

Social aspects of human trafficking

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With Italy, Belgium is one of the first Member State to have brought topic of trafficking on their national as well as the European politic agenda. The Law of 13th April 1995 already contains the most part of the provisions recommended by the existing legally binding European anti-trafficking instruments for what concerns victim's protection (reflection period of 45 days, social, medical and psychological support, permit to stay while the ongoing of the judicial procedure and a definitive one if authors are convicted, establishment of 3 shelters houses...). The last adaptation of this Law took place in 2006.

Until 2003 a parliamentary commission dedicated to THB drawn attention to the fight against THB.

Since 11.9.2001, the fight against terrorism was the new priority for the politicians as well as the public opinion.

In 2007, the fight against THB stands no more by the priorities of the National Security Plan.

However, the situation of the victims on the field is going worth.

The perspective to share our experience into a global reflection on « Social Aspects of Trafficking » arises at the right time.

1. Need of a global and multi-disciplinary approach

1.1 The Belgian system and its limits

Experience shows that THB results from many different factors. Cultural, social, economic, and judicial aspects must be included into a Human Rights based approach.

Since 1995, the Belgian approach oscillates between the will of combating the criminal networks and the will of protecting the persons they exploit.

After a reflection period of 45 days, if they accept to cooperate with the competent authorities, the persons exploited by traffickers are entitled to be recognised officially as victim of THB.

Moreover, they must stop any further contact with the sector where they were exploited.

It means for ex. that a woman exploited in the sex industry may no longer prostitute herself, even without any form of coercion.

This official statute of “victim of THB” includes:

- Judicial protection, social/medical/psychological assistance, provision of safe housing and shelter
- A residence permit which could lead to a definitive resident permit
- A legal access to the labour market

Three official shelters were set up in order to implement the Law. Moreover additional shelters are dedicated to non-accompanied under ages.

1.2.1 Limits of the system

Set up 12 years ago, the Belgian system for protection of victims of THB failed to improve the fight against THB in terms of quantity.

Less and less persons ask the special statute of victim. The Federal Police consider that only 1% of the total amount of victims are officially identified as such .Efforts must certainly be done in terms of identification.

Reasons are following :

- Trafficked persons are now more and more aware about the real finality of their stay in Belgium. On the same hand, cases of violence and custody decreases, replaced by the economic necessity. Victims of trafficking seem to accept more willingly the degrading conditions of their exploitation even if they are worse than foreseen.
- Once convicted, authors of THB are often release before the term of their penalty. For victims, witnesses in the criminal procedure, it has real dissuasive impact for further cooperation with the competent authorities.
- If they are recognised as victim of THB, persons cannot work anymore in the sector where they were exploited. For ex., a woman exploited in the sex industry cannot later prostitute herself even willingly. Very often, those persons have no other possibility to earn money. Because they often left their children/family in order to earn as much money as possible within a short time, they would rather continue to be exploited into prostitution than cooperate with the Police and be obliged to stop this activity.
- Criminal networks have adapted their modus operandi to the new Law. For ex. 10 years ago, a young Albanese prostitute was forced to pay back +/- 500 euros each day to her pimp...and keep only 10 euros for herself. Now, the same one's may keep 1500/2000 euros or more monthly... They know very well that if they cooperate with the judicial authorities they won't be able to find a job with the same range of loan. Moreover, in many cases, due to their low educational and professional level, the victims don't find a job and depend from a social welfare financial assistance which is ...600 euros /month...

- Due to repressive local policies towards street prostitution, more and more prostitutes are now « invisible » because they work in massage parlour, escort services,... They lose the opportunity to be contacted and informed by non governmental social workers, specialised police units... With the result that they are more vulnerable for the traffickers.
- victims of trafficking are exploited in different sectors of the economy : construction and agricultural sites, restaurants, phone shops, private households, prostitution... However victims of prostitution is not the major part of them, 80% of the trafficked women are exploited in the sex industry. Identified as presumed trafficked persons, they may benefit from the reflection period of 45 days, but often they disappeared a few days after their arrival in the 3 official shelters, namely because fear of reprisals and stigmatisation- Indeed, in the shelters no difference is made between the victims.

1.2.2 Focus points

In order to strengthen the fight against THB and the social inclusion of the victims, a special attention must be paid on :

- The financial aspect of THB :
 - prosecution of the authors must be dissuasive on this side as well
 - acceptable sustainability perspective for the victim
- Identification and protection of the victims: because their cooperation is still the start point of a criminal procedure-
- the target must be the traffickers rather than illegal migrant people

1.2 The relevance of the Danish National Plans of Action

Regarding what is mentioned above, some interesting aspects of the Danish NPA could be transferred in the Belgian approach:

- establishment of a general anti-trafficking hotline
- launching of national information campaign in order to inform a general public as well as trafficking victims
- monitoring mechanisms comprising all available and relevant information collected by the police districts
- a longer reflection period (45 days in Belgium)

2. The relevant elements of “the policy”

2.1 Elements of social inclusion policies have to be established prior, during and after a trafficked person has been identified as such

Due to the weakness of their illegal situation, presumed victims of THB are depending of the traffickers.

Giving them an access to emergency medical treatment, accommodation and psychological assistance could contribute to increase the willingness to cooperate with authorities.

2.2 Accordingly to the EU and Council of Europe’s approach, set up of victims protection provision that are not conditioned to potential cooperation with law enforcement agencies

In Belgium, the principle is the same, but in the facts, the shelters do not accept a presumed victim of THB without clear elements of her willingness to cooperate with authorities. Because of their need to ensure the security of the others persons living in the same shelter house and also because there is not enough place for such a policy.

2.3 Automatically referral of “presumed trafficked persons” to support structures

It supposed that an efficient network supports this.

2.4 Unconditional access to a large reflection period

It takes sometimes 1 year before a trafficked person admit that she is exploited in the sex-industry...

2.5 Cooperation agreements between law enforcement agencies and non-governmental service providers in order to transform an exploited person from a clandestine sector with an irregular status into a valid claimants for services

A great attention must be paid on the redaction of the cooperation agreements.

3. Conclusion

The transferability of the policy to other EU countries depends of their level of social welfare system and the cooperation between the different competent authorities.

Strong guarantees must be given that exchange of information will not lead to a more repressive policy: illegal migration and trafficking are two different aspects of the same reality, but cannot be linked in terms of law enforcement.

All the actors must be involved into a policy debate.

Addressing the demand seems to be necessary in order to support prevention and protection policies.