study concerns the ways in which the regulation of prostitution might reduce the demand for the services of trafficked people or, in other words, the sexual services of those trafficked into prostitution. Prostitution is regulated in all Member States of the EU in order to reduce the harms that can be associated with it, which include, but are not confined to, trafficking. Demand reduction through the regulation of prostitution can logically be centred either on those that seek to take profits (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 known to be more associated with trafficking and other forms of criminality, and sometimes focused on prostitution in general. We investigated the implications of different forms of regulation of prostitution for the reduction of trafficking. In the light of these findings we offer new ways of thinking about this regulation and for the assessment of what works to reduce trafficking.

We centre our analysis on the distinction between the three main targets of regulation: **those who sell sex/are sold; those who make profits from prostitution; and the buyers of sex.** We investigate the extent to which the different forms of prostitution, which are associated with different probabilities of trafficking, are increased or decreased by different forms of regulation of prostitution. We provide in-depth accounts of the relationship between prostitution and trafficking in Germany, the Netherlands and Sweden and, with a focus on victims, in the United Kingdom, together with a comparative quantitative analysis of differences in the level of prostitution in these four countries. We are aware of the limitations placed on these analyses by the shortage of data and make recommendations as to how this might be mitigated. In offering these nuanced accounts of the different ways that prostitution is practiced and regulated, we disrupt and challenge some of the earlier models of prostitution regimes that are out of date or otherwise out of touch with the current specificities of European forms of regulation. Our conclusions are specific and lead to recommendations reported in the final chapter.

We find that regulating prostitution is not the same as fighting trafficking and that resources directed towards licensed businesses may be helping those prostitutes who are least vulnerable while leaving the most vulnerable women, especially youth and migrant women from third countries, unprotected and in increasingly insecure locations of exploitation (private homes and apartments). These are intersectional issues in the gender dimensions of the alternative demand reduction strategies for eradicating trafficking practices in Germany and the Netherlands.

There are variations in the form of regulation of prostitution over time and between EU Member States. These criminal and non-criminal regulations variously target one of the three groups of actors outlined above. We find

that increased regulation of one of the three actors does not necessarily mean increased regulation of the other two. Indeed, quite the reverse is true. In Europe (meaning the European Union and the European Economic Area), there has been a tendency in recent years towards a reduction in the criminalisation of the sale of sex and an increase in the criminalisation of the purchase of sex. This means that generic statements about (de)criminalisation or regulation are misplaced; they need to differentiate between the three targets of regulation.

Those who sell sex/are sold

Traditionally, prostitutes/sex workers have often, though not always, been the main focus of regulation. These regulations concern both negative sanctions on selling sex and the provision of welfare services to facilitate an exit from prostitution. There was once a distinction between, on the one hand, those countries that criminalised all forms of the sale of sex (most) and, on the other, those countries that tolerated this sale when it occurred in private outside of public view and under certain conditions, criminalising the sale of sex only under the remaining circumstances (e.g. the United Kingdom). In recent years, the selling of sex has been largely de-criminalised throughout Europe (EU and EEA). This change is associated with the concern with reducing the victimisation of a predominantly female population who are considered vulnerable and exploited, greater respect for those selling sex, realisation that prosecution of exploiters and traffickers is aided by the greater cooperation of prostitutes with law enforcement that follows from not treating them as criminals, and the increased contributions of those who have sold sex and gender experts to decision-making. **The potential contribution of decriminalising the sale of sex to the strategy of demand reduction is by increasing the likelihood of successful prosecution of traffickers, thereby dampening their motivation to engage in the trafficking of human beings.**

In our in-depth studies, we found that the identification of the victims of trafficking is easier when they are not treated as criminals for being prostituted. We found evidence for this when investigating victim support in the United Kingdom, law enforcement practices in the EU Justice and Home Affairs agencies, and the regulation of prostitution in Germany, the Netherlands and Sweden. **The decriminalisation of prostitutes contributes to the reduction of trafficking by improving their legal position, thereby facilitating their contribution to the prosecution of traffickers and enabling greater resilience and likelihood of exit from trafficking through either the utilisation of specialised services or by improved access to livelihood.**

The decriminalisation of the selling of sex is not the same as treating it as if it were the same as any form of work. Despite some claims that Germany and the Netherlands have 'normalised' sex work, our case studies found that this has not occurred. Sex work is not advertised in government offices providing information about job opportunities and no sanctions limiting benefits or income support are imposed on those who are unemployed as a consequence of choosing to exit sex work. Most sex workers are self-employed rather than employees with an employer; thus severely limiting their entitlement to make claims as workers against an employer. Despite the introduction of registration and licensing practices, many sex workers remain outside these schemes with consequences for the payment of taxes and insurance and for entitlement to benefits and pensions. **In short, prostitution is not 'work like any other' even in those countries that have attempted to move their policies in that direction.**

This decriminalisation of the selling of sex is widespread in Europe, but not universal. There are two kinds of exceptions: specific countries and specific locations. One exception concerns a very small number of countries, including Croatia, where selling sex is still criminalised. The other concerns the ban on prostitution in particular locations, such as the street, which may, directly or indirectly, include the criminalisation of prostitutes. That this latter exception occurs in Germany and the Netherlands, where there has been a recent policy drive to respect rather than to criminalise sex workers, suggests that this exception might be considered inconsistent with their dominant model of the regulation of prostitution.

This decriminalisation of the selling of sex is distinctive to Europe (the European Union and the European Economic Area) and has not occurred in the United States or in many other parts of the world, though there are exceptions. This means that statements about 'global' practices and policy regimes are insufficiently nuanced to be appropriate as statements about the European situation.

State intervention in relation to prostitution concerns not only the negative sanctions on selling sex discussed immediately above, but also the provision of services to support exit and harm mitigation discussed earlier in the report. The case study on victim services, focused on the United Kingdom, found that the provision of non-discriminatory

access to specialised and mainstream services can facilitate an exit from prostitution, whether this takes an independent, exploited, coerced or trafficked form. Thus, the removal of discriminatory barriers to access to welfare services by prostitutes, who are disproportionately female, can contribute to the reduction of trafficking.

Decriminalising and supporting the resilience of prostitutes can contribute to demand reduction through increasing the likelihood of successful prosecution of traffickers, thereby dampening their motivation to engage in trafficking of human beings. Its main benefits, however, lie in reducing the harms associated with trafficking and prostitution.

Exploitation of the prostitution of others

The second target of regulation is that of the 'exploitation of the prostitution of others'. This includes the criminalisation of various forms of profit (rent and fee) extraction, including pimping, procurement, brothels, escort agencies and living off the earnings of a prostitute. This has been and remains a major focus of regulation, being criminalised in some form across all EU Member States and most countries around the world. **The concept of the 'exploitation of the prostitution of others' has been encoded in international legal instruments since the 1949 UN Convention as a named purpose of trafficking and as a suitable object of a criminal offence. All EU Member States criminalise the exploitation of the prostitution of others (variously defined) as an offence in its own right and, when accompanied by action and means, as an offence of trafficking in human beings.**

One approach to demand for prostitution is to treat it as originating in those individuals (usually men) who seek to buy sexual services. A further approach is to treat demand as originating in the search for profits derived from prostitution by third parties (neither purchaser not prostitute), including pimps, in particular, and the owners of brothels, but extending into escort agencies and beyond into the legitimate businesses that service prostitution such as hotels. Demand reduction within this approach entails reducing the possibility of third parties taking profits from prostitutes. There has long been consensus that reducing profit-taking from prostitution reduces a major driver of prostitution and thus of the criminality associated with it. This consensus has been challenged by those that argue that legalising (though still regulating) profit-taking does not increase the criminal elements associated with prostitution, but the evidence to assess this claim is contested. The implication of changes in the regulation of the exploitation of the prostitution of others is the focus of this section. We draw on our case studies of changes in the regulation of profit-taking from prostitution in Germany and the Netherlands.

The concept of 'exploitation' contains ambiguities. Its legal interpretation may be either that all exploitation is illegal or only that excessive exploitation is illegal. The interpretation of the concept depends on its relationship to the adjacent concept of 'vulnerability', since it is the principle of preventing the 'exploitation of the vulnerability of others' that underpins its meaning. The legal interpretation of the meaning of both 'exploitation' and 'vulnerability' depends on their social context (UNODC 2013, 2015). There are debates as to whether the taking of profits from prostitution is always an illegal excess of exploitation or if some proportionate profit-taking is reasonable. This partly depends upon whether prostitutes are always considered as 'vulnerable' to exploitation. If prostitutes are considered to be vulnerable to exploitation, then profit-taking from them is an illegal excess. But if they are considered 'normal' economic actors, then the situation is different and some profit-taking from them may be exempt from the status of the 'excessive exploitation' that should be criminalised. However, in yet another sense, the taking of profits from the selling of sex may be considered unreasonable exploitation where there is a social context in which the exchange of powers of command over one's body can only be reasonable if it is mutual and, therefore, that it is always excessively exploitative if it is commercialised. Thus, the wider social context as to the preferred model of gender relations is relevant to the interpretation of the concept of exploitation. This then requires the question not only of what is the preferred gender regime but also how important this is as compared with other strategic goals. This locates the debates about the regulation of the prostitution of others in the context of these wider debates on the value placed on mutuality in intimacy and on gender equality. It is in the context of these wider debates about what constitutes exploitation, vulnerability, and the value attached to mutuality in intimacy and to gender equality, that the current detailed debates on the regulation of profit (rent and fee) taking from prostitution are situated in EU Member States and at the EU level.

While most EU Member States have maintained the criminalisation of profit-taking from prostitution, Germany and the Netherlands have, since 2000/2002, permitted some specific exceptions, balanced by a regime of detailed surveillance and regulation. The claim of those supporting this policy change in Germany and the Netherlands is that legalising some profit-taking, in particular, brothels, lessens the likelihood of trafficking and other criminal activities, as well as enhancing the dignity of prostitutes. It was intended to reduce trafficking by increasing the

scrutiny of prostitution by competent authorities and, thereby, driving out criminal elements and enhancing the dignity of those selling sex by treating them as normal workers, as sex workers. Would it ensure that the demand by individual men for commercial sexual services would be fulfilled within a regulated legal sector where trafficking could be reduced or eliminated? Could the demand for prostitutes be pulled into a legal regulated sector and lead to the demise of the illegal unregulated sector? Our case studies provide a detailed investigation of these issues.

The range of legal instruments being deployed to regulate prostitution is extensive, utilising several bodies of criminal and non-criminal law; creative, with inventive application of law to regulate emerging practices; and dynamic, with ongoing changes still under discussion. The bodies of law used to regulate prostitution in Germany and the Netherlands include not only criminal law but a variety of non-criminal laws that impose obligations on those running businesses to meet specified standards. The implementation of non-criminal law requires some form of registration or licensing, record keeping by the business, and regular visits from enforcement agencies. While these laws are sometimes referred to as 'administrative' or concerning 'local authorities', and initial enforcement may apparently involve little more than advice, warnings, and instructions; nonetheless, there are substantial sanctions available to support their enforcement, including fines, refusal of a license to establish a business, the closing down of an established business, and the use of criminal sanctions where there are serious breaches of ostensibly non-criminal law. The standard of proof required for the application of sanctions in non-criminal law is usually lower than that required for the successful prosecution to conviction of a criminal case; however, successful enforcement of the standards requires substantial investment in on-going regulatory and inspection practices. Despite the use of non-criminal law, the police were often involved in routine inspections as well as raids on premises when serious breaches were suspected. In our case studies of best practice sites in specific cities in Germany and the Netherlands, there was cooperation between the police and civil societal organisations during these processes to attempt to combine a balance of law enforcement and specialised welfare provision.

Most of the focus of prior investigations of these innovative forms of regulation in the Netherlands (National Rapporteur on Trafficking in Human Beings [Netherlands] 2013) and Germany (German Federal Ministry 2007) have been on the implications for the emerging sector of legal profit-taking in prostitution. **The sectors of non-regulated and illegal profit-taking have been left out of focus. But if the goal of reducing trafficking (and other forms of criminality) is to be achieved, the illegal profit-taking sector needs to be considered.** If high levels of surveillance and regulatory activity are considered necessary to reduce trafficking and other forms of criminality in the legal profit-taking sector, then it might be reasonable to draw the conclusion that their absence in the illegal profit-taking sector means that trafficking is more prevalent there. **Hence, in order to reduce trafficking in Germany and the Netherlands, it is necessary to reduce the sector of illegal profit-taking in prostitution. Indeed, it is necessary in order to ensure that the increased regulation of a for-profit sector does not have the unintended perverse effect of the growth of the illegal profit-taking sector where trafficking and criminality are more prevalent.** The legal instruments deployed to achieve this include bans on prostitution in specific places, in particular, bans on street prostitution, and by specific groups of people, in particular, those aged under 21 years, rather than the more usual under 18. Street prostitution was considered a site of excessive criminality, trafficking, and public nuisance and closed down using a mix of conventional criminal law and non-criminal law enforced by the police, including the use of criminal sanctions against the sale of sex on the street and, less frequently, the purchase of sex on the street. People aged under 21, rather than under 18, were considered excessively vulnerable to exploitation for purposes of sexual exploitation, so the purchase of sex from those under 21 has been criminalised, or is undergoing criminalisation, in some cities. In this way, Germany and the Netherlands have utilised the criminalisation of specific forms of both the selling and the purchase of sex in their repertoire of legal instruments to combat trafficking and other forms of criminality associated with prostitution. These states should not be treated as examples of generic decriminalisation or non-criminal regulation; rather, they have highly nuanced deployment of a wide range of legal instruments.

The assessment of whether Germany and the Netherlands have been successful in eradicating trafficking for purposes of sexual exploitation through this approach to the regulation of prostitution is challenging. This requires: an identification of the causal pathways through which the effect of different regulation of prostitution might change the extent of trafficking for purposes of sexual exploitation; and an assessment of the empirical evidence on changes in trafficking and in prostitution, especially the types of prostitution most associated with trafficking. As shown in the chapter on measurement, **large scale quantitative data needed to identify changes in trafficking and in prostitution over time and their different rates in different countries is insufficiently robust to support a definitive answer**. This means that the analysis provided in this report depends upon the careful deployment of a range of data sources, combining official statistics that measure only those registered in some way by

authorities, surveys, and other studies, along with the expert judgement of key actors. In the case study chapter, we address a series of issues concerning changes in prostitution and trafficking in Germany and the Netherlands. These are consequent upon changes in the regulation of the exploitation of the prostitution of others that allow for some forms of highly regulated profit-taking from prostitution, while noting additional forms of regulation that concern specific instances of the criminalisation of the sale and purchase of sex on the street and the purchase of sex from 18-21 year olds.

The balance of the evidence suggests that there are fewer trafficked prostitutes in locations of regulated legal profit-taking (especially licensed and regulated brothels) than in locations of illegal profit-taking in Germany and the Netherlands, **but that trafficking has not been eliminated in these locations of legal profit-taking.** There are continuing efforts to improve the regulation, to develop greater surveillance (licensing and registration), which were still under discussion as of August 2015. Any claim as to whether trafficking has declined overall in these countries depends on changes in the non-regulated and illegal sectors. Policy makers and practitioners offering expert judgement in Germany and the Netherlands remain concerned about trafficking in these sectors. In Germany and the Netherlands, the creation of a sector of prostitution in which profit (rent and fee) taking is legal and subject to high levels of surveillance and regulation may have reduced the level of trafficking, but has not stopped trafficking in this sector completely. Further, trafficking remains in the non-regulated and illegal sectors. **Men's demand for prostitutes has not been pulled into the legal regulated sector by the changes in regulations. The non-regulated and illegal profit-taking sectors of prostitution have not disappeared.**

The measurement chapter reports on studies comparing the scale of prostitution in different European counties. **These find that Germany has the largest proportion of prostitution (for population size) of any of the countries in our study. This is followed by the Netherlands; Sweden has the lowest proportion of prostitution in the population. Although there are limitations to the accuracy of these comparative statistics, the larger scale of prostitution in Germany is rarely disputed in the literature.** These statistics are consistent with the claim that allowing profit-taking from prostitution, even well-regulated profit-taking, correlates with the scale of prostitution. **It is consistent with the further claim that legalising profit-taking from prostitution, however well-regulated, is causally connected to the scale of prostitution, probably by allowing the emergence of legitimate actors that derive financial benefit from the expansion of prostitution**.

In order to address the non-regulated and illegal sectors, Germany and the Netherlands have used 'bans' to stop certain forms of prostitution, using a variety of laws including the criminalisation of the sale and purchase of sex. As in many other EU Member States, Germany and the Netherlands have banned street prostitution, which was considered a site of excessive criminality including trafficking, using traditional methods of criminalisation of the seller as well as buyer. In the Netherlands, Amsterdam has innovated in banning the purchase of sex from those under 21, by criminalising the purchase of young people. These bans are likely to have led to a reduction of trafficking in these specific situations. Germany is discussing stronger protections for prostitutes under 21.

Our investigations of Germany and the Netherlands find that the decriminalisation and regulation of specific forms of profit-taking in prostitution have produced less trafficking in this sector of prostitution than that in non-regulated and illegal sectors. However, trafficking remains in the non-regulated and illegal sectors. Further, the overall scale of prostitution is larger in Germany and the Netherlands than in Sweden and the United Kingdom, according to the best statistics available. **This correlation between the decriminalisation of profit-taking in prostitution and the size of prostitution is consistent with the claim that this aspect of the decriminalisation of prostitution, however well-regulated, is causally connected to a larger proportion of prostitution in the population.** Reductions in trafficking have 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 the innovations in the regulation of the exploitation of the prostitution of others in Germany and the Netherlands 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, of profit- (rent and fee) taking from prostitution, remains an important legal instrument to reduce the demand that drives trafficking.

Purchaser of sex

The third target in the regulation of prostitution is the purchaser of sex. Traditionally, this has not been thought of as a major focus of regulation. However, there are several locations where the purchase of sex has long been criminalised in many EU Member States. These include the criminalisation of those who buy the sex of minors, buy sex in banned locations, such as the street, and buy sex from coerced or trafficked persons. In addition, some Member States have recently criminalised all purchase of sex.

The willingness to purchase sex is one of the drivers of prostitution and thus of trafficking, because of the link between prostitution and trafficking. Reducing the number of those (usually men) seeking to purchase sex is thus potentially a significant form of demand reduction.

Under international law, as well as that of the EU and all EU Member States, the purchase of sex with a child (or minor) is illegal. This may be conceptualised as banning the exploitation of the vulnerable; being a child makes a person too vulnerable to be deemed able to consent to the sale of sex without being exploited. The age at which a person is considered a child or an adult has risen over time in Europe. The age of 18 is encoded in relevant UN Conventions and in the EU Anti-Trafficking Directive. Currently, some cities in the Netherlands are increasing the age of the person from whom it is legal to buy sex from 18 to 21. The discussions in the Netherlands made a distinction between the appropriate first age for mutual sex and that for commercial sex. This development aims to protect the most vulnerable from exploitation.

The criminalisation of prostitution in banned zones, such as streets and designated areas, has traditionally entailed the criminalisation of the seller of sex. There have been recent legal developments to shift the burden of compliance with such zoning bans away from the seller towards the purchaser of sex. An example was the law in England and Wales that created the offence of 'kerb crawling' in the Sexual Offences Act 1985 (revised in the 2001 Criminal Justice and Police Act into an arrestable offence) in addition to the existing offence of soliciting that criminalised sellers. In the zoning bans introduced by some city governments in Germany and the Netherlands, the burden of compliance can be borne by either the buyer or seller of sex.

The criminalisation of the purchase of sex from trafficked or otherwise coerced people has become increasingly common in EU Member States. This is partly a consequence of the EU Directive. This puts the responsibility onto the purchaser to ensure that the sex they are buying is not from a trafficked or coerced person. An example is the England and Wales Policing and Crime Act 2009 Section 14 (revising the Sexual Offenses Act 2003 section 53) that makes it an offence to make 'payment for the sexual services of a prostitute' where 'a third person' 'uses force, threats (whether or not relating to violence) or any other form of coercion' or 'any form of deception'. This legal innovation is likely to reduce the demand for the purchase of sex where there is any likelihood that the prostitute has been trafficked or otherwise coerced. There are discussions as to whether those (usually men) who buy sex from a trafficked person should be legally liable if they are unaware that the prostitute has been trafficked. There have been a number of responses to this. It could be left as the responsibility of the purchaser (as in England and Wales) on the grounds that ignorance is rarely a defence under the law. It could be subject to the caveat that the purchaser was 'reckless' about this knowledge, following legal practice in the area of rape. It could be applied to those situations where it is known that trafficking is rife, for example, the street and, in countries with some legal profit-taking, the non-regulated or illegal sectors.

The criminalisation of the purchase of sex in general, rather than only in specific circumstances, was introduced in Sweden in 1999. Since then, similar laws have been adopted in some other parts of the EU (Northern Ireland) and the European Economic Area (Iceland and Norway), and similar proposals have been or are under discussion in Finland, France, Ireland, Latvia, Lithuania and Scotland. Such laws have been recommended by the European Parliament and the Council of Europe Parliamentary Assembly.

We investigate the evidence of the implications of the criminalisation of the purchase of sex for trafficking in Sweden. The criminalisation of the purchase of sex in Sweden was intended to reduce prostitution as part of a wider strategy to reduce gender inequality. It is often held to achieve this, even though claims have been made about its impact on those selling sex. It is an extra step to consider whether the policies to reduce prostitution lead to a reduction in trafficking. The criminalisation of the purchase of sex might reduce trafficking by reducing prostitution and thereby the demand met by traffickers for prostitutes. There are, thus, two steps to the argument: the

impact of criminalising the purchase of sex on reducing prostitution, especially the forms of prostitution most associated with trafficking; and the impact of the reduction in these forms of prostitution on trafficking.

A key claim as to the effectiveness of the law 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 continued at similar levels or increased. 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. An alternative approach to measuring changes has been to focus on men's willingness to buy sex. Indeed, this methodological focus better reflects the concern to 'reduce demand'. The proportion of men reporting that they have paid for sex decreased substantially after the law came into effect, with some studies suggesting that this fell by almost half, though the evidence base as to the exact proportions is contested. However, even the critics acknowledge that there are fewer customers. There are significant indications that Sweden has a smaller market for commercial 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 that the scale of the Swedish sex market has been limited at minimum and reduced at best with probable consequences for a reduction in trafficking. Although caveats need to be added to this statement since we still lack robust data on prostitution and trafficking, this is the best judgement when assessing the available data.

Rethinking 'prostitution regimes'

The analysis of prostitution offered here has made distinctions between regulations centred on the seller of sex, the exploiter of prostitution, and the purchaser of sex. We find that in Europe (EU and EEA) in 2015, there is little criminalisation of the selling of sex; criminalisation of the exploitation of the prostitution of others, with limited exceptions; and emerging criminalisation of the purchase of sex. There are very substantial similarities between EU Member States in the regulation of prostitution. Insofar as there are differences between Member States, they do not map onto traditional distinctions in 'prostitution regimes', such as those discussed in Outshoorn (2004), in which prostitution regimes are dichotomised into those that are prohibitionist/abolitionist (attempting to end prostitution) and those that are regulatory (permitting and regulating prostitution) (Schulze, Canto, Mason and Skalin 2014). This dichotomy is out of date and lacks European specificity since it underestimates the extent to which most EU Member States combine the de-criminalisation of the selling of sex, the criminalisation of profiting taking from the prostitution of others, some criminalisation of the purchase of sex, and the complex mobilisation of welfare and exit services for prostitutes. The extent to which the selling of sex has been decriminalised across Europe between 1950 and 2000 has been underestimated. This process of decriminalisation has taken place earlier in some EU countries than others; so it is only recently that it can it be described as common to almost all the EU. This contrasts with the United States and much of the rest of the world, where the sale of sex remains a criminal offence (albeit with much variation in the enforcement of such laws). This majority European model might be summarised as 'tolerate and contain'. It allows prostitution but does not encourage it; it attempts a balance between the right to do what you want with your body while discouraging institutions that have an interest (profit) in encouraging the prostitution of others. It includes increasing access to welfare and exit services and a decrease in gender inequality, including in employment. This majority EU model is flanked by two variations. One extends the criminalisation of the purchase of sex from minors to specific circumstances such as the street and from those who have been coerced or trafficked, to all people in all circumstances. The second provides for the limited decriminalisation of some third-party profit-taking from prostitution. Much has been made of the difference between these latter two models, and little attention has been paid to the overlaps between them and to the emerging EU majority model. The policy environment is fluid with continuing experimentation: by Germany and the Netherlands as to how far they can permit limited profit-taking without excessive exploitation and trafficking; and by other EU Member States in incremental (e.g. the United Kingdom in England and Wales), and not-so incremental (as in Sweden and the United Kingdom in Northern Ireland), increases in the criminalisation of the purchase of sex.

LAW ENFORCEMENT

Issues concerning the development and implementation of the law so as to eradicate trafficking arise throughout this study. Law enforcement, improved prosecution, and developments to better implement the legal principle of the Directive are addressed in the chapters concerning assistance to victims and reducing demand by regulating prostitution as well as in the chapter directly concerning law enforcement. Changes in the law in relation to prostitution, including those relevant to improving assistance to victims, are addressed in detail in the chapter concerning the regulation of prostitution, though they are relevant to this section, too. This section is centred on the law enforcement agencies themselves.

The study engaged with the practices of the EU Justice and Home Affairs agencies, especially: Europol, Eurojust, FRA, CEPOL and Frontex. This included a review of the materials through which they trained officers. The findings of this study are that much progress has been made since the inception of the Strategy to eradicate trafficking in human beings, particularly with regard to inter-agency cooperation and the coordination of activities. However, 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.

One route to the prosecution of traffickers requires the cooperation of the victims in the criminal justice system. A consistent finding is that trafficking in human beings is a complex and often hidden crime, difficult to detect and challenging to prosecute (although some forms such as street prostitution are not hidden from view). A major challenge is that victims of trafficking are hard to identify, fearful, and distrustful, resulting in reluctance to cooperate with the prosecution of traffickers. They may not want to risk the wrath of their exploiters, or face the possibility of being detained and eventually forced to return to their country of origin. The tension between the interests of victims and of law enforcement can be partly mitigated by the consistent deployment of an anti-trafficking strategy that is victim-centred, gender specific, anchored in human rights and child-sensitive. Victims should not be viewed only in terms of their vulnerability, but also as agents who are under very severe constraints; within those limits they still make choices and decisions.

An understanding of the gendered dynamic of their situation that informs efforts to detect, identify, and investigate the crime would improve the situation. This has several dimensions. Gender-specific language, policies, and practices should replace gender-neutral ones. While trafficking is a violation of fundamental rights, the fundamental rights framework should recognise the specificity of women's experiences, particularly of sexual exploitation and violence. The consistent application of the principle of equal treatment is needed to combat the discrimination and prejudice against women who engage in prostitution. Law enforcement officers and border guards should be trained so that they understand gender issues in general and the gender specificities of trafficking in particular. Training materials should include explicit and detailed gender components appropriate to the specific professional needs of their different groups of law enforcement officers. An example of good practice is the EASO 'Training Module on Gender, Gender Identity and Sexual Orientation'. Ameliorating deficiencies in training materials would be a relatively low-cost response to a persistent problem of the lack of specialised knowledge and experience. Improving the gender balance in decision-making would be a further step, though this would need to be preceded by the release of figures on the gender composition of JHA agency management boards and staff. JHA agencies ought to import gender expertise, either through appointing specialised officers or seconding national experts. Then gender expertise should be mainstreamed across the organisations. In order to achieve these outcomes, sufficient resources would need to be provided. It is important that the challenging circumstances of migration and security do not override the need for gender-specific engagement with the victims of trafficking.

NEW KNOWLEDGE: TECHNOLOGY

The development of the digital world poses new challenges and opportunities for combating trafficking in human beings. The online world is deeply gendered, but understanding the implications of this for trafficking for purposes of sexual exploitation is not yet well developed.

Various potential implications of emerging techniques for analysis are emerging. 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, and in some countries, those who benefit from the services of trafficked women and girls. The intersection of gender, sexual exploitation and digital technologies potentially form a distinctive nexus. This is not only the context for traffickers, but also a way of thinking about how anti-trafficking movements can fruitfully organise. Technical work on tracing traffickers' activities online using open source intelligence identifies key themes that may assist in the identification of and prevention of trafficking in 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 concern the selling of women to men for sex, though some men and boys are also advertised. 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.

The EU Cybersecurity Strategy emphasises the importance of protecting the same fundamental rights that apply offline. However, the focus on fundamental rights within the strategy is on freedom of expression, privacy and surveillance, and censorship. A much more gendered approach to cyber-enabled crime is needed within the cybersecurity policies of the EU, which recognises the way in which human dignity and trafficking are gendered and how cyberspace extends the reach of trafficking and the depth of gender-specific violations of fundamental rights.

Intersecting inequalities are as evident in cyberspace as they are in the offline world, with particular attention paid to the trafficking of children. This is partly because children are easier to detect in cyberspace (through image and text analysis) and also because the crime of sexual exploitation is clearly defined in relation to minors as consent is not possible. Technology enabled practices to prevent the trafficking of children for the purposes of sexual exploitation are, therefore, far in advance of such practices as they might apply to women. The intersection of age and gender could be reframed as a positive element if the age of prostitution was raised. If, de facto, it was not possible for women to consent to sex work before the age of 21, technologically enabled tools designed for minors could be extended to include young women.

Gender expertise is underdeveloped in the technology field. Technology is often assumed to be gender neutral despite the fact that there are known gender differences in access to and use of cyberspace and also that traces of actions and communications left in cyberspace are gendered in some contexts. The gender balance in decision-making that contributes to policies and expert groups on cybercrime, cyber-enabled crime, and cyber security is not transparent.

COHERENCE AND COORDINATION

Trafficking in human beings has many causes. Hence, there are many points of intervention that can contribute to its eradication. It is therefore important to engage with the issue of anti-trafficking in a range of policy fields. **This dispersal of the causal pathways and interventions introduces a source of both potential vulnerability and potential strength into the EU Anti-Trafficking Strategy. It is a source of vulnerability if the actions needed for anti-trafficking lose profile and priority in the context of competing demands on resources. It is a source of strength if the multiplicity of actors and resources in the EU were all to be brought to bear upon this issue**. In order to ensure that it is a source of strength rather than of vulnerability, it is important to address the coherence and coordination of EU policy-making in this area. The EU seeks to achieve coherence and coordination through the use of 'strategies' rather than the use only of 'actions'. It is through the development of strategies that priorities are established for the use of the resources of the EU. So it is to an analysis of EU strategies that we now turn. Do these EU strategies effectively embed the requirements of eradicating trafficking in human beings? In what way does making the gender dimension visible assist the development of EU strategies? How might better implementation of existing principles of gender equality be more successfully achieved?

There are several potentially relevant strategies in addition to the anti-trafficking strategy. These include the strategies for: Security; Equality between Women and Men; 2020 Economy; Cybersecurity; Migration; and Human Rights and Democracy. These could include components that make more explicit the significance of implementing EU principles and policies for gender equality.

Strategy on Security: Trafficking is part of the EU Security Strategy. It could be more effective if the gender dimension is given priority during its implementation. This might mean including a 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 review could include: compliance with EU values and laws on gender equality in addition to fundamental rights; inclusion of gender balance in decision-making as a component of the concept of 'transparency, accountability and democratic control'; and ensuring that all data collected is gender disaggregated.

Strategy for Equality between Women and Men: Further development and resourcing of the EU Strategy for Equality between Women and Men (COM(2010) 491 final) could support the reduction of trafficking, since the interconnected nature of the forms of gender inequality that contribute to trafficking in human beings requires an integrated strategy to achieve gender equality. Strategies and actions to measure and reduce violence against women could explicitly include reference to trafficking in human beings, especially for purposes of sexual exploitation.

Strategy on Economy: Reducing the gender gaps in employment is important for reducing vulnerability to and exit from trafficking as well as for economic growth that is smart, inclusive, and sustainable. The inclusion of gender equality as an explicit goal of the EU Economic Strategy (COM(2010) 2020 final) is important. Further, within the industrial strategy prostitution should never be treated as an area for economic growth, since it harbours trafficking.

Strategy on Cybersecurity: While the current European cybersecurity strategy (JOIN(2013) 1 final) does include reference to fundamental rights, including freedom of expression, it does not explicitly include those aspects that have a gender dimension. It would be improved by implementing EU goals to promote human dignity and gender equality, thereby facilitating recognition of the way that deep violations of human dignity are intrinsic to trafficking for purposes of sexual exploitation.

Strategy on Migration: Ensure that anti-trafficking is given greater priority in the EU Strategy on Migration (COM(2015) 240 final), so as to facilitate the engagement of victims in the prosecution of traffickers, by reform to rules on residency of victims of trafficking. Address the abuse of self-employment (bogus self-employment) in the employment of mobile labour from new EU Member States, to avoid local labour standards and employment obligations, recognising that bogus self-employment is often used in migrant labour domains most prone to trafficking, including prostitution, food production and agriculture, and domestic labour. Add prostitution and sexual services to the list of services not included in the scope of the EU Services Directive (2006/123/EC).

Action Plan on Human Rights and Democracy: 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, since improving the democratic participation and economic independence of women and girls in 'source' countries aids the prevention of trafficking.

11. Recommendations ([145])

INTRODUCTION

The purpose of the 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 EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims in the context of the EU Strategy towards the eradication of trafficking in human beings.

In this section, we draw on the findings of the study in order to make recommendations to improve the implementation of the EU Strategy to eradicate trafficking in human beings. It includes recommendations for the refinement and better mobilisation of legal and policy instruments concerning anti-trafficking and gender equality.

The division of responsibilities between the Member State and EU level is articulated through the principles of subsidiarity and proportionality, which vary according to policy area as laid down in the Lisbon Treaty (Treaty on the Functioning of the European Union). We note that 'trafficking in human beings' is a criminal offence at the EU level. **We note that the regulation of 'prostitution' is regarded as a matter for Member States, while the 'exploitation of the prostitution of others' is included in the definition of trafficking in the EU Directive. The following recommendations are oriented towards the EU level, but sometimes pertain to Member States.**

We have two general recommendations in addition to ones that are specific to the Strategic Priorities. **We recommend a fuller implementation of the legal principle of equal treatment of women and men in the sale and distribution of goods and services in the provision of services needed by victims of trafficking.** These needs of victims of trafficking are gender-specific since women are, more often than men, the victims of trafficking for purposes of sexual exploitation. We recommend stronger promotion of the mainstreaming of gender equality into those aspects of normal policy-making that are relevant to anti-trafficking. This includes the use of gender expertise and gender balance in decision-making. These EU gender equality principles should underpin actions in the field of anti-trafficking.

VICTIM ASSISTANCE

1. Ensure **gender-specific provision of specialised services to victims of trafficking** that is proportionate to their needs, which are different according to the form of trafficking to which they have been subjected and, hence, gender specific.

2. Ensure **procurement and funding for services to victims of trafficking prioritises delivery by user-led interventions organised by and with victim-survivors of trafficking and sexual violence**. This will improve gender balance in decision-making, ensure equal treatment of victim-survivors, and improve the social conditions of excluded communities in Member States. Provide core, sustainable funding for self-organised groups of trafficked women and ensure they are included at all levels in anti-trafficking policy-making and interventions.

3. Ensure **adequate funding for independent NGO**, gender-specific refuges to adequately meet needs at all points of the victim pathway in destination countries and to work preventatively in relevant source, transit, and destination countries.

4. Extend **exit provision and protection for young victims trafficked** for sexual exploitation up to the age of 21 to minimise harms, and prevent re-trafficking and secondary victimisation.

([145]) Sylvia Walby

5. Member States should **extend independent legal provision to victims and witnesses of trafficking for the purposes of sexual exploitation** (and other forms of violence against women) so that they are provided with representation in Court processes in accordance with the Anti-Trafficking Directive.

6. **Improve the process of identification of victims of trafficking** by establishing an independent complaints mechanism and right of appeal with regard to the National Referral Mechanism decisions.

7. **Recognise the gender-specific longer recovery time from the harms of trafficking for purposes of sexual exploitation** as compared with other forms when Member States set limits on victim support. This is likely to be longer than the minimum standard of the 30-day reflection period in the Council of Europe Convention on action against trafficking in human beings.

8. Ensure **access by victims of trafficking for sexual exploitation (who are disproportionately female) on equal terms with others,** to welfare, social protection, health, criminal justice services and financial services. Ensuring this access for victims of trafficking will require equal access to these services **by all prostitutes/ sex workers** in order to ensure that this reaches victims of trafficking for purposes of sexual exploitation.

9. Provide **services to assist reintegration into the economy by victims of trafficking and women who wish to exit prostitution**, funded where appropriate by the European Structural Funds under the principle of mainstreaming gender equality into the allocation of funds for social inclusion.

10. **Reduce gender inequalities in employment**, so that it is easier for women to exit from situations of trafficking into sustainable livelihoods. This is an additional reason to support the implementation of already existing EU law and policy on equality between women and men in employment as well as its further development.

11. **Reduce the gendered gap in regulatory support between those working as non-standard and informal workers including pseudo or bogus self-employment** (disproportionately women) with those with regular employment contracts (disproportionately men). In the case of self-employment, this involves considering the development of equivalents to the laws on posted workers and temporary agency workers (predominantly men) for the self-employed (predominant in a number of feminised areas such as eldercare, domestic work, and prostitution). This involves both better implementation of existing laws (if the self-employment is bogus, this should be addressed) as well as the development of laws to fill the gendered regulatory gap in the EU employment directives. This draws on the legal principle of equal treatment of women and men in employment.

LAW ENFORCEMENT

1. Law enforcement in the EU should **develop and then mainstream gender expertise** into their activities. Examples are offered that concern the EU's Justice and Home Affairs Agencies.

2. **Gender-specific language, policies, and practices should replace gender-neutral ones**. While trafficking should be understood as a violation of fundamental rights, the fundamental rights framework must make more room for the recognition of the specificity of women's experiences, particularly in terms of sexual exploitation and violence.

3. Consistently **apply the principle of equal treatment** in order to combat the discrimination and prejudice against women who work, or are thought to work in the sex industry. Law enforcement officers and border guards should be trained to abandon prejudicial attitudes and to offer women access to support services on an equal basis regardless of the specific nature and circumstances of the work they perform.

4. EU Justice and Home Affairs (JHA) Agencies **should either design specialised gender curricula (following the example of EASO) or incorporate explicit and detailed gender components into their existing materials** on trafficking in human beings, according to the specific professional needs of their target groups. This would help promote a set of shared standards and understandings in a complex and sensitive area where many law enforcement officers do not have any alternative opportunity to acquire gender competence. Promoting such knowledge could lead to more-gender sensitive practice and increased numbers of specialist referrals

for potential victims of trafficking. Deficiencies in the content and reach of training have been a consistent theme in this research and ameliorating them is a relatively low-cost response to a persistent problem of lack of specialised knowledge and experience in these cases.

5. JHA agencies should **develop a sustained programme of improving gender balance in decision-making relevant to trafficking**. Figures on the gender composition of their management boards and staff should be released, followed by discussions with Member States on the benefits of equitable recruitment and promotion in law and border enforcement services. Programmes such as Europol's Female Factor should be rolled out across the most male-dominated JHA agencies on a periodic, rather than one-off basis.

6. JHA agencies ought to **import gender expertise (qua specialised officers or seconded national experts) into their everyday operations**. Such internal actors could coordinate gender mainstreaming across the organisation with more ease and familiarity than external experts and facilitate activities such as the development and roll-out of more gender-sensitive training tools. Since agencies are autonomous and diverse, the role of a gender expert requires appropriate tailoring. Concurrently, the JHA community should improve collaboration with EIGE, and EIGE should consider including trafficking for sexual exploitation within its work on violence against women.

7. The European Commission should bolster resources for the JHA agencies to enable **the appointment of gender-trained agency officers, especially in those Member States faced with increased mixed migratory flows**. Relevant stipulations should be included in a revised version of the EU Agenda for Migration. The new 'Hotspot' approach, outlined in the Agenda, should not be limited to quick processing and clearing of backlogs, but include a proportionate anti-trafficking component geared towards the effective referral of potential victims. Gender-trained agency officers, male and female, should be dispatched to support local police, to collaborate with and collect intelligence from staff at reception centres, local employers and migrants themselves. It is in the uncertain circumstances directly following arrival that many vulnerable persons, particularly women, may become exploited prostitutes or victims of trafficking.

8. The principle of gender balance in decision-making should be implemented throughout EU and Member State agencies, strategies, and plans concerned with law enforcement, criminal justice, and security.

DEMAND REDUCTION THROUGH THE REGULATION OF PROSTITUTION

While the law concerning trafficking concerns the EU level, the regulation of prostitution largely lies in the competence of Member States; hence, the following recommendations variously concern the EU level and Member State level.

1. Wherever there are legal sanctions to regulate prostitution, **the presumption should be that the burden of compliance and of sanctions should be borne first by those that take profits** (or rents or fees) from prostitution and second by those that purchase sex, avoiding wherever practical placing sanctions for non-compliance on the sellers of sex. This is to complete the ongoing shift in sanctions for non-compliance with the regulation of prostitution away from the sellers of sex towards those that profit from prostitution and those that use prostitutes; in particular, to complete the process of de-criminalising the sale of sex.

2. **De-criminalise the sale of sex.** This is widely recognised as being necessary in order to assist the victims of trafficking and other forms of the exploitation of the prostitution of others, in order to allow for the reaching of victims to provide them with assistance and to facilitate the prosecution of traffickers and other criminal exploiters. While EU Member States have largely de-criminalised the sale of sex, there are two types of exceptions to which this recommendation applies. One concerns those few countries where the selling of sex is still a criminal offence, such as Croatia. The second concerns the legal instruments used to ban prostitution in specific locations (zones, places, or times) in countries that have otherwise de-criminalised the sale of sex.

3. Establish the following as criminal offences.

    - Any taking of profit/rent/fees by third parties in sites of prostitution that are not registered/licensed (in some countries this means all third-party profits and this recommendation is little more than consolidation

of existing legal practice. In countries with a sector of legal profit-taking, this means all sites outside the legal sector and adds to the sanctions available to secure compliance with existing law, consolidating the practice of applying sanctions to profit-takers rather than prostitutes).

- The **purchase of sex from a coerced or trafficked person**. This recommendation addresses the specific request for adequate proposals in Article 23.2 of the Directive ([146]). It concerns the implementation of EU law that criminalises those that aid and abet trafficking as specified in Article 3 of the EU Directive. Due consideration in the implementation of law in the court-room should be paid to possible mitigations: where the buyer is ignorant of the fact that the person has been trafficked; and to the situation where the perpetrator may not be ignorant but recklessly disregards evidence that the person has been trafficked. This consideration would allow for appropriate levels of national interpretation of this law and for its tailored application to individual cases through court-based interpretation of these concepts. This recommendation notes two legal parallels: the use of the concept of 'reckless disregard' during the establishing of (non) consent in cases of rape and the laws that constitute as a criminal offence benefiting from the labour of people trafficked from non-EU countries ([147]).

- The **purchase of sex from those under 21, not only under 18**. This recommendation is made on the grounds that those under 21 are excessively vulnerable to illegal exploitation. It is based on lessons from Germany and the Netherlands, where this is either already in law or actively under discussion to become law.

- The **purchase of sex in those zones and locations where prostitution is legally banned under administrative, licensing, zoning or other types of law (thus shifting the burden of sanctions to secure compliance with legally instituted bans on prostitution away from the seller towards the buyer**, drawing on information from Germany and the Netherlands that the seller was sometimes still subject to sanctions in contradiction to the stated principle of the decriminalisation of the selling of sex).

- The **purchase of sex in unregistered/unlicensed sites of prostitution in those countries that permit some legally registered/licensed sites of prostitution** (countries with prostitution sectors of legal profit-taking have so far failed in their objective to move all prostitution into the legal sector despite deployment of many forms of licensing, zoning, and other administrative law. This recommendation adds to the sanctions to support the regulatory mechanisms to achieve this goal).

- The **purchase of sex in streets (on the grounds that it cannot be sufficiently monitored and regulated to prevent excessive exploitation and trafficking,** drawing on lessons from Germany and the Netherlands, in addition to other Member States).

- Member States **should consider criminalising the purchase of sex.** Although the quantitative evidence base is insufficiently developed to offer definitive conclusions (including on the issue of displacement), surveys, studies, and expert judgement of key actors suggests that criminalising the purchase of sex, in some or all circumstances, decreases the legitimacy and likelihood of men paying for sex, with probable implications for the reduction in trafficking for purposes of sexual exploitation. This is especially so in those circumstances (such as the street) most open to scrutiny.

Licensing/registration

4. Ensure that schemes for licensing/registering prostitution, in those countries that license third-party profit/rent taking, are national rather than local in scope in order to reduce displacement to other localities within the country (lessons from Germany and the Netherlands).

([146]) Article 23.2 of the Directive states: The Commission shall, by 16 April 2016, submit a report to the European Parliament and the Council, assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, accompanied, if necessary, by adequate proposals.

([147]) It is already possible for employers benefiting from using illegal labour to be prosecuted. Directive 2009/52/EC providing for minimum standards on sanctions and measures of illegally staying third-country nationals provides for criminal sanctions on employers who benefit from the labour or illegally staying third-country nationals. Directive 2009/52/EC 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals. http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32009L0052&from=EN

COHERENCE AND COORDINATION IN EU POLICY AND STRATEGIC PRIORITIES

1. Strategy on Security: Include a 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. Apply the principle of gender balance in decision-making to decision-making on security, including the 'dialogues on security' conducted by the EU with others. The review should include: compliance with EU values and laws on gender equality in addition to fundamental rights; inclusion of gender balance in decision-making as a component of the concept of 'transparency, accountability, and democratic control'; and ensuring that all data collected is gender disaggregated.

2. Strategy for Equality between Women and Men: Develop and resource the EU Strategy for Equality between Women and Men (COM(2010) 491 final), since the interconnected nature of the forms of gender inequality that contribute to trafficking in human beings requires an integrated strategy to achieve gender equality.

3. Strategy on Economy: Include gender equality as an explicit goal of the EU Economic Strategy (COM(2010) 2010 final) since reducing gender inequality in the economy assists the exit of women from trafficking and exploitative forms of prostitution; within the industrial strategy ensure that prostitution is never treated as an area for economic growth since it does not provide high quality jobs.

4. Strategy on Cybersecurity (JOIN(2013) 1 final): 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.

5. Strategy on Migration: Ensure that anti-trafficking is given greater priority in the European Agenda on Migration (COM(2015) 240 final), so as to facilitate the engagement of victims in the prosecution of traffickers, by reform to rules on residency of victims of trafficking. Address the abuse of self-employment (bogus self-employment) in the employment of migrant labour from new EU Member States, to avoid local labour standards and employment obligations, recognising that bogus self-employment is often used in migrant labour domains most prone to trafficking, including prostitution, food production and agriculture, and domestic labour.

6. Action Plan on Human Rights and Democracy: 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, since improving the democratic participation and economic independence of women and girls in 'source' countries aids the prevention of trafficking, also in line with the new framework for Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations (2016-2020).

KNOWLEDGE

New technology

1. Develop gender expertise in relevant cyber technologies. Develop and fund a research programme that addresses the use of electronic media in relation to trafficking for purposes of sexual exploitation. This should include how to best identify the traces left by traffickers, including their movements of illicit funds, in order to support law enforcement agencies. It should include practices for the better identification of victims and to discover the best ways to support those resisting trafficking.

2. Identify the gender-specific aspects to the cyber-enabling of trafficking in human beings. Improve the understanding of intersecting inequalities, including that of age. Support the policy of no consent to prostitution before the age of 21, which would enable the extended deployment of technology tools that have already been developed in relation to minors to more women (and men).

3. Improve the gender balance in decision-making in cybersecurity matters. This requires establishing the exact gender composition of relevant organisations and committees followed by the establishment of a programme to address it.

4. Improve collaboration between those with gender expertise in trafficking in human beings, law enforcement, and cyber security experts. Develop a European coalition of stakeholders, which includes financial expertise, to combat the commercial viability of trafficking for purposes of sexual exploitation.

5. Include a gender dimension to the EU Strategy on Cybersecurity (JOIN(2013) 1 final). Include explicit reference to gender equality and to human dignity alongside reference to other forms of fundamental rights already present so as to ensure that the depth of violations of fundamental rights associated with trafficking for purposes of sexual exploitation are addressed as priority concerns.

MEASURING TRAFFICKING

1. **Maintain and enhance the Eurostat programme of statistics on trafficking in human beings, including its gendered dimensions.**

2. Member States **should collect and provide data on victims and traffickers using the definition of trafficking in the Directive.** These statistics should always be disaggregated by gender, by whether the individual in question is a minor, and by form of trafficking. In order to assist the collection of standardised data on identified and presumed victims, a template should be developed for use by Member States, since these data are not yet routinely and consistently provided by Member States.

3. Implement, more effectively, the development of **the National Rapporteur position or an equivalent mechanism responsible for the collection and aggregation of this data from relevant administrative bodies and its communication to the EU**.

4. Include **trafficking in human beings and its gender dimension within the frameworks for the measurement of violence against women and gender equality,** including those under development by other Commission agencies, such as EIGE.

5. More effectively disseminate and implement **the conclusions and recommendations of EU funded projects that develop measurement methodologies**. The mechanism for sharing and implementing 'lessons learned' from funded initiatives should be more fully developed.

6. **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 the 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 UNODC and ILO.

7. Develop **and fund actions into what works to prevent trafficking in human beings that pays appropriate attention to its gender dimension**. This should include the relationship between trafficking in human beings, prostitution, and the exploitation of the prostitution of others in the context of unresolved debates concerning the way reducing demand may reduce trafficking.

8. Develop **and fund data collection and research on prostitution across the EU-28 which is equivalent to that produced by Eurostat for trafficking in human beings,** in order to be able to analyse the relationship between prostitution and trafficking. This should include large-scale surveys and studies to provide data that is comparable over time and cross-nationally.

9. Identify **a position in each EU-28 Member State to hold responsibility to ensure data protection requirements in relation to trafficking and prostitution are met**, but do not become a barrier to data collection and analysis.

12. Annex: Relevant law and policy instruments

United Nations

Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. 1949. 96 UNTS 271, opened for signature 21 March 1950, entered into force 25 July 1951. Available at: https://treaties.un.org/doc/Publication/UNTS/Volume %2096/v96.pdf

Convention on the Elimination of Discrimination Against Women. 1979. Available at: http://www.un.org/womenwatch/daw/cedaw/

Convention against Transnational Organized Crime. 2000. [Online]. 2225 UNTS 209, opened for signature 12 December 2000, entered into force 29 September 2003. Available at: https://treaties.un.org/doc/Publication/UNTS/Volume %202225/v2225.pdf

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. 2000. [Online]. 2237 UNTS 391, opened for signature 12 December 2000, entered into force 25 December 2003. Available at: https://treaties.un.org/doc/Publication/UNTS/Volume %202237/v2237.pdf

Council of Europe

Convention on Action Against Trafficking in Human Beings. European Treaty Series No 197. Warsaw, 16 May 2005. Available at: http://conventions.coe.int/Treaty/EN/Treaties/Html/197.htm

Convention for the Protection of Human Rights and Fundamental Freedoms. European Treaty Series No 5. Rome, 4 November 1950, as amended by Protocols No 11 and 14, 1 June 2010. Available at: http://conventions.coe.int/treaty/en/Treaties/Html/005.htm

European Union Treaties

Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community. 13 December 2007. [Online]. 2007/C 306/01. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12007L/TXT

Consolidated versions of the Treaty on European Union, [Online]. 2012/C 326/01. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:12012E/TXT

The Treaty of Amsterdam 1997. Available at: http://www.europarl.europa.eu/topics/treaty/pdf/amst-en.pdf

European Union Charter of Fundamental Rights

Charter of Fundamental Rights of the European Union. 2000. Available at: http://ec.europa.eu/justice/fundamental-rights/charter/index_en.htm

EUROPEAN UNION DIRECTIVES

Trafficking

Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1438160209126&uri=CELEX:32011L0036

Gender equality

Directive 2002/73/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions (Text with EEA relevance). Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1436864542767&uri=CELEX:32002L0073

Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1429086989424&uri=CELEX:32004L0113

Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast). Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1435216807215&uri=CELEX:32006L0054

Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1436863990864&uri=CELEX:32011L0093

Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1436864083491&uri=CELEX:32011L0099

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1436864171238&uri=CELEX:32012L0029

Data Protection

Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:l24222

Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:31995L0046

Regulation of Services

Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0123&from=EN

International Labour Organisation

Convention concerning Forced or Compulsory Labour (Entry into force: 1 May 1932). Adoption: Geneva, 14th ILC session (28 June 1930). C029 — Forced Labour Convention, 1930 (No 29). Status: up-to-date instrument (Fundamental Convention). Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312174

Protocol of 2014 to the Forced Labour Convention, 1930. Adoption: Geneva, 103rd ILC session (11 Jun 2014). P029 — Protocol of 2014 to the Forced Labour Convention, 1930. Status: up-to-date instrument. Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:3174672:NO

Convention concerning the Abolition of Forced Labour (Entry into force: 17 Jan 1959). Adoption: Geneva, 40th ILC session (25 Jun 1957). C105 — Abolition of Forced Labour Convention, 1957 (No 105). Status: up-to-date instrument (Fundamental Convention). Available at: http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312250:NO

POLICY

European Union Strategies, Agendas and Action Plans

The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016, COM(2012) 286 final. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN

Strategy for Equality between Women and Men 2010-2015, COM(2010) 491 final. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010DC0491&from=EN

Europe 2020: A Strategy for Smart, Sustainable and Inclusive Growth, *COM(2010) 2020 final*. Available at: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2010:2020:FIN:EN:PDF

Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace, JOIN (2013) 1, final. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52013JC0001&qid=1436519438894&from=EN

The European Agenda on Security, COM(2015) 185 final. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0240&qid=1436518748712&from=EN

A European Agenda on Migration, COM(2015) 240 final. Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0240&qid=1436518748712&from=EN

Action Plan on Human Rights and Democracy, 2015-2019: 'Keeping Human Rights at the Heart of the EU Agenda', JOIN(2015) 16 final. Available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/joint_communication_on_human_rights_and_democracy_en.pdf

Proposals

Proposal for a Regulation of the European Parliament and of The Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), COM/2012/011. Available at: http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52012PC0011

Proposal for a Directive of the European Parliament and of The Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, COM/2012/010. Available at: http://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX:52012PC0010

EUROPEAN PARLIAMENT

Resolutions on Trafficking

European Parliament (2010) *Resolution of 10 February 2010 on preventing trafficking in human beings* (2010/C 341 E/05). Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52010IP0018&qid=1436519839150&from=EN

European Parliament (2004) *Resolution on strategies to prevent the trafficking of women and children who are vulnerable to sexual exploitation* (2004/2216(INI)). Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1436519839150&uri=CELEX:52006IP0005

European Parliament (2014) *Resolution of 26 February 2014 on Sexual Exploitation and Prostitution and its Impact on Gender Equality* (2013/2103(INI)). Available at: http://www.europarl.europa.eu/sides/getDoc.do?type=TA&language=EN&reference=P7-TA-2014-0162

COUNCIL OF EUROPE

Monitoring documents General Reports on GRETA's activities

Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties are responsible for monitoring the Council of Europe Convention (see: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Monitoring/default_en.asp) GRETA produce general annual reports (as well as country-specific reports) which summarise their activities, as follows:

GRETA (2011) *1st General Report on GRETA's Activities*. Strasbourg: Council of Europe. Available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Gen_Report/GRETA_2011_11_GenRpt_en.pdf

GRETA (2012) *2nd General Report on GRETA's Activities*. Strasbourg: Council of Europe. Available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Gen_Report/GRETA_2012_13_2ndGenRpt_en.pdf

GRETA (2013) *3rd General Report on GRETA's Activities*. Strasbourg: Council of Europe. Available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Gen_Report/GRETA_2013_17_3rdGenRpt_en.pdf

GRETA (2015) *4th General Report on GRETA's Activities*. Strasbourg: Council of Europe. Available at: http://www.coe.int/t/dghl/monitoring/trafficking/Docs/Gen_Report/GRETA_2015_1_4thGenRpt_en.pdf

Resolution

Council of Europe Parliamentary Assembly Resolution

Prostitution, Trafficking and Modern Slavery in Europe Resolution 1983 (2014). Available at: http://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewPDF.asp?FileID=20716&lang=en

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