Technology Is a Double-Edged Sword: Illegal Human Trafficking in the Information Age

By

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1 An earlier version of this study was presented at the “4th Annual Conference of the European Society of Criminology, August 25-28, 2004 – Amsterdam.” It was prepared by Judge Mohamed CHAWKI (LL.B, BA, LL.M, DU). Member of the Egyptian Council of State and PhD Researcher at the School of Law, University of Lyon III, France. Dr. Mohamed WAHAB (LL.B, LL.M, MCI Arb, PhD). Lecturer at the Faculty of Law, Cairo University, Egypt and member of the UN expert panel on ODR.
“I was raised by my grandmother in Mali, and when I was still a little girl, a woman contacted me in a chat room, she then came and asked my family if she could take me to Paris to live with her. She told my grandmother that she would put me in school and that I would learn French. But when I came to Paris, I was not sent to school, I had to work everyday. In her house I did all the work, I cleaned it, cooked the meals, cared for her children and washed and fed the baby. Every day I started work before 6 Am and finished about 11 Pm; I never had a day off. My mistress did nothing; she slept late and then watched television or went out.

One day I told her that I wanted to go to school. She replied that she had not brought me to France to go to school, but to work for her and for her child.

I was so tired and run down. I had problems with my teeth; some my cheek would swell and the pain would be terrible. Sometimes I had stomachaches, but when I was ill I still had to work. Sometimes when I was pain I would cry, but my mistress would beat me. I slept on the floor, my food was her leftovers. I was not allowed to take food from the refrigerator like them, if I would take food, she would slap me. She beat me with the broom, with kitchen tools, or whipped with electric cable. Sometimes I would bleed; I still have marks on my body.

Once in 1992 I was late going to get the children from school; my miss and her husband furious with me and beat and then threw me out in the street. I had no where to go; I didn’t understand anything, and I wandered on the streets. After some time her husband found me and took me back to their house. There, they stripped me naked, tied my hands and began to whip me with a wire attached to a broomstick. Both of them were beating me at the same time. I was bleeding a lot and screaming, but they continued to beat me. Then they rubbed chili pepper into my wounds and stuck it in my vagina. I lost consciousness. Sometime later one of the children came and untied me. I lay on the floor where they had left me for several days. The pain was terrible but no one treated my wounds. When I was able to stand I had to start work again, but after this I was always locked in the apartment. They contained to beat me”  

Introduction

Trafficking in human beings is a major concern for the global community. The introduction, growth, and utilisation of information and communication technologies (ICTs) have been accompanied by an increase in illegal exploitation and abuse of technology for criminal activities. With respect to cyberspace, the Internet is increasingly used as a tool and medium by transnational organised crime. Human trafficking is an obvious form of organised crime that has been affected by the global revolution in ICT. This form of illegal trafficking is not exclusive to sexual exploitation with respect to women or children trafficking but also covers indentured servitude and child labour. This new form of slavery violates fundamental and basic human rights and freedoms, and transcends national boundaries and territories to negatively impact on numerous countries across the globe. It is estimated that over 900,000 people are being trafficked every year.3 4

This illicit activity is also connected with other forms of transnational criminal behavior such as corruption, fraud, coercion, and money laundering. Thus, there is persisting need for international cooperation, especially between countries of origin, transit, and destination to stamp out such illicit activities and protect the fundamental rights of powerless victims. Although new techniques are constantly being implemented and regulations being adopted to combat and eradicate diverse forms of human trafficking, yet ICTs are also providing new means and tools that facilitate human trafficking, especially for sexual exploitation. On such a basis, these new forms of organised crime present new challenges to lawmakers, law enforcement agencies, and transnational human rights organisations. This necessitates the existence of an

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3 In fact, the practice of sexual exploitation of women continues today. When this exploitation involves the moving of women, the practice is usually termed “trafficking in women”. This term was used as early as the end of the 1800’s. See T. KOOTSTRA, Background Study on Basic Principles for a Code of Conduct Within the Member States of the European Union to Prevent and Combat Traffic in Women, [Dutch Foundation Against Trafficking in Women], (Nov. 22, 1996) at 6. However, there has been much confusion as to exactly what is meant by it. This confusion can be seen in the various, often contradictory, definitions and concepts used in domestic law and international conventions, as well as in the on-going international debates. Ultimately, however, trafficking in women is a complex phenomenon, which touches various, often extremely sensitive issues, such as sex and money. In 1995, the European Parliament decided that “it takes the term ‘trafficking in human beings’ to mean the illegal action of someone who, directly or indirectly, encourages a citizen from a third country to enter or stay in another country in order to exploit that person by using deceit or any other form of coercion or by abusing that person’s vulnerable situation or administrative status”. See European Parliament Resolution on Trafficking in Human Beings [A4 – 0326/ 95].

effective supra-national as well as domestic mechanisms that monitor the utilisation of ICT for criminal activities and uphold essential human rights and freedoms.

Accordingly, this white paper seeks to address and analyse the following issues: Firstly, the impact of ICTs on trafficking in human beings for the purpose of sexual exploitation, and the techniques used. Secondly, an analysis of the existing legislative and regulatory framework and their efficiency in combating this form of cross-border organised crime will be provided, taking the European Union as a case study. Finally, the paper will conclude by discussing the steps that should be taken to protect human rights and minimise the risk of utilising ICTs in illegal criminal activities, especially with respect to human trafficking.
I. The Use of the ICTs in Trafficking in Human Beings

A) A Study of the Phenomenon

1) Understanding the Concept of Trafficking in Human Beings

In the debate about the definition of trafficking several questions have arisen: first, there has been considerable confusion between trafficking and smuggling; second, there has been the question whether trafficking should be considered a form of illegal migration; thirdly, there is the general problem of separating legal from illegal migration. In general terms, “trafficking” implies an illicit trade in goods, such as drugs, arms or stolen goods such as works of art. Besides illegality, trade, profit and crime, coercion, deception, violence and exploitation are all associated with the concept of trafficking in humans. The main victims of trafficking are women and children. Therefore, the phrase “especially women and children” is frequently added, in order to underline the links between trafficking and sexual exploitation, pornography and paedophilia. “Trafficking in persons” was at first defined with reference to prostitution. The international conventions of the first part of the twentieth century already provided specific definitions of “white slave traffic”, “traffic in women and children”, “slavery” and “forced labour”. Renewed debate over the precise definition of the concept of “trafficking” started, however, in the second half of the 1990s. More clearly than in the past, this debate has been linked to international migration, together with a discussion of the concepts of “illegal”, “irregular”, “unauthorised”, “undocumented” or “clandestine” migration, “smuggling” and “organised crime”, to name but a few notions which are intimately associated with “trafficking”. In addition to this confused and complicated situation, blurring the notion of ‘trafficking’ itself (described by Ronald Skeldon as a “definitional and conceptual morass”) a range of different terms has been used by different governments, agencies and other organisations and individual researchers or groups of researchers. Amongst the most influential

5 J. APAP and alii, Counteracting Human Trafficking: Protecting the Victims of Trafficking (CEPS), [2001].
6 Ibid.
7 For example, Penny Venetis defines sexual slavery as to include “girls and women [who] are not free to leave their brothels...and women who are kidnapped and sold to men as wives”. See P. VENETIS, International Sexual Slavery, 18 Women’S Rts. L.R. 267 (1997). Sexual trafficking in women is the movement of girls and
definitions, is the one offered by the United Nations protocol to prevent, suppress, and punish trafficking in persons especially women and children supplementing the United Nations convention against transnational organised crime takes the term trafficking in human beings to mean:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”. 8

We should notice that trafficking is not Smuggling. Smuggling is generally voluntary, where a person agrees to be trans-ported, usually across a border.9 The relationship between the smuggler and the person being smuggled usually ends when the border is crossed. Smuggling fees are paid up front or perhaps upon arrival.10 On the other hand, trafficking is not voluntary: trafficked persons are lied to, tricked and may be forced into crossing a border.11 The relationship between the transporter and the victim continues well after they reach the destination. The trafficker holds the victim’s documents, threatens them or

women for purposes of sexual exploitation, usually from developing countries in Asia, Latin American, and Africa [,] into the sex industry of developed countries. Sexual trafficking in women encompasses the movement of girls and women from Eastern Europe and the former Soviet Union into Western Europe’s brothels and sex business, as well as the movement of girls and women from Europe’s rural areas into its industrialized centers. International conferences and agreements addressing human trafficking goes back to the 19th century with the first international conference on the prevention of trafficking in women being held in Paris in 1896. See T. KOOTSTRA, Background Study on Basic Principles for a Code of Conduct Within the Member States of the European Union to Prevent and Combat Traffic in Women, Dutch Foundation Against Trafficking in Women, (Nov. 22 1996) at 6. The International Convention for the Suppression of the White Slave Trade, signed in Paris (May 4, 1910), was the first of its kind. This Convention defined trafficking in women as “any person who, to gratify the passions of others has by fraud or by the use of violence, threats, abuse or authority or any other means of constraint, hired, abducted or enticed a woman of full age for immoral purposes”. One of the most recent attempts at defining the concept is that of the United Nations General Assembly. The Organization for Security and Cooperation in Europe (OSCE) has defined trafficking in human beings as follows: “(1) All acts involved in the recruitment, abduction, transport (within or across borders), sale, transfer, harbouring, or receipt of persons, (2) by the threat or use of force, deception, coercion (including abuse of authority), or debt bondage, (3) for the purpose of placing or holding such person, whether for pay or not, in involuntary servitude, forced or bonded labour, or in slavery-like conditions (including forced prostitution), (4) in a community other than the one in which the person lived at the time of the original deception, coercion or debt bondage”. See The Proposed Action Plan for Activities to Combat Trafficking in Human Beings [Warsaw], (November 1999).

8 U.N. Protocol Against Trafficking in Persons Especially Women and Children, art. 3. The trafficking protocol could be considered the first international instrument to address prevention, prosecution, and protection- “the three P approaches- advocated by the United States”.


their family if they do not obey him.\textsuperscript{12} Traffickers impose large debts on victims of trafficking for ‘transportation’ and force victims to work off these debts.\textsuperscript{13} Smuggling can turn into trafficking when the smuggler uses threats of harm or coercion against the person smuggled or ‘sells’ the person and transport debt to a trafficker. It seems appropriate to view smuggling and trafficking as part of a continuum. Adam Graycar suggests that smuggling is clearly concerned with the manner in which a person enters a country, and with the involvement of third parties who assist them to achieve entry\textsuperscript{14}. Trafficking is a more complicated concept, in that it requires consideration not only of the manner in which a migrant entered the country but also their working conditions and treatment after entry and whether the migrant consented to the irregular entry and/or these working conditions\textsuperscript{15}. It is frequently difficult to establish whether there were elements of deception and/or coercion, and whether these were sufficient to elevate the situation from one of voluntary undocumented migration to trafficking. In addition, a clear separation between smuggling, trafficking and other forms of supposedly legal migration may be more apparent than real\textsuperscript{16}. Legal channels, for example for labour and settler migration, can be manipulated in order to gain entry to particular countries at particular times and can be arranged through the medium of brokers, usually in both countries\textsuperscript{17}. Trafficking might also be involved in other forms of apparently legal migration such as the movement of children for adoption and women as brides\textsuperscript{18}.

\textsuperscript{12} Supra note 6 and 7.
\textsuperscript{13} Id.
\textsuperscript{14} J. APAP and \textit{alii}, \textit{op. cit.}
\textsuperscript{15} Id.
\textsuperscript{16} Id.
\textsuperscript{17} Id.
\textsuperscript{18} Challenges to the use of criminal laws against trafficking in human beings on human rights grounds before the courts: An example of this type of challenge occurred in the UK in 1993 in the case of Nallie [1993] EC 674, House of Lords. Mr Nallie had helped some people (in fact family members) reach the UK with forged documents. They applied for asylum when they arrived. He was charged with the offence of assisting illegal entry. The court held that the offence could not apply to him because the individuals whom he assisted had sought asylum. This case highlighted the difficulty of determining responsibility of the trafficker and the victims in the light of human rights standards. If the victims apply for asylum to what extent do the courts in the Member States tolerate criminal charges against those who assisted their arrival? The issue arises not only in asylum cases but in other circumstances as well, for instance where children are brought for adoption in the Member States, or ill persons assisted to arrive and seek medical treatment (an issue currently under discussion in more than one Member State). These issues of legal challenges and the position of the court can either strengthen or weaken the legal legitimacy of the legislation on trafficking.
2) Human Factor

The use of ICTs in trafficking in human beings involves the utilisation of computers and / or networks. However, as sophisticated as technology had become and as fascinating as the science of artificial intelligence (AI) might be, we are not yet at the point where computers can-by themselves-engage in criminal activity. The machines are wonderfully compliant and totally amoral. Trafficking in human beings by the use of ICTs always involves at least one human being who plans, prepares, and initiates the criminal act.

a) Understanding the Traffickers

Traffickers may be freelancers or members of organized criminal networks. They may recruit and find potential victims through advertisements in local newspapers offering good jobs at high pay in exciting cities or use fraudulent travel, modeling and matchmaking agencies to lure unsuspecting young men and women into trafficking schemes. A trafficker may be a family friend or someone well-known within the community who is able to convince the families that their children will be safer and better taken care of in a new place. Traffickers often mislead parents into believing that their children will be taught a useful skill or trade - but the children end up enslaved in small shops, on farms, or in domestic servitude. Many types of traffickers depend on the use of a computer network to accomplish the criminals act. In such cases, technology is directly used to commit the crime.

b) The Victims

Victims include: men, women and children, although most agree that women and children are more often victims of trafficking. Generally, traffickers prey on those most vulnerable: people who are very poor, who have disabilities, the

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20 On this point see P. WINSTON, *Artificial Intelligence* [NY, Addison- Wesley], (Without data).
24 Id.
25 S. AFTERGOOD: Secrecy and Account in US intelligence, [Center for International Policy], (09 October 1999).
very young or old, people who have low literacy skills and educational levels, or people who cannot speak English. Women are lured by promises of employment as shopkeepers, maids, nannies, or waitresses but then find themselves forced into prostitution upon arrival to their destination. Many victims are unaware that their travel documents will be seized, they will have to repay an enormous debt, or that they will be subject to brutal beatings if their earnings are unsatisfactory. These victims do not know how to escape the violence or where to go for help. The victims generally avoid authorities out of fear of being jailed or deported, especially if they have fraudulent documents. Traffickers often move victims from their home communities to other areas -- within their country or to foreign countries -- where the victim is often isolated, unable to speak the language and unfamiliar with the culture. Most importantly, the victims lose their support network of family and friends, thus making them more vulnerable to the traffickers’ demands and threats.


c) The Users in ICTs Supported Trafficking

Actually, we limited the analysis of the users to collectors of child pornography, stalkers and buyers. Some of the distributors of pornography on the Internet started off as collectors, and then decided to profit from their collections. Other sex offenders such as pedophiles can engage children on many levels, from sexual talk to enticing them into physical contact. Lastly there are those who buy women and children for the purpose of sexual exploitation.

1. Collectors of Pornographic Materials

Acquiring a computer and accessing the Internet enables to get satisfaction from images and fantasy and meet a virtual community of people who reinforce their behavior. They may develop a sense of confidence in themselves for their new

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27 Also see :
29 Traffickers charge exorbitant fees for securing jobs, documents, travel and meals O. RICHARD, [Center for the Study of Intelligence, International Trafficking in Women to the United States: A Contemporary Manifestation of Slavery and Organised Crime], (1999) at 19. It is also common for the trafficked person to have to buy back their passport, Id. In one instance, a Latvian woman in Chicago paid $ 4000 in cash to buy back her passport. In another instances, Asian women reported paying between $1500 and $ 3000 for their passports. Id.
computer skills and success at building a large collection. Most start out accessing adult pornography, and then move on to child pornography. They continually move up to more sophisticated technologies and more extreme forms of sexual exploitation of children, either in seeking more harmful, extreme images, or the physical sexual abuse of children. Collecting these materials is an important psychological process and is directly connected to acquiring new technological skills. The offender becomes increasingly “empowered” by the combination of a physical collection, sexual satisfaction, computer skills and a supportive online community.

On the commercialization of pornography that is totally unregulated, both in the making as well as in the distribution, the Internet has far surpassed the consumer reach and product variation that other media forms are capable of. Michael Mehta and Dwaine Plaza (1997) argue that the untrammeled growth of prurient elements on the Internet is rapidly outmaneuvering critics’ attempts to regulate the Internet. They illustrate this process through a comparative analysis of those who post non-commercial and anonymous images against those vendors who post images for commercial and business purposes. For example, a significantly larger number of images on erotica–oriented Usenet newsgroups and Web sites come branded with a site name, or have a company logo watermarked on the image that clearly contrasts and outnumbers the unfettered images posted by users for non–commercial purposes. Further, overt symbolism translates from print pornography, and is readily employed in commercial Internet porn images as in the case of plaid skirts and cheerleading uniforms associated with teen/youth porn which are displayed to signify a particularly naïve and innocent “brand” of pornography. Although these symbols are not ubiquitous among non–commercial images, they are yet another commercial tool that has migrated from print to digital media. Although child pornography on the Internet is originally produced commercially, it can be freely produced in an inexpensive way by using new technologies that facilitate the ‘consumers’ on the Internet to become ‘producers’ themselves. The Internet has, in reality, proven to be beyond the reach of

33 Id.
34 Id.
35 I. RAJAGOPAL, Globalisation of prurience, the Internet and the degradation of women and children [October 2003].
36 Id.
37 Id.
38 Id.
nation–state barriers. It has overcome territorial boundaries, and has the potential to undermine local cultural barriers and legal regulations.

2. The Stalkers

In fact the Internet has become a favored site for stalking children. Sex offender can engage children on many levels, from sexual chat to enticing them into physical contact. The many ways of disguising a person's identity has allowed many child sex stalkers to commit sex crimes against children with impunity. During a three year Internet law enforcement project, conducted by the Keene Police Department, New Hampshire, USA, 200 offenders were arrested who targeted male children. In this project, police officers entered chat rooms and newsgroups pretending to be boys. Forty-eight of those men were “travellers,” meaning they stalked boys online and eventually travelled to meet them. They ranged in age from 17 to 56, with a mean age of 35, and the following age distribution: 17 to 29 (38%), 30s (25%), 40s (27%), and 50s (10%). Most, but not all, of these stalkers collected child pornography. Four of the men travelled internationally from Canada, Netherlands and Norway, and the others travelled from 10 different states in the United States. A few of the stalkers sent money, bus or airline tickets for the boys to use to run away and meet them.

3. The Buyers

Those who use the Internet to search for women trafficked for the purpose of sexual exploitation seem to be mostly traveling businessmen, local men reporting on local prostitution, or students. Some of them say they consult newsgroups or Web sites before they travel and even print out the information to take with them. Some of the men write about their experiences buying women for the purpose of sexual exploitation as a way of reliving the experience. Some include a lot of graphic details that indicate they are getting enjoyment out of reliving the experience through writing about it.

39 Id.
41 Id.
43 Id.
44 Id.
45 C. McGill, op.cit.
B) The Scope of the Phenomenon

Having defined the concept of trafficking in women, it becomes necessary to determine the scope of the problem. This involves examination of not only the number of human beings trafficked each year, but also their characteristics, what makes them vulnerable to being manipulated, where they are coming from, and what conditions they suffer once in this situation.

1) Prerequisites of Trafficking

In fact, the main reasons for trafficking in human beings are economic. After the fall of the communist bloc, there were economic crises in most of the countries of South East Europe. The high number of unemployed caused great difficulties for families. They were in dire need for jobs and financial resources. Thus, the fell victims to trafficking of human beings. Secondly, there are educational reasons, especially the lack of an appropriate level of education. Most of the victims of trafficking are poor and not well educated. Today, women are mainly trafficked from South to North, from South to South and from East to West. The flows are from poorer countries to countries where the standard of living for an average person is relatively higher. The fact that lesser developed countries, populations are used for trafficking supports the recognition of a right to development as a human right. Trafficking is linked with forced prostitution that follows false promises of well-paid jobs. The seemingly economic hopelessness in the Newly Independent States, transitional economies opened what experts call the most lucrative market of all to Russian criminal gangs. Law-enforcement officials and relief groups all agree that Ukrainian and Russian women are now the most valuable in the trade. Although accurate statistics are difficult to find, the United Nations estimates that 4 million people throughout the world are trafficked each year.

51 See J. KANICS, Trafficking in Women, available at :
2) The Magnitude of this Phenomenon

The trafficking industry ranges from smaller rings to complex organised criminal enterprises typically in a scheme requiring a chain of actors covering differing stages of the process. It is the fastest growing and third largest source of profits for organised criminal enterprises behind only drugs and firearms. The reach of industry and the breadth of exploitation are extensive. The exploitative nature of the treatment of the victims of trafficking often amounts to a new form of slavery. In contrast to unlimited profits realised by traffickers, the cost to the victim, the victim’s family and community are immeasurable, and long-term. As many recent incidents have shown, trafficked migrants face real risk of death in the most horrible conditions. Concerning trafficking in children and women for sexual exploitation in Europe, two geographical areas merit a mention. The Western and the Northern parts of Europe, which serve as destination areas, and Eastern and Central Europe and the former Soviet Union which serve as transit areas and a source. In Western Europe alone, the International Organisation for Migration estimates that around 500,000 women per year are trafficked from poorer regions in the world.

- A recent U.S. Government estimate indicates that approximately 800,000-900,000 people annually are trafficked across international borders worldwide and between 18,000 and 20,000 of those victims are trafficked into the United States. This estimate includes men, women, and children trafficked into forced labor and sexual exploitation as defined in the Trafficking Victims Protection Act of 2000. This estimate does not include internal trafficking. The new figures were generated from a database that examined reports of specific trafficking incidents, counts of repatriated victims, estimates for victims worldwide, and victim demographics derived from analysis of information from press, governments, non-governmental and international organizations,
and academic reports from 2000 to the present.  

- In Europe, an increasing portion of the trafficked women comes from the former socialist countries. A growing amount of women who want to search for work abroad are deceived by traffickers into leaving their countries, believing that they will work as dancers or hostesses, or even as prostitutes, but instead end up living under slave-like conditions where their fundamental human rights are violated. For criminal groups, trafficking in women is very profitable with revenues more than seven billion dollars annually from trafficking in human beings.

- According to the Congressional Research Service (CRS) and the U.S. State Department, 700,000 to 2 million people, the majority of them women and children, are trafficked each year across international borders. Thirty-five percent are under the age of 18.

- According to the IOM, the majority of these victims come from Asia, with more than 225,000 arriving annually from Southeast Asia and more than 150,000 from South Asia. The former Soviet Union has become the largest new source of forced prostitution with 100,000 trafficked each year from the New Independent States. More than 75,000 are trafficked from Eastern Europe, 100,000 from Latin America and the Caribbean, and over 50,000 from Africa. Most of the victims are sent to large cities, vacation or tourist areas, or military bases in Asia, the Middle East, Western Europe, and North America.

**C) The Use of New Technologies in Human Trafficking**

The world’s transition into an information society is being marked by profound developments in all aspects of human life: in work, education and leisure, in government, industry and trade. The new information and communication

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55 Id.
57 Id.
60 Id.
61 Id.
technologies are having a revolutionary and fundamental impact on our economies and societies.\textsuperscript{63} The success of the information society is important for developing, competitiveness and employment opportunities, and has far-reaching economic, social and legal implications. Information and communication infrastructures have become critical parts of our economies.\textsuperscript{64} Nevertheless, the exploitation of ICTs for criminal activities is a Sid effect.\textsuperscript{65} These criminal activities may take a large variety of forms and may cross many borders.\textsuperscript{66} Although, for a number of reasons, there are no reliable statistics,\textsuperscript{67} there is little doubt that these offences constitute a threat to industry investment and assets, and to safety and confidence in the information society. The universal digital accessibility opens up new opportunities for the unscrupulous.\textsuperscript{68}

There is scope for action both in terms of preventing criminal activity by enhancing the security of information infrastructures and by ensuring that the law enforcement authorities have the appropriate means to act, whilst fully respecting the fundamental rights of individuals. With respect to this impact of technology, a question that arises is to determine whether the concept of trafficking in human beings for the purpose of sexual exploitation necessarily involves physical movement, or also includes attention online exploitation of virtual images of people.

1) ITCs and Sexual Exploitation

In fact, various kinds of technology means can be used for the purpose of sexual exploitation\textsuperscript{69} - either by individuals for their own private use or by persons or groups using the Internet as a commercial tool, to promote and sell images or services.\textsuperscript{70} Technical aspects are crucial for the development of sites which exploit all the technical possibilities of the Internet. Often, the geographical location of the server exerts a negative impact on jurisdiction and legal issues. The, the main techniques that
are used worldwide involve:71

a) Mainstream Communications

Like cable TV,72 which can be used in connection with trafficking of women and children for the purpose of sexual exploitation.73 Images made using trafficked women may be transmitted to viewers through these venues.74 New cable Networks use satellite transmission to deliver hundreds of channels and pay-per-view delivers content on demand.75 Cable companies consider that the more sexually explicit the content the greater the demand.76

According to Paul FISHBEIN, owner of Adult Video News “There are many outlets, that even if you spend just $15,000 and two days – and put in some plot and good-looking people and decent sex – you can get satellite and cable sales. There are so many companies, and they rarely go out of business. You have to be really stupid or greedy to fail”.77

b) Scanners and Video Digitizers

They are nowadays used to change old pornographic images and videos into electronic format that can be accessed online.78 Digital cameras and recorders enable the making of images that do not need to be professionally processed, thereby eliminating the risk of detection.79 These new types of equipment also make it technologically easier for people to become producers of pornography. Digital media formats are no longer static. One format can be quickly converted into another. From one video, 200-300 still images can be captured and then uploaded to a Web site. According to an Adult Video Producer “Anyone, with a video camera can be a director – there are countless bottom feeders selling nasty loops on used tape. Whatever the equality or origin of a product, it can at the very least be exhibited on one of the 70,000 adult pay Web sites, about a quarter of which are owned by a few privately held companies that slice and

72 See D. HUGHES, The Impact of The Use of New Communications and Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation [Committee for Equality Between Women and Men, The Council of Europe], (May 2001).
74 Id.
75 D. HUGHES, op. cit. p. 130.
76 Only one of eight major cable companies in the United States does not offer pornographic movies, Id.
77 Id.
79 D. HUGHES, op. cit. p. 133.
dice the same content under different brands". 80

e) The Digital Video Disk (DVD)

Videos of sexually exploited and trafficked victims can be shot from multiple angles, and copied on DVDs for distribution and online accessibility. 81 Viewers can interact with DVD movies in much the same way they do with video games, giving them a more active role. 82 According to a producer: “If a viewer wants something different, we give it to him. The viewer can go inside the head of the person having sex with [name deleted], male or female. He can choose which character to follow. He can re-edit the movie. It’s a great technology”. 83

Although technologies like this have many applications and enable creativity and interactivity, when used in pornographic films, these raise the question of the impact on people and expectations about relationships. 84 A portion of men who practice the illegal trafficking in women do so either because their lack of social skills or their misogynistic attitudes prevent them from establishing relationships with their peers. 85

d) The Internet Applications and Services

This help in the transfer of files, images and videos across geographical boarders instantaneously in an undetected manner. Accordingly most acts are committed with the help of:

1. Web Sites

They are considered the main factor for the distribution of sexual materials online. 86 Moreover streaming videos can be downloaded or viewed with Web browsers. The most recent versions of Web browsers come packaged with plug-ins. 87 The only country for which there seems to be a decline in Web advertisements for sexual materials is Sweden 88. The new Swedish law has deterred public advertising for adult

80 Id.
81 K. KAPLAN, Pushing Porn On DVDs [LA, Times], (Jan 09, 2001).
82 Id.
83 D. HUGHES, op. cit. p. 134.
84 Id.
87 D. HUGHES, The Internet and Sex Industries: Partners in Global Sexual Exploitation [IEEE, Technology and Society Magazine], (Spring 2000) at 35.
88 The web sites enmesh the social context with the medium of communication. Dennis Waskul and Mark
entertainment. A Web site registered in Denmark claims it to have the “world’s largest collection of real life amateur slaves”. Men are encouraged to “submit a slave to the picture farm”. Graphic descriptions of extremely violent acts are included in the advertisement. A Web site registered in Moscow advertises itself as “the best and most violent rape site on earth”. It claims to have “Several Hunders [sic] of rape pics”. Subscribers are offered 30,000 hardcore porn images, 500 online video channels, and 100 long, high quality videos.

2. Peer to Peer Networks: 

They are mostly known under the brand of Napster. Within this application, the Peer-to-Peer networking concept is used to share files, i.e. The exchange of MPEG compressed audio files. However, Peer-to-Peer is not only about file sharing, it is also about establishing multimedia communication networks based on Peer-to-Peer concepts or resource sharing.

According to the GAO “Child pornography is easily found and downloaded from peer-to-peer networks. In one search using 12 keywords known to be associated with child pornography on the Internet, GAO identified 1,286 titles and file names, determining that 543 (about 42 percent) were associated with child pornography images. Of the remaining, 34 percent were classified as adult pornography and 24 percent as nonpornographic. In another search using three keywords, a Customs analyst downloaded 341 images, of which 149 contained child pornography. These results are in accord with the increased reports of child pornography on peer-to-peer networks; since it began tracking these in 2001, the National Center for Missing and Exploited Children has seen a fourfold increase- from 156 in 2001 to 757 in 2002. Although the numbers are as yet small by comparison to those for other sources, the Douglass describe this as a “technosocial phenomenon” since the process creates and proliferates virtual communities instantaneously and seamlessly. The medium, i.e., computers, hardware, and software, creates and expands on–line communication world–wide, interacts with social environment, and transforms it into a virtual social sphere. In the year 2000, in contrast to file–sharing programs such as Napster which had triggered such a heated reaction from the music and movie industries, many purveyors of online and offline porn such as Vivid.com extolled file–sharing of pornography for promoting their wares, acting as a commercial benefit, as they provide snippets of their products to lure consumers who were perhaps never reached before. These unique processes of virtual communication create new social spheres and new patterns of feelings and belief. These virtual social interactions are faceless, non–oral, instantaneous, simultaneous and multiple.

89 See Swedish Consumers Association, Children and Marketing, the Commercial Pressure is Rising (1/2001).
90 HUGHES supra note 62.
91 Id.
92 Id.
increase is significant\textsuperscript{94}.

3. File swapping programs: \textsuperscript{95}

The file swapping programs are used to search files on the network. With the help of this program, the user designates one directory on his/her computer that will be open to the public and another for downloaded files. When the user logs onto the Internet, he/she will be automatically connected to all other people running the same program. All available files are indexed into a large searchable database. When keywords are entered the request moves from one computer to the next returning links to files. This has revolutionized how computers and people communicate with each other on the Internet.

4. File transfer protocol: \textsuperscript{96}

FTP and standard Internet protocol, are the simplest way to exchange files between computers on the Internet. Like the Hypertext Transfer Protocol, which transfers displayable Web pages and related files, and the Simple Mail Transfer Protocol (SMTP), which transfers e-mail, FTP is an application protocol that uses the Internet's TCP/IP protocols. FTP is used to transfer Web page files from their creator to the computer that acts as their server for everyone on the Internet. It’s also commonly used to download programs and other files to your computer from other servers. As a user, you can use FTP with a simple command line interface (for example, from the Windows MS-DOS Prompt window) or with a commercial program that offers a graphical user interface. Your Web browser can also make FTP requests to download programs you select from a Web page. Using FTP, you can also update (delete, rename, move, and copy) files at a server. This technique of file exchange can be used by collectors of sexually explicit materials of trafficked victims.

5. Search engines: \textsuperscript{97}

They can contribute to the expansion of sexual exploitation. Search engines are becoming more sophisticated and powerful in indexing the content of cyberspace. As a

\textsuperscript{94} Id.
\textsuperscript{95} Council of Europe, \textit{Group of specialists on the impact of the use of new information technologies on trafficking in human beings for the purpose of sexual exploitation}.
\textsuperscript{96} Id.
\textsuperscript{97} Id.
result users seeking particular types of adult entertainment, women, children, locations, etc. can find it faster and with more precision.

6. Chat Rooms:
The most common means by which sexual predators contact children over the Internet is through chat rooms, instant messages and email. In fact, 89% of sexual solicitations were made in either chat rooms or instant messages and 1 in 5 youth (ages 10-17 years) has been sexually solicited online (JAMA, 2001). Considering that 25% of kids online participate in real time chat and 13 million use instant messaging, the risks of such children, either knowingly or unknowingly, interacting with a predator is alarming. It is estimated that there are more than 100,000 chat rooms available to users world wide. Moreover those seeking to buy women and children for the purpose of sexual exploitation use these rooms to exchange information about location and prices of enslaved women and children all over the world.

In one case, a thirty-seven-year-old German man living in Greece contacted a fourteen-year-old girl from Florida in a chat room. He followed her Internet communication with letters by mail and telephone calls. After a long time of corresponding, he convinced the girl to run out from Florida and to travel to Greece to work. A woman met her, gave her a programmed cell phone and drove her to a local airport. The girl flew to Ohio where a convicted child pornographer assisted her in getting a passport and leaving the United States. However, the Police were able to trace the girl by examining the e-mails saved on her computer at home. They found her in Greece where they also arrested the German gentleman. He was charged with abduction of a minor with malicious intent, sexual assault and exposing a minor to improper material. Investigation of his home revealed child pornography of other

98 Id.
99 In fact, men in chat rooms trade small files, still images and movie shot clips on the internet, but longer movies are sent by e-mail. See interview with Raymond Smith, [Fraud, Children Exploitation and Asset Forfeiture Group, Office of Criminal Investigations], (May 7, 2001).
101 Id.
102 Story cited in Interview with April Hindin, Postal Inspector, [Tampa, Fla], (May 15, 2001).
103 Id.
104 Id.
105 Id.
106 Story cited in Interview with April Hindin, Postal Inspector, [Tampa, Fla], (May 15, 2001).
girls. 107

(7) Pornographic spam: 108

Spam, which is generally considered unsolicited commercial e-mail, makes up about half of all e-mail sent worldwide. Much of it is deceptive, and costs businesses billions of dollars each year.

II. Analysing the Existing Legislative Instruments

In fact, many countries have legislations under which perpetrators, distributors and peddlers of sexually explicit material may be prosecuted, trafficking in human beings for the purpose of sexual exploitation can be fought, even when such offences are facilitated through the medium of the Internet. 109 However, the fundamental right to free communication and the right to secrecy of correspondence are intangible, but all too often, criminals misuse these rights to disguise the real nature of their activities. The authorities and the police will always find it difficult to distinguish between these cases, and the fact that this takes place on the Internet certainly does not make matters easier for them. 110 Hence there is a persisting need to give investigators more technical and financial resources and provide sound training on the subject. Even at national level it is no easy matter to deal with criminals who use the Internet, and it is all the more difficult if they are operating from abroad. 111 Sentences may be passed in certain cases, but are rarely enforced in the countries in which such persons are active. 112

In most cases, the sole means open to the police is to send the incriminating evidence to their counterparts in another country via the usual Interpol or Europol channels. 113 If the laws of that country permit, and if the actions are punishable, the perpetrator may be prosecuted. Children under 18 cannot give valid consent, and any

107 Id.
113 D. HUGHES, op. cit. p. 143.
recruitment, transportation, transfer, harbouring or receipt of children for the purpose of exploitation is a form of trafficking regardless of the means used.114

Experts also underlined that there was a gap between cases concerning children and child pornography, clearly prohibited by most European laws, where Internet content providers had been asked to close Internet sites, and cases involving trafficked adults or mail order brides, where the laws were less clear and the actions taken less effective.115 Even with the preparation and adoption of adequate legislation, the importance of establishing adequate means of implementing such legislation, which otherwise would remain only a token gesture, remains crucial.

The difficulty in prosecution of crimes committed over the Internet is not so much an absence of specific legislation, but rather a difficulty in applying existing norms to a technology that did not exist at the time the legislation was drafted.116 The transient and intangible nature of the Internet, as well as the anonymity and secrecy that communications via the Internet permits make the identification of the author and/or intended recipient of an illicit communication, as well as the collection of evidence, much more difficult and elusive. This is one of the reasons why government authorities, especially in Belgium,117 France and the Netherlands, now tend to concentrate their legislative efforts towards adapting procedural and investigative tools to the specificities of the new technology.

A) European Efforts: National and Regional Strategies

In February 2003, France passed an anti-trafficking and slavery law, including a provision against trafficking of children for begging, with penalties of imprisonment or high fines.118 The law enhances existing criminal provisions, including a 2002 law against child prostitution and trafficking. Cases progressed to court, including an

115 This is the case of Saudi Arabia.
116 D. R. JOHNSON, op. cit.
117 The IOM has reported that there are about 28,000 prostitutes working in Belgium, half of whom are foreign born (of this number, approximately 10-15 % are known to be victims of trafficking). In fact Belgium does not expressly criminalize the act of prostitution, but procurement/pimping, soliciting and loitering are illegal acts. Belgium does, however, have a specific law on trafficking in human beings. Additionally, Belgian law distinguishes between trafficking and forced labor and slavery like practices in prostitution. NGO’s active in the country report that while implementation of these laws should be better, the laws are enforced. On these points see T. KOOTSTRA, op. cit at 38; It is noted that Belgium’s law concerning trafficking in women provides: [G]uilty of traffic in women is he who, in whatever way, either directly or through an intermediary, contributes to the entry or residence of a foreigner in the Kingdom, when in doing so he: 1. [D]irectly or indirectly makes use of cunning tricks, violence, threats or an other kind of force. 2. [M]akes use the especially vulnerable position in
118 Available at <http://www.legifrance.fr>.
indictment against 11 defendants charged with prostitution of a minor.\textsuperscript{119}

France is a destination country for victims, primarily women, trafficked from Africa, Central and Eastern Europe, and the former Soviet Union for the purposes of prostitution and domestic servitude.\textsuperscript{120} French police estimate that 90\% of the 15,000 sex workers in France are trafficking victims, and that 3,000 to 8,000 children are forced into prostitution and labor, including begging. There are also reports of Chinese and Colombian men trafficked into bonded or forced labor in France.\textsuperscript{121} The Government of France fully complies with the minimum standards for the elimination of trafficking. Concerning the United Kingdom,\textsuperscript{122} it is primarily a country of destination for internationally trafficked women from Eastern Europe, particularly Albania, Kosovo, Romania, Bulgaria, Lithuania, and Russia. Some also come from East Asia, especially Thailand and China, and from West Africa, particularly Nigeria, Liberia, and Sierra Leone. The trafficked population includes children and men. While women are trafficked primarily into sexual exploitation and domestic servitude, trafficking of laborers, predominantly male, into agriculture, sweatshops, and industry also occurs. The United Kingdom also may play a minor role as a transit country to other western European countries.

The Government of the United Kingdom fully complies with the minimum standards for the elimination of trafficking.\textsuperscript{123} The government’s efforts were particularly strong with regard to strengthening cooperation between police and prosecutors both domestically and internationally, and in supporting preventive programs in source countries and regions. In order to fully assess law enforcement strategies and mechanisms, this report must consider statistics on trafficking-related offenses and prosecutions. While such information was unavailable, new legislation establishing trafficking-related offenses will be an indispensable step forward.

In England there is no specific law prohibiting all forms of trafficking in persons, but many human trafficking offenses are punishable under existing laws. The

\textsuperscript{119} In 2000, a Paris court sentenced a French national to seven years in jail for the rape of an 11-year old Thai child during a holiday in Thailand. The crime concerned was based upon a mixture of oral sex and the filming of foliation on videotape, constituting multiple forms of sexual exploitation of the child. This was a landmark case for France, as it was a groundbreaking application of France’s criminal law to incriminate one of its nationals where the crime had taken place beyond the geographical confines of France. See United Nations, Combating Human Trafficking in Asia: A Resource Guide to International and Regional Legal Instruments Political Commitments and Recommended Practices, op. cit. p. 15.

\textsuperscript{120} See U.S Department of State, Trafficking in Persons Report (June 11, 2003), http://www.state.gov/g/drl/rls/hrrpt/2003/27872.htm> (visited 02/01/2005).

\textsuperscript{121} Id.

\textsuperscript{122} Id.

\textsuperscript{123} Id.
Nationality, Immigration and Asylum Act of 2002 was changed to establish an offense of trafficking for prostitution that carries a maximum penalty of 14 years. New offenses related to human trafficking are in the recently introduced legislation on sexual offenses. Strengthening the operational and legal fight against human trafficking is one of the government’s priorities for the European Commission five-year (2003-07) funding program in the area of police and judicial cooperation. Task Force Reflex, a U.K. law enforcement initiative, coordinates all agencies involved in combating trafficking and migrant smuggling.

With the Nationality, Immigration and Asylum Act of 2002 only in effect since November 2002, numbers of trafficking-related prosecutions under this Act are not yet reported, but public reports in the press highlighted a number of trafficking investigations and arrests. The Crown Prosecution Service works closely with the police at home, appoints prosecutors as liaison magistrates abroad, and works increasingly with Eurojust (an initiative of the EU Justice and Home Affairs Council) to combat serious cross-border crime, including trafficking in persons. Prosecutors provide advice to police at the investigation stage, and joint police-prosecutorial criminal justice units were established in 46 towns, with some 85 more to come. As an effort to combat transnational crime, including trafficking in persons, the government provided liaison magistrates in Spain, Italy and France.

In Portugal, a new immigration Act criminalizes new categories of trafficking and increases penalties for traffickers, but laws on false documentation, extortion, fraud and other criminal activities were also used to prosecute and convict traffickers. According to the Border and Foreigner Service (SEF), 329 trafficking-related investigations were undertaken in 2002-03, of these, four Ukrainians were sentenced from two and a half to nine years for related crimes; 3 Portuguese citizens were sentenced between seven and 15 years for involvement in a human trafficking network of 3,000 victims; and 16 defendants were charged with forced labor, trafficking and kidnapping of more than 300 Brazilian and Moldovan women forced

126 Id.
127 Id.
128 See The law of July 14, 1999 of Portugal on « Governing the Enforcement of Measures on the Protection of Witnesses in Criminal Proceedings ».
129 U.S Department of State, Trafficking in Persons Report (June 11, 2003), op. cit.
into prostitution. The government trains its law enforcement officers on trafficking, coordinates well with Interpol and Europol and participates in occasional joint trainings; however, overall law enforcement efforts were hindered by jurisdictional rivalries. The government increased its border monitoring at the airport, but control over the land border - where the vast majority of traffickers and their victims enter the country – is weaker. The Portuguese government is currently working with the governments of Germany, Italy and Spain to develop an organized crime database under Europol that will better track cross-country movement of human traffickers and other criminals, mostly from Ukraine and Moldova. The government employs special investigative techniques to investigate trafficking cases, and offers legal residency as an incentive for victim participation.

In Denmark, a new anti-trafficking legislation went into effect in late 2002 but its overall effectiveness is still uncertain, as no cases were brought to trial. Previously, Danish authorities prosecuted trafficking under other provisions of the criminal law, such as those against human smuggling. Three foreigners and five Danish nationals were convicted for smuggling prostitutes, but all the convictions were overturned on appeal. The Danish National Commissioner of Police maintains its own internal task force on trafficking in persons assists local police constabularies with investigations and trains its officers to recognize and investigate instances of trafficking. The government monitors trafficking largely through information-sharing between the national police and immigration authorities of countries with common borders and shared concerns. The government cooperates in international investigations, exchanges information with other Scandinavian countries, and works with Europol to track trafficking victims across borders.

In Italy, the government vigorously enforces its anti-trafficking criminal legislation, especially through coordinated international operations. Italian police have a special anti-trafficking unit trained and directed to enforce anti-trafficking criminal laws, dedicating 85 Italian law enforcement officers to trafficking cases. In conjunction with Europol, Italian police executed “Operation Sunflower Two” through

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130 Id.  
131 Id.  
132 U.S Department of State, Trafficking in Persons Report (June 11, 2003), op. cit.  
133 Id.  
134 Id.  
135 Id.  
136 Id.
which they apprehended 80 traffickers in several Western European countries.\textsuperscript{137} Through “Operation Kanun”, a joint operation with the Government of Albania, Italian police sentenced 104 Albanian traffickers to prison for trafficking-related mafia activities. According to public sources, Italian authorities arrested and prosecuted over 100 other suspected traffickers in Italy.\textsuperscript{138}

It should also be noted that Internet related crimes are to a very large extent international matters since the Internet does not recognize political or national borders. Thus many experts did not concentrate their research on international instruments. Nevertheless they deemed it important to mention two such instruments in this context:


In accordance with the underlying principles of this directive, access providers are not liable for information transmitted over the Internet unless they have initiated the communication, have selected the receiver, or have modified the information transmitted (art. 12). Service providers are not liable for information transmitted unless they have actual knowledge of illicit content or, once they become aware of such illicit content, they do not act promptly to remove such content or to block access to it (art. 14). Article 15 of the directive prohibits Member States from imposing a general obligation of surveillance on these entities over the information which they transmit or store. Member States are also prohibited from imposing on them a duty to actively search out illegal content which they might host or transmit. As a result, they are totally exonerated from liability unless they have actual knowledge of illegal content which they may store or transmit.

2) The Convention on Cybercrime of the Council of Europe

The International Convention on Cybercrime seeks to set international standards for the policing of electronic networks.\textsuperscript{139} The move towards creating such a convention was fuelled by the G8 and by the Council of Europe’s concerns of tackling “cyber crime”. It is considered the first in binding international treaty on cyber crime. It deals, in particular, with offences related to copyright violations, computer related fraud,
child pornography, and offences connected with network security.

The Convention does not deal explicitly with the trafficking of human beings for the purposes of sexual exploitation or with pornographic images of women. However it does focus on the sexual exploitation of children on the Internet. Article 9 makes it a criminal offence to not only produce child pornography for distribution through a computer system but also to offer this kind of pornography, to make it available, to distribute or transmit it, to procure it or to possess it in a computer system.

This Convention is considered the first step in the development of tools to combat, control and punish those engaged in the trafficking in human beings.

**B) International Engagement and Sharing the Best Practices**

A number of innovative anti-trafficking efforts came to existence during the preparation of the American Trafficking in Persons Report and through the Trafficking Office’s engagement with foreign governments and international and non-governmental organizations throughout the year. Many of these efforts are particularly notable because they demonstrate low or no-cost anti-trafficking measures. Many developing countries have high percentages of working children and a problem with trafficking for forced labor or forced commercial sexual exploitation. In response, several have established local vigilance or watchdog committees to assist authorities in rescuing children, catching traffickers, and preventing trafficking. Some law income State are educating residents in trafficking-prone areas about the dangers of trafficking through meetings with local traditional, religious, ethnic, and community leaders; establishing child rights clubs in schools; running nationwide public awareness campaigns that include radio and television spots, cartoons, talk shows, dramas, and debates; and reaching bilateral and regional agreements to combat trafficking in persons. After listening to victims and then mobilizing community participation, many are now strengthening partnerships with non-governmental and international organizations, available to assist victims.

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140 See Developing Countries Take a Stand Against Trafficking, at: [http://usinfo.state.gov/journals/itgc/0603/ijge/gj08.htm](http://usinfo.state.gov/journals/itgc/0603/ijge/gj08.htm) (visited 17/01/2005).
141 Id.
142 Id.
1) Government-NGO Cooperation on Law Enforcement: A Symbiotic Relationship

For Thailand, it is a source, transit and destination country for persons trafficked into sexual exploitation and forced labor.\(^{143}\) Economic disparity in the region helps to drive significant illegal migration into Thailand from its neighbors, presenting traffickers opportunities to move victims into labor exploitation and, particularly women and children, into prostitution. International trafficking victims come mainly from Burma, Laos, Cambodia, and China.\(^{144}\) Many victims are from stateless ethnic tribes in Northern Thailand and the surrounding region. Widespread sex tourism in Thailand encourages trafficking for prostitution. Thai victims -- and others sometimes transiting through Thailand -- are trafficked to Australia, South Africa, Japan, Taiwan, Europe and North America mainly for sexual exploitation; many go willingly and are later victimized by traffickers.

The Government of Thailand brings together government and NGO officials in an interagency working group to develop and implement comprehensive anti-TIP strategies.\(^{145}\) NGOs work to identify victims, pass that information along to the government, which can raid locations and, then refers victims’ names and addresses to the NGOs for shelter and assistance. NGOs uncover information, such as the traffickers’ names and addresses, from the victims and then pass that information back to the government to assist police work. The process makes for a regular exchange of information at a tactical level.\(^{146}\)

a) Source-Destination Cooperation

The UAE police,\(^{147}\) and Uzbek non-governmental organizations are working together on the rescue and repatriation of victims. The Government of Saudi Arabia has opened an information center in Sri Lanka, a major source country for foreign labor, to provide briefings for foreign workers on their rights and responsibilities and on


\(^{144}\) On this point see D. KYLE, Global Human Smuggling, Comparative Perspectives [Maryland, John Hopkins], (2001).


\(^{146}\) U.S Departement of State, Trafficking in Persons Report (June 11, 2003), op. cit.

\(^{147}\) Id.
cultural mores in Saudi Arabia. This is done in an attempt to better acquaint potential workers—especially women—with the lifestyle they will be expected to lead in the Kingdom and helps prevent misunderstandings with employers. Separate entry lines for foreign workers at airports in Saudi Arabia are used to give workers information on rights and responsibilities and points-of-contact should they need assistance. The United Kingdom has appointed prosecutors as liaison magistrates in source countries as well as in Spain, Italy, and France.

b) Discouraging Sex Tourism

The Government of Brazil is fighting sex tourism by asking hotels to be active in discouraging child prostitution on their premises. Hotels participating in the program receive an extra “star” in their quality rating. Brazil also distributes brochures to visiting tourists making them aware of the penalties associated with exploiting minors. The Government of Gambia asks visitors to give information to the police about sex tourists and the sexual exploitation of children through a special tip system. The government requires fingerprints before residence permits are issued to foreigners in order to check criminal records to prevent known exploiters from operating in the country. The Tourism Bill before the National Assembly provides protective measures for children against sex tourists. The Gambian Government and the Government of The Netherlands set up a special police unit to monitor and track Dutch pedophiles in The Gambia.

C) Human Trafficking Prevention

Understanding what human trafficking is and how it can be committed should be coupled with law enforcements officers, awareness of the tactics that are commonly used to combat this crime. In order to create effective means of preventing human trafficking, facilitated by ICTs. Ms Gerstendörfer psychologist and member of the Group of Specialists on the impact of the use new information technologies on trafficking in human beings of the United Nations, proposes that preventive measures

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148 Id.
149 Id.
150 Id.
151 Id.
152 Id.
153 Id.
should first aim at effectively monitoring the Internet, introducing codes of good practice, filtering systems, etc. For some researchers, proposals for a European network of hotlines, filtering and rating systems, self-regulation, codes of conduct, encouraging awareness actions and assessing legal implications will reduce victim abuse. However, such policy will unlikely stop predators on the Internet. On such a basis, it is submitted that combating trafficking requires the implementation of both: short and long term measures.

In short term measures, one possibility is to seize and confiscate the benefits from trafficking for the purpose of sexual exploitation, as provided in Recommendation (2000) 11 of the Committee of Ministers to the Member States of the Council of Europe “Take such steps as are necessary to order, without prejudice to the rights of third parties in good faith, the seizure and confiscation of the instruments of, and proceeds from, trafficking for the purpose of sexual exploitation.”

Thus, preventing trafficking in human beings should take two dimensions:

Prevention against victimization of women and/or children and;
Prevention against violent behavior of men and/or members of criminal organisations.

In Ukraine, regional referral systems between police and NGOs exist due to the allocation of specific anti-trafficking police officers in each region and active victim assistance NGOs. NGOs rehabilitate and reintegrate victims and put them in touch with police for protection and pursuit of criminal cases. The government’s witness protection program is not effectively implemented due to lack of funds, but in-court protection exists. In the absence of a functioning program at the central level, NGOs collaborate with local police and secure ad hoc witness and victim protection. Local NGOs that provide victim assistance enhanced their cooperation with local police, and referrals between NGOs and police are increasingly common.

154 See Group of specialists on the impact of the use of new information technologies on trafficking in human beings for the purpose of sexual exploitation [Final Report, Strasbourg], (16 September 2003).
155 Id.
156 See Excerpt on Ukraine from Department of State’s Trafficking in Persons [Report], (June 11, 2003), available at <http://www.usemb.kiev.ua/files/tip-ukraine_051103_eng.html> (visited 17/01/2005)
157 Id.
158 Id.
Conclusion and Recommendations

Human trafficking is a persisting international evil that transcends national boundaries in a manner that renders this form of organized crime a global concern. Human trafficking may take several forms including trafficking for forced labour, servitude, and organ removal. However, trafficking for the purposes of sexual exploitation is a major criminal activity and a blatant evil that should be effectively tackled on all levels. It has been seen that amongst the major reasons that facilitate trafficking are: economic, educational, and social conditions. Source countries are mainly low-income developing and under developed States, which renders human trafficking a manifestation of a larger development divide.

On a different note, the globalisation of technology and the revolutionary advancement of ICTs have impacted on criminal activity, especially human trafficking for the purpose of sexual exploitation. Mainstream communications, video digitizers, Internet applications and services, and software and file transfer protocols are amongst the tools utilized by traffickers to commit their crime and promote their services. The increasing proliferation in usage of technology assisted criminal activity and trafficking merits further attention from the global community by enacting the necessary legislative provisions and implementing effective technological and enforcement tools that reduce ICT-facilitated criminal activities.

By and large, it is submitted that human trafficking should be subject to a global principle of public policy that aims at combating and preventing this form of organized crime through raising global awareness and increasing literacy rates, promoting economic development, improving social conditions in least developed source and transit countries, coordinating legislative efforts on national, regional and global levels, and establishing a high level global network of cooperation between national, regional, and international enforcement agencies and police forces. Beside of this, some measures should be more carefully developed, specifically:

- The human rights of trafficked persons must be the center of all efforts to combat trafficking. These human rights must be protected at all stages of the trafficking spectrum. In combating trafficking through law enforcement, it is important not to criminalize trafficked persons, but instead to address their special concerns while being diligent to hold perpetrators accountable.
- Combating trafficking in human beings requires rights based approach supported by the State’s criminal justice system. This blended approach will be
multidisciplinary incorporating a criminal justice response to prevent crime and deter offenders and a human rights response to protect and defend the rights and integrity of the trafficked persons.

- The Recommended Principals and Guidelines provide that States should ensure that legislation prevents trafficked persons from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities they are involved in as a directed consequence of their situation as trafficked persons.

- An effective law enforcement response requires national legislation policy, procedures and practices to be harmonized with international norms and standards and incorporated in national plans and programmes. National plans of actions should be used to build links and partnerships between governmental institutions involved in combating trafficking and/or assisting trafficked persons and relevant sectors of civil society.

- States should ensure that measures against trafficking don’t have an adverse impact on the rights and dignity who have been trafficked.

- Finally, an effective law enforcement response requires enforcement of the law as the best law is the irrelevant if it is not put into use.