

An Enduring Scourge: The Evolution of Trafficking in Women for Forced Prostitution in Bosnia-Herzegovina

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Introduction

Historical Context

After the death of Marshall Tito in 1980 and the fall of the Soviet Union in 1991, the territories making up the former Socialist Federal Republic of Yugoslavia soon dissolved into civil war. Bosnia-Herzegovina (BiH) was no exception, and in 1992, a conflict involving the country's three principle national groups—Bosniak Muslims, Serbian Catholics, and Croatian Catholics—broke out. The conflict would continue for nearly four bloody years, resulting in the deaths of approximately 250,000 people and the displacement of some 2 million residents, or half the country's population.¹ The 1995 Dayton Accords, which finally brought an end to the fighting, created a unique federal structure with power split between three different "entities": the Federation of Bosnia and Herzegovina (FBiH), the Republika Srpska (RS), and the District of Brcko. FBiH is further split into ten different districts called cantons. Because each entity has its own government and civil structure, governance is thus shared by 13 political units, each possessing constitutional and legislative authority, and managed by 181 ministries.² In addition to domestic governing bodies, a large international peacekeeping and capacity-building presence remained in BiH after Dayton, with representatives from the UN,

¹ Interview with Drew Engel, Chief International Prosecutor, Organized Crime Division, Court of BiH. October 29, 2008.

² Limanowska, Barbara. *Trafficking in Human Beings in South Eastern Europe*. Geneva: UNDP, 2003. pp 105.

NATO, and the EU. Though this force has somewhat decreased over time, there are still 2,500 foreign soldiers present in the country today.³ Such a fragmented political environment and decentralized power structure make addressing a range of challenges, from the transition to a market economy to restructuring the social welfare system to addressing widespread organized crime, particularly challenging.

Human Trafficking: Disappearing, or evolving?

According to experts at NGOs, the first recorded cases of trafficking in women and girls for forced prostitution in BiH appeared in 1995, just after the signing of the Dayton Accords.⁴ For the next seven years, the recorded number of trafficking victims in the country grew rapidly, and as of October 2002, the UN Mission in Bosnia and Herzegovina (UNMIBH) suspected 227 of the bars and nightclubs dotting the country of using trafficked women as sex workers.⁵ At this time, BiH was considered both a country of origin for trafficking victims and a transit country for women from Eastern Europe and the former Soviet Union on their way to Western Europe.⁶ However, after 2002, the numbers of foreign victims of trafficking assisted began to drop dramatically; last year, the total number of victims assisted was only 41.⁷ Nevertheless, while the number of foreign victims of trafficking assisted has steadily declined, the number of domestic victims assisted has steadily risen. In this sense, last year also marked an important turning point, in that for the first time there were more documented cases of domestic

³ Friesendorf, Cornelius. "Military Support to Post-Conflict Law Enforcement: Lessons from the Balkans." Presentation to the Groupe d'Études Stratégiques de l'Université de Genève, Geneva: October 22, 2008.

⁴ Human Rights Watch, *Hopes Betrayed: Trafficking of Women and Girls to Post-Conflict Bosnia and Herzegovina for Forced Prostitution*. Washington, DC: November 2002, Volume 14 No. 9. pp 4.

⁵ Ibid, pp 4.

⁶ Interview with Bojana Jovanovic, Counter-Trafficking Program Assistant, IOM. November 5, 2008.

⁷ Furo, Peter (editor). *2007 Yearbook on Illegal Migration, Human Smuggling, and Trafficking in CEE*. Vienna: International Center for Migration Policy Development, 2008. pp 63.

trafficking, or internal trafficking, rather than trafficking across international borders.⁸

Thus, while BiH is no longer considered a major transit country or destination country for foreign women being trafficked into forced prostitution, it is increasingly becoming a country of origin.⁹ Such developments suggest that human trafficking activity has not disappeared in BiH; rather, its forms and mechanisms have merely shifted with the times.

Methods

To conduct this research, I relied upon a number of articles and reports from international organizations on trafficking in southeastern Europe. For the gathering of statistical data, the information provided by the International Organization for Migration (IOM) library in Geneva proved particularly helpful. I have also drawn heavily on a series of interviews with NGOs, law enforcement officials, and legal professionals conducted over ten days in Sarajevo from October – November 2008, as well as informal conversations I had with experts in the field during my time in BiH.

Trafficking Phase 1: 1995-2002

With an infrastructure in shambles; poor coordination between local law enforcement, national law enforcement, and international peacekeeping bodies; deplorable economic conditions; and extremely porous borders, post-conflict BiH proved fertile grounds for organized crime and human trafficking. Human trafficking routes can

⁸ Ibid, pp 59.

⁹ It is important to note that while BiH is no longer considered a transit country for women coming from Eastern Europe and the former Soviet bloc on their way to Western Europe, it is still considered a transit country for laborers coming from Turkey and China. In fact, because a visa is not required for travel between Turkey and BiH, labor trafficking from the former country through the latter is a particular problem.

often be set up along the same ones used for trafficking in drugs and arms, making them relatively easy to put in place. Because trafficking in persons is a lucrative business (not only could “owners” charge clients for sexual services provided by the women, but they could also sell women to individuals for between US\$3,000 and US\$6,000)¹⁰, and because hundreds of bars and brothels sprung up to service the large peace-keeping forces and contractors brought to the country, it is of little surprise that numbers of foreign trafficking victims identified rose sharply from 14 in 1999 to 275 in 2002.¹¹ However, local NGOs put the actual number of victims at an even higher tally, estimating as many as 900 nightclubs involved in prostitution with between 4 and 25 women and girls employed in each nightclub—roughly 25 percent of whom they believe had been trafficked.¹² Thus, some experts estimate that as many as 16,000 women and girls may have been trafficked into the region from the end of 1995 until June 2003.¹³

Victim Profile

During this period, the largest group of victims came from Moldova (44% of victims identified), while the next largest groups came from Romania (37%) and Ukraine (12%).¹⁴ The women were largely from urban areas, and while the majority had a middle school education, only a small minority had a high school education.¹⁵ Almost all left

¹⁰ HRW, pp 53.

¹¹ 2007 report from Office of State Coordinator, *Bosnia and Herzegovina: Report on Trafficking in Human Beings*.

¹² Limanowska, Barbara. *Trafficking in Human Beings in Southeastern Europe*. Geneva: UNICEF, 2002.

¹³ Mendelson, Sarah E. *Barracks and Brothels: Peacekeepers and Human Trafficking in the Balkans*. Washington, D.C: CSIS Report, February 2005. pp 9.

¹⁴ Regional Clearing Point, *First Annual Report on Victims of Trafficking in South Eastern Europe*. Geneva: IOM, 10/24/03. pp 116.

¹⁵ Surtees, Rebecca. *Regional Clearing Point Second Annual Report on Victims of Trafficking in South Eastern Europe*. Geneva: IOM, 2005. pp 141.

home on the grounds of seeking employment abroad, most often in service industries—as a waitress, domestic worker, au pair, etc.¹⁶

The Operations

As most of the victims during this period came from Moldova, Romania, and Ukraine, they were usually transported by car through Serbia, via Belgrade or Vojvodina.¹⁷ Upon their arrival in BiH, some women were sold at venues such as the Arizona Market, a model free trade space in the Brcko District that became notorious for its illicit activities—such as the sale of foreign women to pimps.¹⁸ Others were sold directly to club owners and informed that they now had to work as dancers and sex workers to pay off the “debt” they had incurred, either through their travel expenses or through their “purchase.” For most women, this meant paying off a debt ranging from 1,500 to 5,000 Deutschmarks (€769 to €2,564/U.S.\$694 to U.S.\$2,315); however, women could also be sold from “owner” to “owner,” and accounting practices on the parts of the latter were rarely fair.¹⁹ Because owners always deprived victims of their passports and other travel documents, and because victims were most often physically abused and warned that consequences would follow attempts to escape, most chose to remain in their places of captivity and hoped that the club owner would one day announce their debt paid. The number of clients women were forced to serve each night varied greatly; while the average hovered around 4 to 5 clients per night, some women were forced to serve as

¹⁶ Ibid, pp 148.

¹⁷ Surtees, pp 149.

¹⁸ Kampschor, Beth. “Bosnia’s Arizona Market Moving from ‘Wild West’ to Legitimacy.” *Balkan Times*, Sarajevo, 1/31/02.

¹⁹ HRW, pp 11.

many as 20.²⁰ The fact that local police were often among the women's clients, or seen fraternizing with owners, further enhanced victims' sense of the futility of an attempt to escape. As one experienced International Police Task Force (IPTF) human rights officer told Human Rights Watch, "The [trafficked women] do not trust the local police. Very often the local police visit the clubs. They see local police every day, and some use their sexual services sometimes for free because they have connections to the owners. So the women don't trust the local police."²¹

While estimates vary as to exactly what proportion of the clientele they made up, it is clear that the majority of the nightclubs' revenue came from their international clientele, who paid significantly higher prices for services and generally spent more money in the bars than did locals.²² While the European Union Police Mission (EUPM) maintains that only 30% of the clientele at nightclubs engaged in prostitution were internationals, NGOs counter that the proportion is closer to 50%.²³ In any event, even the most conservative estimates pinpoint international clients as accounting for 70-80% of the revenues at these institutions.²⁴ The proximity of brothels to barracks, complete with names reflecting the nationality of the nearby barracks (Liberty Restaurant and Malibu Bar near the American sector; Café Bashta and Rendezvous near the French sector), would certainly seem to indicate their target clientele.²⁵

Trafficking M.O. Part 2: 2003-present

²⁰ Surtees, pp 137.

²¹ Ibid, pp 19.

²² Limanowska 2002, pp 65.

²³ Mendelson, pp 10.

²⁴ Ibid, pp 6.

²⁵ Ibid, pp 11.

Beginning in 2003, several significant patterns in victims of human trafficking emerged. Perhaps most notably, after having risen steadily for five years, the number of foreign victims assisted dropped off significantly between 2002 and 2003, from 275 to 92—a drop of 66.6 percent in a single year.²⁶ At the same time, the number of domestic trafficking victims assisted has increased each year. There are several factors that may have contributed to the fall in the overall number of women assisted, which will be further explored later on in this paper.

Victim Profile

Certainly the most noteworthy trend in victims of trafficking has been the increased proportion of BiH nationals identified among them. While no BiH nationals were identified as trafficking victims until 2002, in 2007 39 were identified and assisted—more than the number of foreign victims assisted that year.²⁷ Like foreign victims, most of these women and girls came from urban areas, and most had attained only a low degree of education. In fact, some figures suggest that an increasing number of domestic victims not only have not received a high school education, but have not received a middle school education, either.²⁸ A disproportionate number of domestic victims are Roma, who account for only about one percent of the total BiH population.²⁹ In addition, while there is little statistical evidence to back them up, some local NGOs claim that an increasing number of victims have either mental or physical disabilities, or

²⁶ Surtees, pp 119. It is also important to remember that these statistics document only the number of victims assisted, and while they may be reflections of trafficking patterns as a whole, they are not perfectly representative of the situation. At the very least one can know that the number of victims is significantly greater than the number of victims assisted, since those assisted reported other victims being held at the locations where they were working—sometimes as many as 10 to 15 other victims.

²⁷ Interview with Larisa Klepac, Program Manager, Catholic Relief Services. November 4, 2008.

²⁸ Surtees, pp 141.

²⁹ Ibid, pp 140.

qualify as internally displaced persons (IDPs).³⁰ Finally, beginning in 2004, minors accounted for a significantly increased number of the trafficking victims identified. Through 2003, it was believed they only represented between 10 and 17.7 percent of victims. However, in 2004, minors spiked to 60.7 percent of all victims assisted.³¹ In 2007, this figure dropped to 44 percent; all minors assisted were BiH nationals.³²

The Operations

With the rise of internal trafficking, problems of border crossings and false documents have become less relevant to the issue of human trafficking for sexual exploitation, though they remain problematic in the field of human smuggling.³³ The nature of trafficking operations has also changed significantly. No longer do bars and nightclubs seem to be the venues of choice for those engaged in human trafficking; in fact, many of the clubs that once dotted the entire Bosnian countryside have closed their doors.³⁴ For example, in the notorious Arizona Market, mentioned above, not a single bar, brothel, or nightclub is still in operation.³⁵ In those venues that are still open, domestic workers seem to have replaced foreign ones.³⁶ Because these women have refused police assistance, it would seem that these bars have legitimized their operations. Instead, beginning in 2003, law enforcement, NGOs, and local experts began to notice a shift to the use of private apartments, hotels, or motels.³⁷ Women and girls are kept in

³⁰ Klepac interview.

³¹ Surtees, pp 140.

³² Furo, pp 59.

³³ Indeed, problems with highly permeable borders and underequipped crossings were much lamented by EUPM Chief Advisor Brian Donley when I spoke with him. A large document falsification operation was also quite recently uncovered. Though these are more relevant to the question of human smuggling, they are important issues for Bosnian security that merit urgent attention.

³⁴ Limanowska 2003, pp 108.

³⁵ Kampschor.

³⁶ Limanowska 2003, pp 108.

³⁷ Ibid, pp 108.

these more discreet facilities, and clients are brought to them in private taxis hired by traffickers, often after having set up an appointment via cell phone.³⁸ Such operations are much harder for the police to detect, making accurate statistical information about trafficking victims that much harder to compile. Indeed, one cannot say for certain how much of the significant drop in victims assisted can be attributed to a decrease in trafficking activity and how much can be attributed to more effective trafficking operations.³⁹

Traffickers have also begun to exert more sophisticated methods of control over their victims. More and more women are being given a small salary for their work, and some are also receiving greater freedom of movement. These, along with decreased levels of physical and sexual abuse from traffickers, create psychological pressure for women to stay in their situations and not to seek help.⁴⁰ This sort of “professionalization” of the trafficking experience may be a result of the fact that traffickers can no longer operate with the same degree of impunity as they could in the past for reasons that will be discussed in the following section. Because trafficking is quite simply not as easy as it used to be, those engaged in it may have to treat victims more carefully in order to avoid detection.

Explaining the Trends: Counter-Trafficking Efforts in BiH

Over the past eight years, significant counter-trafficking activities have been undertaken in BiH both by the international community and by Bosnian nationals. These efforts have ranged from police operations and training, to extensive new legislation, to

³⁸ Surtees, pp 117.

³⁹ Limanowska, pp 108.

⁴⁰ Surtees, pp 134.

the creation of the Office of the State Coordinator for Combating Trafficking in Human Beings and Illegal Migration, and a regularly updated State Action Plan (SAP). While some of these efforts have been successful in accomplishing their goals, others have suffered from uneven implementation, misdirected forces, and a lack of necessary funds.

Police action

In the early 2000's, police counter-trafficking efforts focused largely on bar raids, during which police would enter an institution suspected of engaging in trafficking, demand to see the travel documents of the women working there, and take into custody those unable to provide the necessary documentation or those requesting assistance. While a positive step in theory, in practice raids were often unproductive because of tip-offs given to the owners in advance.⁴¹ Perhaps the most prominent example of a police raid gone wrong is Operation Makro ("pimp" in Bosnian).

Operation Makro took place over the course of one night in early March, 2001, when local police raided 39 bars with the aim of revealing acts of trafficking, finding and prosecuting traffickers, and rescuing trafficked women.⁴² The media report released by the Office of the High Representative (OHR) on March 5, following the operation, glowed: 177 women had been "freed" from their captors, and 48 alleged traffickers were taken into custody.⁴³ UNMIBH lauded the country's law enforcement, and the operation was hailed as proof "that police training has paid off; professionalism has been enhanced; and the ability to work constructively together, regardless of entity or ethnic origin, is possible."⁴⁴

⁴¹ HRW, pp 31.

⁴² Limanowska 2002, pp 66.

⁴³ HRW, pp 59.

⁴⁴ UNMIBH press release cited in Ibid, pp 59.

However, the reality of the operation gave far less cause for celebration. Of the 177 women supposedly rescued during the operation, only 13 ever made it to the IOM shelter in Sarajevo—the rest seem to have “vanished.”⁴⁵ Furthermore, as a result of Makro, 34 foreign women and eight Bosnian nationals were charged with and found guilty of prostitution; 14 women received prison sentences; 19 were fined; all were given deportation orders.⁴⁶ On the other hand, the charges brought against BiH citizens for mediating in prostitution were all dropped due to a “lack of evidence,” even though one bar owner in Tuzla even admitted to having participated in trafficking activities.⁴⁷ Finally, there is reason to believe that the police behavior during the operation lacked professionalism, as one IPTF officer described the entire procedure as “a mess...It was a ragtag group of street police officers...The bar owners and employees stood in the hall talking to the local police...the women could not feel safe with the owners and employees socializing with the local police in the hall.”⁴⁸ Clearly, Operation Makro can be cited as an example of how counter-trafficking operations should not be carried out.

After Operation Makro, there were some attempts to set up a more focused counter-trafficking team. In July 2001, UNMIBH launched the UN Special Trafficking Operation Programme (STOP), which aimed to provide more effective direct action against traffickers. The STOP teams were controlled by the IPTF, who worked with local police to coordinate raids. The spike in the number of victims identified and assisted in 2002 (275, up from 200 the year before) may be partially attributed to increased bar raid activity by the STOP teams, whose raids also led directly to the closing of some bars and

⁴⁵ Ibid, pp 59.

⁴⁶ Limanowska 2002, pp 66. The deportation orders were of little matter, since there was no implementation mechanism to ensure that they were carried out.

⁴⁷ HRW, pp 60.

⁴⁸ Janet Bailey, IPTF commander, Banja Luka, cited in *ibid*, pp 29.

nightclubs beginning in the second half of 2001.⁴⁹ Likewise, the decline in victims assisted in 2003, to 92, may also be partially attributed to a decrease in STOP activity as the IPTF formally dissolved in December 2003. Not only did this transition lead to fewer bar raids in the first several months of 2003, but it also marked a decided change in tactics, with police now favoring more systematic and time-consuming investigations.⁵⁰ Though such investigations yield the discovery of fewer victims in the short run, they should theoretically lead to more convictions of traffickers in the long term.

In addition to increased police efforts, two new law enforcement agencies were created that could have had an effect on trafficking operations. The State Border Service (SBS) was set up in 2000 to begin handling BiH's border security; by 2005 it had taken over control of all border zones, airports, and river crossings from international peacekeeping forces and reported "significant progress" in its efforts to halt traffickers, though the possibility of new routes by traffickers makes it hard to say precisely how much tighter the borders have been made.⁵¹ The State Investigative Protection Agency (SIPA) was set up in 2004 as an information conduit for all domestic law enforcement agencies and some international law enforcement agencies. While SBS has jurisdiction over all borders and areas within 50 kilometers of a border, SIPA has jurisdiction over the entire country and is heavily supported by EUPM forces.⁵² Within SIPA, Special Teams for the Fight against Trafficking in Human Beings and Sexual Offenses have been formed, as well as a witness protection unit. SIPA has reported some success in uncovering trafficking operations with tips from the nation-wide 24-hour crime hotline

⁴⁹ Surtees, pp 117.

⁵⁰ Ibid, pp 2.

⁵¹ Jozo Corluka interview, World Learning/Star Alliance report, *Community Mobilization in Prevention of Human Trafficking*. Sarajevo: 2005.

⁵² Interview with Brian Donley, Chief EU Advisor to SIPA, November 5, 2008.

set up in 2004.⁵³ However, its witness protection unit has yet to exercise an operation, and thus far has only transported victims to courthouses to give testimony, not out of the country or to permanently safe locations.⁵⁴

Legislation

Since 2000, the BiH government has passed a flurry of legislation dealing with human trafficking issues. In addition to its own Constitution, which provides for a range of rights including not to be subjected to degrading treatment and not to be held in slavery or servitude or perform forced labor, BiH has also ratified a number of important international treaties, including the 2000 Convention Against Transnational Organized Crime with Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (better known as the Palermo Protocol) and the 2005 European Convention on Action against Trafficking in Human Beings. Perhaps most significantly, trafficking in human beings was specifically addressed in the new Criminal Code of Bosnia-Herzegovina implemented in 2003. The Criminal Code, in Articles 186 and 187, has provisions against trafficking in persons for the purpose of sexual exploitation, labor exploitation, and organ donation, as well as specific consequences for those who traffic minors. Importantly, whether or not the victim originally consented to the exploitation (many trafficking victims accept offers of “work” without realizing the true nature of the situation) and whether or not the victim had already been engaged in prostitution is of no relevance when charging someone with trafficking in persons—mechanisms that are in accordance with international law. Witness Protection Program legislation was adopted in the second half of 2004, as well as a Law on the Movement and Stay of Aliens and

⁵³ Ibid.

⁵⁴ Ibid.

Asylum that included provisions for temporary residence on humanitarian grounds. Both pieces of legislation are important instruments in building cases against traffickers.

State Action Plans

Beginning in 2001, BiH began to adopt a State Action Plan (SAP), which it regularly updates, with the aim of coordinating administrative, legislative, and law-enforcement efforts to combat human trafficking. The first SAP, which was in effect from 2001 to 2004, set a number of goals, including the establishment of a uniformed state border service, legislation reform on both the state and entity levels, activities towards capacity building of relevant professional staff, and awareness-raising among the general public about human trafficking.⁵⁵ Though it took some time to begin the actual implementation of the Plan, by the time the second SAP came into effect, the SBS and SIPA had been established, Articles 186 and 187 had been written into the Criminal Code, the STOP teams had led to the closing of numerous bars and brothels, and the public discussion about human trafficking had begun to spread outside the large cities and into the countryside.⁵⁶ Furthermore, in 2003, the BiH Council of Ministers established the Office of the State Coordinator for Combating Trafficking in Human Beings and Illegal Migration as the primary body responsible for overseeing the implementation of the SAP, along with the “State Group,” which includes representatives from relevant ministries and law enforcement agencies.

The second SAP, which came into effect in 2005 and lasted through 2007, was built around five core areas: creating coordinated systems of support throughout the government, prevention of trafficking, protection of and assistance to victims,

⁵⁵ Second State Action Plan, pp 4.

⁵⁶ Klepac interview.

prosecution of traffickers, and internal cooperation between all principle stakeholders.⁵⁷ More specifically, the second SAP placed an emphasis on awareness campaigns in the form of posters, leaflets, and television/radio spots, changes in high school curriculums to include information about trafficking, the development of witness protection programs and the creation of a procedure for dealing with victims of internal trafficking, the creation of an officer manual (or rulebook) for dealing with victims of trafficking known as the Vlastic procedures, and an increased emphasis on international cooperation. The Office of the State Coordinator worked on these projects in cooperation with a number of other actors. For example, beginning in 2004 Catholic Relief Services (CRS) began working to raise awareness among local priests and parishioners; beginning in 2005, the IOM took charge of launching a massive public awareness campaign.⁵⁸ Additionally, CRS has also been active in the creation of a high school curriculum on trafficking and, in September 2008, received a USAID grant to help speed its development. However, curriculum changes pose particular difficulties, as there are thirteen different Ministries of Education in BiH, and curriculum changes must be approved by each one individually.⁵⁹ The rulebook for dealing with victims of trafficking has also had some implementation problems, as the Vlastic procedures are currently viewed more as guidelines to be considered, rather than as hard and fast procedures to be followed.⁶⁰

The current SAP, which will be in effect until 2012, is based on the same five core areas as the last SAP. However, this SAP includes some important additional goals.

⁵⁷ Third State Action Plan, pp 4.

⁵⁸ Klepac and Jovanovic interviews. Efforts on the part of CRS were greatly enhanced by the fact that 2004 was also the year the Holy See issued a counter-trafficking strategy after holding a conference in which the Vatican proclaimed human trafficking to be one of the worst human rights violations known today.

⁵⁹ Klepac interview.

⁶⁰ Jovanovic interview.

With regards to prosecution of traffickers, the current SAP not only emphasizes the need to increase the number of perpetrators prosecuted, but also acknowledges the need to match the severity of traffickers' sentences with the severity of their crime.⁶¹ (At this time, convicted traffickers do not receive very severe sentences—an issue which will be discussed in the next section of this paper.) The third Plan also acknowledges the external factors that make some women particularly vulnerable to trafficking, including “domestic violence, gender inequality and gender based violence, violence against children, poverty, poor economic and social position of minorities, especially Roma; and still...internally displaced persons and refugees.”⁶² The present Plan makes the important connection that part of combating trafficking means combating the factors that contribute to its existence, and thus pledges support for programs fighting these other social ills, as well. Recognizing the desperate need for improved, systemized information on trafficking operations, the third SAP also calls for the creation of a database within SIPA that would harmonize the information gathered on all identified victims of trafficking and their experiences.⁶³ Shortcomings in the services currently provided to victims are also acknowledged, such as the long periods victims must wait to give testimony against their traffickers, the inadequacy of present repatriation measures, and the lack of free healthcare available. Plans to remedy each of these inadequacies help to form the SAP. Finally, the need to move from reliance on international donors to sustainable forms of funding is discussed, and the Plan pledges to find sustainable forms

⁶¹ Third State Action Plan, pp 16.

⁶² Ibid, pp 11-12.

⁶³ Ibid, pp 22.

of funding for counter-trafficking programs and victim assistance mechanisms and donor funds continue to be withdrawn from the country.⁶⁴

Obviously, the third SAP is ambitious, and one wonders where the already cash-strapped Office of the State Coordinator will find the funds to implement all of its goals. However, the implementation of even some of the above proposals would mark important steps in BiH's counter-trafficking efforts, and the Plan's open acknowledgement of past failures and the need for development of sustainable programs are to be commended.

Prosecutions

Despite the addition of Articles 186 and 187 to the Criminal Code, a search of the available indictments in the State Court's Organized Crime Division's records since 2003 yielded only two cases in which those articles had been used. Trafficking cases can be difficult to build or prove; instead, those who may likely be in the process of trafficking in persons are charged only with smuggling.⁶⁵ Furthermore, because the entity codes do not include provisions for trafficking in persons, traffickers brought before those courts are charged with other offenses, most often forced prostitution.⁶⁶

The transition to a criminal justice system that mirrors the American one, with investigations led by the prosecutor, as well as the presence of international prosecutors and judges, have also been important factors to consider. Despite numerous training sessions for judges and prosecutors overseas, some confusion remains as to how to navigate the new system, which can lead to gaps in evidence for cases that are

⁶⁴ Ibid, pp 11.

⁶⁵ Engel interview. Often, trafficking victims have agreed to use traffickers' "services" to cross borders and obtain a certain employment situation, without realizing that the employment promised does not actually exist, and that they are instead en route to an exploitative situation. However, the human smuggling cases in BiH are not of great relevance to this paper, as they are most often dealing with Turkish and Chinese migrants headed for manual labor, rather than prostitution, situations.

⁶⁶ Interview with Barbara Carlin, Resident Legal Advisor, Office of Overseas Prosecutorial Development Assistance and Training. November 5, 2008.

subsequently overturned.⁶⁷ The presence of international judges and prosecutors has been introduced to help with this transition, as well as to keep the courts free from suspicion of nationalist sympathies and protect national personnel from threats and corruption.⁶⁸ International prosecutors have pushed for the prosecution of the heads of criminal organizations, rather than their minions or those who execute operations.⁶⁹ These cases, however, are more difficult and time-consuming to build, another factor that may contribute to a low number of prosecutions.

Explaining the Trends: External Factors

In addition to efforts on the part of the BiH government, external factors have also affected the human trafficking situation in the country. For example, regional developments have impacted the routes traffickers use. To view the situation from an economic perspective, the supply and demand factors for prostitution have shifted. Understanding the principle trends in trafficking in BiH—the decrease of foreign victims, the increase of internal victims and victims who are minors, and the move away from large brothels and towards more private facilities—requires consideration of these developments.

Romania and Bulgaria: EU accession

As previously discussed, when trafficking of foreign women into BiH was at its height in the late nineties and early '00s, most victims were of Moldovan, Romanian, or Ukrainian origin. The principal trafficking routes thus began in Romania, continued through Serbia, and then came to BiH, where women would either be forced into brothels

⁶⁷ Donley interview.

⁶⁸ Engel, Carlin interviews.

⁶⁹ Engel interview.

or trafficked on into Western Europe as criminals took advantage of BiH's weak border controls.⁷⁰ However, when Romania and Bulgaria acceded to the EU in 2007, these routes changed. For while borders between Romania and Serbia became more tightly controlled in the years leading up to accession as Romania brought itself into line with EU standards, crossing the Romanian border directly into Hungary, an EU country that is party to the Schengen agreement, became far simpler. As of January 1, 2007, Hungary and Romania commenced one-stop border checks, decreasing the barriers through which traffickers would have to pass on their way into Western Europe.⁷¹ Thus, there was less of a need to take the extra detour through BiH; Western Europe had become more easily accessible through other means.⁷²

Increased vulnerability of Bosnian women

While the economic and social situation in post-conflict BiH have been challenging for all the country's citizens, women have been particularly impacted by the post-conflict tremors. The transition from a socialist to a market-based economy has led to robust economic growth since the end of the war, but has not translated into increased levels of employment across the country. However, men are often given priority for what jobs are available, both as part of efforts to take care of war veterans and because, despite its legislation on gender equality, BiH remains a very male-driven society in which jobs are often handed out based on cronyism or mob connections.⁷³ Even as BiH reported a reduced unemployment rate in the first months of 2008, women's unemployment rates

⁷⁰ Jovanovic interview.

⁷¹ *People's Daily Online*, "Hungary, Romania to introduce one stop checks on border." December 28, 2006. http://english.peopledaily.com.cn/200612/28/eng20061228_336335.html.

⁷² *Ibid.*

⁷³ Interview Dubravka Kovacevic, Regional Director, CARE International. November 3, 2008.

rose, and for the first time women represented over half of the unemployed in BiH.⁷⁴ The Law on Gender Equality, which was passed in 2005, has not been equally implemented throughout the country. Even though each municipality is required by the legislation to have a gender center that promotes women's empowerment, many do not, either because of a lack of funds or a lack of political will.⁷⁵ Furthermore, a disturbing new trend has been noted by NGOs operating in more rural areas. As families continue to struggle to support themselves, girls are being withdrawn from school at increasing rates and at an increasingly early age—meaning that they would not have the chance to benefit from information presented about human trafficking in new curriculums, and that they may be more likely to accept offers of employment elsewhere (since their families have already gone so far as to pull them out of school to find local employment).⁷⁶ This trend may also help to explain why an increasing percentage of trafficking victims identified, especially trafficking victims from BiH, are minors. Finally, documented cases of domestic violence have been on the rise over the past several years.⁷⁷ While this may be in part due to the fact that domestic violence was criminalized in 2002, it is still an important pattern for those involved in counter-trafficking to heed. Since 2003, a significant percentage of BiH trafficking victims have come from households with domestic violence, suggesting links between this and a woman's vulnerability to trafficking, since she may understandably be more eager to leave an abusive household.⁷⁸

⁷⁴ Mustajbegovic, Saida. "Unemployment down 0.22% in July." Seebiz.com, 10/9/2008. <http://www.seebiz.eu/en/macro/bosnia-and-herzegovina/unemployment-down-0.22%25-in-july,24784.html>

⁷⁵ Ibid.

⁷⁶ Ibid, and Klepac interview.

⁷⁷ Zenski Centar, "Victims of Domestic Violence, A New Category of Impoverished Communities." Trebinje: 2008.

⁷⁸ Surtees, pp142.

International troop levels

The importance of revenue coming from international troops and peacekeepers has been mentioned earlier in this paper; internationals are believed to have accounted for at least 70-80 percent of the revenue at the nightclubs that sprang up around their barracks. International troops from SFOR, IPTF, and NATO all operated with full immunity in BiH; even though prostitution is illegal in the country, all personnel from these groups could engage a prostitute without fear of legal consequences.⁷⁹

Furthermore, though troops were required to track other forms of organized crime, such as trafficking in drugs and arms, they were never required to examine trafficking in persons.⁸⁰ A habit of “turning a blind eye” to what troops did in their free time pervaded the leadership of these organizations; as Madeleine Rees, former representative of the UN High Commissioner for Human Rights in Bosnia, stated publicly, “They don’t want to know about it...There is this whole ‘boys will be boys’ attitude about men visiting brothels. There’s a culture inside the UN where you can’t criticize it. That goes all the way to the top.”⁸¹

In December 1995, NATO committed approximately 60,000 troops to peacekeeping operations in BiH. By 1999 this number had decreased to 33,000; in 2002 it was 16,000. By 2004 the number of personnel was down to 7,000, and today approximately 2,500 troops remain in the country.⁸² The IPTF arrived in December 2006

⁷⁹ HRW report, pp 14. Even though NATO troops are technically under the jurisdiction of their home countries and received orders to comply with local law, no troops—even those few that were sent home after it was exposed that they had engaged sexual services from trafficked women, or in some cases, had actually purchased women themselves—faced legal consequences for their actions.

⁸⁰ Mendelson, pp 17.

⁸¹ Madeleine Rees, cited in Mendelson, pp 33.

⁸² NATO website, SFOR fact page. <http://www.nato.int/sfor/factsheet/restruct/t040121a.htm>.

with approximately 1,411 inspectors and left the country in 2002.⁸³ As troop levels decreased, local human rights workers noted that bars and nightclubs began to close their doors. Rees wrote, “Doboj used to have some of the most notorious night bars in the area and it was known that there was considerable international use. SFOR left the area at the end of last year and there are now no night bars at all.”⁸⁴ She also commented, “You could plot the closure of the night bars with the removal of troops and the ending of [UN] IPTF.”⁸⁵ Such comments, along with the dramatic drop in the number of bars and nightclubs still in operation in BiH, leave little doubt that the presence of international peacekeepers contributed significantly to the expansion of human trafficking activity in the region, and that their subsequent absence has led to a drop in demand and, thus, activity.

Organized Crime: Current Role and Potential for Further Exploitation

Most human trafficking research and counter-trafficking efforts to date have approached the issue from a victim-based perspective. Statistical data centers on victim profiles; funds for counter-trafficking efforts usually go to programs supporting victim reintegration or reducing the vulnerabilities of potential victims. However, victims are only one side of the human trafficking equation. A thorough, balanced approach to counter-trafficking must also target the traffickers themselves, paying attention to the opportunities available for criminals to exploit and learning their modus operandi. With this in mind, the rest of this paper will be devoted to a discussion of who traffickers are and the weaknesses in BiH institutions upon which they can most easily prey.

⁸³ HRW report, pp 14.

⁸⁴ Cited in Mendelson, pp 12. Written in 2000.

⁸⁵ Cited in *ibid*, pp 12.

Trafficker profile

Many of BiH's most prominent organized criminals began their careers in petty crime during the war.⁸⁶ In addition to trafficking in people, organized crime networks also participate in drug trafficking, gun running, copyright piracy, illicit logging, and organ smuggling.⁸⁷ The nature of criminal networks themselves has shifted along with the nature of their modus operandi. As traffickers have been able to operate with a lesser degree of impunity, there has been a move away from the classic hierarchical, pyramid structure of organized crime groups, with a single controlling boss at the top and a number of lesser operatives below. Rather, crime networks now appear to be operating as loose networks that are extremely flexible, able to quickly move their operations according to the risks and markets in different areas.⁸⁸ The networks usually organize their operations along three levels: "high level" criminals, who set prices and finance the cost of transfer victims but rarely become involved in the actual movement of people; "mid level" criminals, who operate at strategic geographical areas (usually borders) and are commissioned by high level groups to manage operations (transportation, production of false documents, bribery of border officials); and "low level" criminals, unskilled groups in charge of transporting and delivering victims.⁸⁹ Some criminals are former or current government officials, able to use their expertise and connections to improve criminal network operations.⁹⁰ Crime groups are demonstrating increasingly professional behavior, reinvesting the profits from human trafficking operations into other trafficking

⁸⁶ Trifunovic, Darko. "Special Report: Terrorism and Organized Crime in South-Eastern Europe: The Case of Bosnia-Herzegovina, Sanzak, and Kosovo," Defense and Foreign Affairs/International Strategic Studies Association. Belgrade: March 1, 2007.

⁸⁷ Ibid.

⁸⁸ Surtees, Rebecca. "Traffickers and Trafficking in Southern and Eastern Europe: Considering the Other Side of Human Trafficking." *European Journal of Criminology*, Volume 5(1). London: 2008. pp 48.

⁸⁹ Ibid, pp 47.

⁹⁰ Surtees, pp 49.

ventures and some legitimate businesses, thus greatly expanding their spheres of influence.⁹¹

Corruption in BiH

Perhaps the most exploitable condition for traffickers in BiH is the rampant corruption that can be found at every level of the country's government and law enforcement bodies. After the war, the political vacuum in BiH was filled by "a political elite working within a tight-knit network of informal economic ties. This political elite habitually relied on ethnic divisions and enmity to disguise its corrupt profit-seeking objectives."⁹² Because of BiH's fourteen levels of government, criminals have more potential points of contact with civil servants than in more stream-lined bureaucracies.⁹³ Businesses, in order to operate in multiple municipalities and cantons, must also interface more with government officials, thus furthering corruption's potential spread.⁹⁴

Of particular import to traffickers is the corruption to be found in the judicial system and amongst police forces. Surveys have shown that both individuals and businesses perceive the judiciary as highly corrupt.⁹⁵ While Transparency International reports have stated that judicial corruption takes place most often as bribes to resolve cases before their turn or to delay rulings before appellate courts, Deputy Chief Prosecutor for Organized Crime Drew Engel suspects that some judges may, indeed, be on the payrolls of criminals in return for giving favorable rulings.⁹⁶ Other officials

⁹¹ Ibid, pp 48.

⁹² Business Anti-Corruption Portal, Bosnia-Herzegovina Country Profile. <http://www.business-anti-corruption.com/normal.asp?pageid=458>.

⁹³ Kovacevic interview.

⁹⁴ Business Anti-Corruption Portal.

⁹⁵ Business Anti-Corruption Portal.

⁹⁶ Engel interview. On the subject of Transparency International, it is interesting to note that it was forced to close down its operations in BiH because, for the first time in the organization's history, it was forced out by internal pressure.

involved in the extensive training programs which have recently been put in place for Bosnian judges have also related stories of judges receiving threats if they did not rule favorably in certain cases.⁹⁷ With regards to law enforcement agencies, both individuals and citizens perceive police as one of the most corrupt groups in the country.⁹⁸ According to Brian Donley, chief EU advisor to SIPA, many of the senior police officers are appointed by politicians. Political corruption thus seeps into these appointments, and chiefs seeking to act independently of certain politicians' wishes are immediately replaced.⁹⁹ Politicization of the police force creates more avenues of influence for criminals into law enforcement agencies, given the political ties top organized criminals possess.

Within the judicial sphere, much criticism has been aimed at the courts for handing out sentences that are too lenient given the nature of the crime. For example, the primary defendant in one of the two trafficking cases mentioned above, which involved the trafficking of eight women for sexual exploitation, was sentenced to ten years in prison.¹⁰⁰ This, however, is partly due to the nature of the criminal justice system in BiH, which simply does not impose sentences as strict as those seen in the United States.¹⁰¹ More suspect, then, has been the high rate of sentences that have been reduced or suspended, or verdicts that have been overturned, on appeal.¹⁰² Out of 77 sentences handed out in 2007, 54 were revoked or modified on appeal. Indeed, in the trafficking

⁹⁷ Carlin interview.

⁹⁸ Business Anti-Corruption Portal.

⁹⁹ Donley interview.

¹⁰⁰ Verdict, Tasim Kucevic

¹⁰¹ Carlin interview.

¹⁰² Engel interview.

case referred to above, the convictions of all those involved were later overturned on appeal.¹⁰³

Legal loopholes

When Articles 186 and 187 were added to the Criminal Code of BiH in 2003, it was considered a victory for activists and an important step in counter-trafficking efforts.¹⁰⁴ However, none of the entity-level codes include provisions for human trafficking. Instead, they must prosecute traffickers under related charges, such as forced prostitution or forgery of documents.¹⁰⁵ Even though the entity codes are required to harmonize with the state-wide code, none of the entities have made any indication that they will be including provisions for human trafficking in the future.¹⁰⁶

For cases in which people are trafficked across borders, this is not an issue, because transnational crime would necessarily come under the jurisdiction of the state court.¹⁰⁷ However, cases involving *internal* trafficking would fall under the jurisdiction of entity courts—yet there is currently no human trafficking law in these courts under which criminals could be prosecuted. With the rise in internal victims of trafficking, it appears traffickers may be emboldened by this legal loophole. When this was pointed out to a judicial advisor at the US Embassy, she confirmed that it did indeed seem as though there was a gap in the system.¹⁰⁸

¹⁰³ Source wishes to remain anonymous.

¹⁰⁴ Articles 186 and 187 criminalize human trafficking specifically; trafficking in persons was not mentioned in the state-wide code previously.

¹⁰⁵ Engel interview.

¹⁰⁶ Carlin interview.

¹⁰⁷ Engel interview.

¹⁰⁸ Carlin interview.

Police weaknesses

Though the establishment of the SBS has led to the overall strengthening of borders, this is still an area that requires much attention. SBS needs at least 500 more officers before it reaches its capacity employment; according to Schengen standards, there should be 50% more border patrol officers than there currently are.¹⁰⁹ There are still some border checkpoints that consist of little more than a single guard and a barrier, with no electronic equipment whatsoever.¹¹⁰ Such equipment could be useful in tracking who is trying to cross the border and in verifying the documentation of those who do. Though trafficking of foreign women into the country has significantly slowed, if borders are sufficiently weak then criminals may decide to reopen those transnational routes. And though border issues are less relevant for internal trafficking, the question of jurisdiction lines is highly relevant. Because there are so many separate police forces in BiH—different ones for every municipality—and because there is so little coordination between them, determining who is responsible for certain investigations often proves to be a challenge.¹¹¹

The equipment and technology available to most police officers in BiH is also insufficient to pursue sophisticated organized criminals. Neither an electronic database for intelligence gathered on organized crime nor any sort of DNA database exist in BiH. The fingerprint database is often useless, since traffickers are rarely added to it and police are often reluctant to take fingerprints of suspects unless directly ordered to do so by a prosecutor.¹¹² To bring down organized crime networks, sufficient evidence and ongoing

¹⁰⁹ Jozo Corluka, cited in World Learning report.

¹¹⁰ Donley interview.

¹¹¹ Ibid.

¹¹² Ibid.

documentation of activities are essential. Without the proper technology—and indeed, in rural areas police forces are often so strapped for funds that they can do little more than take photographs of a crime scene—the necessary caliber of proof is almost impossible to procure. This increases criminals’ ability to operate nearly invisibly, especially in rural areas where particularly vulnerable populations are to be found.

Extreme nationalism

Since the failure of Constitutional reforms in October 2006 that would have created a more centralized government and lodged more authority with state-wide institutions, extreme nationalism has once again been on the rise in BiH.¹¹³ The reluctance of politicians, even those serving at the national level, to relinquish power to state institutions—be they the police, the courts, or the legislature—keeps those institutions weak and relatively ineffective.¹¹⁴ In this sort of political environment, one that is crippled by internal squabbling and reluctance to work together, a power vacuum is created: one that may be easily filled by organized crime, especially given the degree of corruption in politics and business in BiH. Because of the country’s relatively weak economic status, individual citizens are less empowered to demand an effective and transparent civil service and more focused on making their own personal ends meet. Furthermore, the rise of nationalism decreases citizen contributions to police investigations: people are less likely to tip off those belonging to their own national group, and some criminals who began their activities during the war have maintained the image of a war hero working for the betterment of their own people.¹¹⁵ In a state where individuals are reluctant to acknowledge crime for what it is, where politicians and other

¹¹³ Milisa interview.

¹¹⁴ Donley and Engel interviews.

¹¹⁵ Corluka and Donley interviews.

civil servants are eager to keep state institutions weak and susceptible to corruption, and where social divisions are deepening, organized crime may be expected flourish.

Conclusion

Since the creation of the first State Action Plan in 2001, BiH has worked hard to combat human trafficking across its borders. Through a combination of government efforts and more favorable external circumstances, trafficking of foreign women into the country has slowed considerably. Unfortunately, this does not mean that trafficking in persons is no longer an issue in BiH. Instead, it is now time for the country to focus its efforts on combating trafficking *within* its borders. Criminals' more discreet methods, police's tight budgets, and prosecutors' already-heavy caseloads will make this difficult. The continued spread of corruption, dire economic conditions, and the further entrenchment of organized crime could make it much more so. Indeed, in a country where few matters transcend national identities and political rivalries, perhaps the key to stopping criminals and preventing human trafficking is translating the good will of those working on the issue into effective cooperation in all levels of government—the kind of cooperation that leads to good governance and a more secure environment for all the citizens of Bosnia-Herzegovina.

