

Counter-Trafficking Policy and Immigrant Rights in Turkey

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ABSTRACT *Turkey has long been a transit site for irregular migration, and policy makers and advocates have stressed the vulnerability of many of these irregular migrants to human trafficking. The Turkish government increased its anti-trafficking efforts in the early 2000s, but these efforts may in fact be increasing immigrants' vulnerability to trafficking. Using data from fieldwork among NGOs and government officials and analyses of laws and policy reports, we analyze the changing legal terrain and shifting migration flows into Turkey. We argue that recent counter-trafficking policies designed to curb human trafficking may in fact be making immigrants more vulnerable to traffickers. Our findings inform the labor exploitation theoretical framework of human trafficking that we proposed in earlier research.*

Introduction

Empirical Studies of Human Trafficking

The concept of human trafficking has evolved in both scholarship and activist/policy realms to mean very different things, leading to confusion if not properly specified. The United Nations Convention Against Transnational Organized Crime (commonly known as the Palermo Protocol) defines human trafficking as:

... the recruitment, transportation, transfer, harboring 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.¹

While this definition includes the exploitation of many different kinds of labor, social service and advocacy organizations as well as many policy makers emphasize trafficking that involves sex work. Many anti-trafficking non-governmental organizations (NGOs) define any exchange of sexual services for money as inherently coercive, and thus always a form of trafficking. Agustín has called the

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collective activities of these NGOs “the rescue industry” because of the emphasis on “rescuing” mostly women and girls from sex work under the assumption that they could never consent to such work and are physically (rather than economically) unable to leave.² Not only does this assumption negate the agency for adult women who define their participation in sex work as voluntary,³ it complicates the identification of women (and men) who are truly coerced, defrauded or forced into sex work. Empirical studies of sex workers that explore a range of possible trafficking situations frequently find far fewer trafficking victims than either advocacy or policy groups predict.⁴ Moreover, as more empirical attention has been paid to sex trafficking, other forms of labor trafficking have been understudied.⁵

With regards to the involvement of international migrants in sex work, governments have a long history of instituting measures to more closely

regulate the migration of women into entertain venues suspected of engaging in prostitution.⁶ Parreñas’ study of Filipina nightclub hostesses in Tokyo illustrated the counter-intuitiveness of this strategy.⁷ She found, contrary to the Japanese government’s assertion that this employment sector was highly vulnerable to trafficking, that no women had been coerced or deceived into taking their jobs. However, because of migration-related debt and the lack of control over work visas, many were unable to leave exploitative arrangements. Andrijasevic’s study of Eastern European migrant women working in the sex industry in Italy also demonstrated how exploitation was intertwined with state regulatory regimes that produce opportunities for women migrants to be exploited.⁸

We argue that the conceptualization of human trafficking as “modern day slavery” involving primarily sexual exploitation is at the heart of flawed counter-trafficking policy. Therefore, we suggest that it is more useful to think of the phenomenon within the framework of labor exploitation. Through this lens, we can examine the exploitation of migrants working in various industries without distinguishing trafficking for sexual services from other types of labor trafficking. It can also explain why many migrants who are victims of trafficking would not want to go to the police or leave their trafficking situation. Finally, using a labor exploitation framework can help produce better policies that will avoid further victimization of trafficked people and

the creation of new mechanisms of social control that actually facilitate trafficking. A labor exploitation framework involves the following characteristics:

1. Relative economic deprivation, in which migrating for work opportunities involves more potential benefits than costs compared to employment opportunities in the home community.
2. Fear and/or hostility towards law enforcement due to illegal migration status or illegal employment.
3. Potential for improving one's situation with greater experience in the labor market; thus, with more experience workers can transition from a highly exploitative labor situation to improved situations.

By examining counter-trafficking polices through a labor exploitation framework, our data illustrate the need to think beyond law enforcement-only strategies for mitigating human trafficking.

Trafficking in Turkey

Since the inception of the Republic, the Turkish state has strictly regulated prostitution, primarily in the interest of public health.⁹ Prostitution remains legal in Turkey today, but sex workers and brothels must have government-issued permits and worker permits are limited to Turkish citizens. So while prostitution is ostensibly legal, there is a thriving sector of illegal prostitution that employs foreigners and Turkish citizens working without a permit. This illegality provides the space for human traffickers

to operate. Several studies conducted in Turkey have uncovered a number of general patterns in human trafficking for sex work, although different methods have produced conflicting findings. Earlier interviews of immigrant women identified by police as working illegally in prostitution did not find a single incident of women being forced or coerced into sex work, with a very small number indicating that they had not intended to work in prostitution prior to their migration to Turkey.¹⁰ However, these women were apprehended by police prior to Turkey's implementation of more victim-centered counter-trafficking policies. Police interviews conducted after the implementation of these new policies found more incidences of coercion and violence,¹¹ which could indicate that these policies are more effective at identifying trafficking victims, or that they provided sufficient incentive for women to adopt the victim label. More recent interview-based research that did not rely on police apprehensions to identify sex workers also found more widespread experiences of violence and especially threats of violence.¹² To our knowledge, there have not been any studies of non-sexual forms of labor trafficking in Turkey.

Methods

This paper is based preliminary on fieldwork conducted in Turkey (mostly in Istanbul but also in Antalya) from October 2013 through May 2014. Our fieldwork consists of informal interviews with staff and volun-



333 Syrian immigrants, seeking to go to European countries on a merchant vessel, were caught in an operation of Mediterranean Sea Region Turkish Coast Guard, offshore Turkey's southern Mersin province. Turkish Coast Guard Mediterranean Sea Region / Anadolu Agency

teers from NGOs that provide assistance and advocacy to international migrants in Istanbul, interviews with representatives from foreign consulates doing counter-trafficking work in Turkey, and attendance at presentations on the trafficking situation in Turkey and counter-trafficking policies. The data presented also includes analysis of trafficking reports from Turkey and laws related to mitigating trafficking and controlling migration more broadly.

Some individuals included in this preliminary fieldwork were migrants themselves. However, this paper does not include data collected from trafficked victims or migrants who are vulnerable to trafficking, as that information is still being collected and analyzed. Therefore, for this paper, we focus on our data from NGOs, consular and embassy staff, and legal analysis to describe the policies of the Turkish government and inter-

national entities intended to mitigate human trafficking.

Results

Narrow Focus on Trafficking for Sex

Our data indicate that there is a growing tendency within the Turkish government's counter-trafficking strategy to focus primarily on combatting sex trafficking. The website maintained by the Turkish Ministry of Foreign Affairs indicates that forced prostitution is "the most important dimension of human trafficking."¹³ The government's emphasis on sex trafficking within Istanbul has largely taken the shape of shutting down brothels and arresting brothel owners as traffickers, rather than assessing the coercion used (if any) to force people to work in the brothels. During a discussion of counter-trafficking policies in Istanbul, several NGO staff agreed that the police were not

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interested in identifying trafficking victims, and saw any woman working in a brothel as “just a prostitute.” The government’s abolition approach has resulted in a decrease in the number of legal but especially illegal brothels in Turkey. Because migrant women cannot register as sex workers in Turkey, they can only work in illegal brothels. While some of these women may be trafficked, they are rarely identified in operations to shut down brothels. This may explain why the Turkish government often identifies more traffickers than trafficking victims. This policy also fails to address the need for employment among migrant women. In particular, efforts to eliminate brothels in the neighborhood of Tarlabası have led to the criminalization and displacement of both migrant and domestic women working in prostitution.

The narrow focus on sex trafficking may also be hindering the police in Istanbul from identifying other forms

of labor trafficking. Based on our preliminary fieldwork, there is little effort by the Turkish government to address non-sexual forms of labor trafficking. Migrants found to be in Turkey illegally are summarily deported without proper screening to see if they were in fact trafficked. The NGO primarily tasked with screening detained migrants at the detention facility in Kumkapı, Human Resource Development Foundation or HRDF,¹⁴ reported great difficulty reaching government officials with whom they need to collaborate. This was confirmed by a U.S. Department of State memo, which stated that there was a general breakdown in communication between the government and all anti-trafficking NGOs. However, government-NGO communication is not the only barrier to identifying non-sexual labor trafficking. The staff at the trafficking victims shelter in Antalya, which by their assessment had a very good relationship with the local police, did not even define forced labor as trafficking. Instead, they considered forced or coerced non-sexual labor to fall under different laws than those prohibiting trafficking. In general, the focus on regulating sex work, including sex trafficking, leaves little room for intervening in situations in which traffickers are exploiting migrants for other purposes.

Lack of Civil Society Presence

The legal terrain for migrants has changed rapidly just in recent years, with some movement towards improved rights for migrants. Leading up to 2004, the Turkish government instituted new counter-trafficking

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measures that were more victim-centered, which largely meant assessing whether or not detained migrants were actually victims of trafficking, providing social services to those migrants, and allowing them to remain in Turkey on temporary visas rather than deporting them. The government developed Memorandums of Understanding (MOUs) with NGOs that formalized cooperative relationships between the police and organizations to provide shelter and other services to trafficking victims, furthering the victim-centered approach to Turkey's counter-trafficking efforts.

However, since 2011, there has been a retraction of these effective counter-trafficking efforts due to the disconnect between the policies developed in Ankara and how local police in Istanbul implement those policies. One issue with the lack of victim identification is that all identification happens through the police. The three government-sanctioned shelters for trafficking victims cannot independently identify and assist trafficking victims. When there is active identification being conducted

by the government, this arrangement might not be problematic. However, leading up to the implementation of the new Law on Foreigners and International Protection, which began in April 2014, government efforts to identify victims almost completely halted. So while the IOM in Ankara reported that it identified far more than 18 trafficking victims through their national hotline and independent efforts to reach out to trafficked persons, their identification process is not part of the official counter-trafficking efforts of the government.

The Turkish government has also changed its relationship with the anti-trafficking NGO sector and took over several of the shelters for trafficking victims, most of which were eventually shut down. According to the U.S. Department of State's 2013 Trafficking in Persons Report, this was due to a lack of funding. However, it was only after the Turkish government took control of the shelters that funding was cut, with some shelters in Istanbul closing. HRDF runs the only shelter left in Istanbul. HRDF only provides shelter to victims that have been referred to them by the police, and therefore were only at half capacity (7 women) at the time this paper was written. Given that there are undoubtedly more women victimized by trafficking that need shelter assistance, the unused shelter capacity in Istanbul is a significant problem.

Government centralization and control over civil society in Turkey remains a barrier to addressing the underlying structures supporting traf-

ficking in Turkey. In Istanbul, each municipality is required to have a civil society council, which are governmental bodies that oversee civil society activities in their municipality. Thus, even within the “non-governmental” sphere, there is a great deal of governmental control. As civil society organizations must obtain governmental approval, the government can control what kind of civil society organizations exist. This makes it difficult for migrant and labor rights advocates to insert themselves into government-led counter-trafficking programs to change the way such programs are carried out or even create their own parallel programs that provide more effective assistance to trafficking victims. There are local NGOs that view their relationship to the Turkish government as precarious and thus they must tread lightly in challenging governmental policy. Some NGOs that provide assistance to migrants choose to not even attempt to register and operate with the government’s knowledge while keeping a low profile.

Lack of Legal Protections

Some improvements have been made in Turkey’s civil code that protect victims of human trafficking, and increase law enforcement efforts to apprehend and prosecute traffickers. Turkey is a signatory to the Palermo Protocol, which codifies human trafficking criminal law. Turkey’s domestic law includes prohibitions against forced labor as well as forced prostitution. This further strengthens the police’s ability to address all types of trafficking and encourages law en-

forcement to look into trafficking situations that they might otherwise ignore. The central government distributed training brochures to municipal police forces throughout the country, with content produced with the assistance of HRDF, which also assists in officer training. Furthermore, the new Law on Foreigners and International Protection that took effect in April 2014 provides provisions for trafficking victims to remain in the country for up to three years on a trafficking victim visa.

However, our preliminary fieldwork indicates a significant gap between what is codified in the law and what actually happens in practice. Consular and NGO staff confirmed that despite a seeming willingness on the part of lawmakers in Ankara to aggressively combat trafficking in all forms and to hear suggestions for improvement, police in Istanbul focused narrowly on trafficking for sexual labor, which most commonly took the form of shutting down brothels.

While increased criminalization has led to more dangerous conditions for some trafficked persons, particularly women in sex work, migrants overall are made more vulnerable to all types of labor trafficking through the inability to acquire work permits. Of course, unauthorized migrants do not have legal access to the formal labor market, but even migrants that have the legal right to receive a work permit are often either unable to navigate the permit application process, feel intimidated by having to apply at a police station, lack the language

skills necessary to complete the process, or are summarily denied a permit for unknown reasons. Municipal police officers have significant discretion in processing work permits, with little oversight facilitated by a lack of adequate record keeping¹⁵.

Without a work permit, these migrants are forced to rely on the informal labor market, and without estab-

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lished social networks, they generally enter the informal labor market at the lowest sectors. While we are still collecting data directly from migrants that are working in exploitable conditions in Istanbul, we have been told stories from NGO staff about migrants who have experiences that meet the Palermo definition of human trafficking. Syrian refugees are especially vulnerable. In one particular instance, Syrians found unauthorized employment at a textile factory; while they only earned one-third what others in the factory were earning, they were at least paid some income. Once the police found out

about the illegal hiring, they closed the factory, resulting in the Syrians losing what little income they were able to garner. Other Syrians have had their pay completely withheld. Because the employment was illegal, there is no legal avenue to force their employer to pay them their earnings.

Both Syrians and non-Syrians are vulnerable to debt bondage. Trafficked migrants increasingly come from Central Asian countries, and have lower levels of education than Eastern Europeans, which used to constitute the majority of trafficked people. Counter-trafficking NGOs and consular staff suspected that the debts incurred by Central Asian migrants caused them to feel compelled to stay in exploitive labor situations; consular staff in particular described unauthorized Central Asian workers as unaware that they were not obligated by law to pay off the debt, and cited psychological coercion related to debt bondage as the primary mechanism by which these migrants were coerced into labor.

As the Syrian crisis has worsened, border policing has become more stringent and Syrians have had a more difficult time entering the country without the assistance of smugglers. Too little is known about the vulnerability of Syrians to ascertain just how controlled they might be by debt bondage. Nevertheless, given their large numbers in the country and the fact that many have yet to register with UNHCR, identifying Syrians who are trafficked and need additional legal protection is daunting.

Conclusion

Our research suggests that while the Turkish government has implemented new policies intended to decrease human trafficking in the country, at least some of these policies are inadequate for addressing the issue and may in fact contribute to migrants' vulnerability. While government officials in Ankara are working with NGO staff to craft inclusive counter-trafficking laws, municipal police in Istanbul are focusing narrowly on sex trafficking and using a law enforcement-only approach that emphasizes closing brothels rather than identifying and protecting trafficking victims. NGOs that do anti-trafficking work are constrained by government control and centralization. Finally, while legal structures are designed to improve policing procedures regarding trafficking, counter-trafficking practices tend to criminalize unauthorized migrant workers rather than protect them from exploitation. As the Syrian crisis continues, protecting migrants from labor exploitation will become more difficult as the sheer number of vulnerable migrants continues to rise. ■

Endnotes

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