

THE INVOLVEMENT OF OUTLAW MOTORCYCLE GANGS IN HUMAN TRAFFICKING



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1. INTRODUCTION

1.1 INTRODUCTION

Human Trafficking. A humiliating, yet widespread problem.¹ It can be considered a dynamic crime with exceedingly high profits.² It systematically violates human rights and undermines State's migration laws. Lately, a growing interest with regard to this phenomenon can be noticed in the media.³

The European Union urged the need for a comprehensive study. Therefore the TRACE project was initiated. It addresses human trafficking from multidisciplinary perspectives. This thesis elaborates upon the results of this project and thus fits within a broader human trafficking study. It can be concluded from the results of the TRACE Project that human trafficking is a much specialised crime.⁴ Apparently, those who are engaged in trafficking in human beings are not very active in other criminal sectors. However, it appears that there are certain criminal networks that do commit crimes both in the field of human trafficking and beyond. From the literature it transposes that Outlaw Motorcycle Gangs (OMCG's) are one of these. This thesis will examine further whether or not this premise is a valid one.

OMCG's are associated with organised crime regularly.⁵ It concerns motorcycle lovers that have united themselves and have a true brotherhood ethos. They distinguish themselves by their objection to the established order. Their overall appearance and negative media attention have given them a rebellious image. In many countries, there are attempts to regard them as criminal organisations, so that they can be abolished. This thesis cannot address all types of crimes OMCGs may be involved in, but focuses particularly on activities in the field of human trafficking/prostitution, drug trafficking and extortion/'protection.'

The main purpose of this thesis is to achieve an insight in the possible involvement of Outlaw Motorcycle Gangs in human trafficking besides in other types of (organised) crime. This thesis aims to answer the following research question: "To what extent are OMCGs involved in human trafficking for sexual purposes and do they combine this possible involvement with other criminal activities, specifically drug trafficking and extortion/protection?"

¹ UNODC 2012, p. 12

² Europol 2011 b, p. 8

³ TRACE Deliverable D1.2

⁴ TRACE Deliverable D1.3

⁵ See for instance Barker, T. 2014 or Barker, T. 2007

This study is based on document analysis. These documents comprise both reports from various organizations and academic literature. Information will furthermore be obtained from the experience and guidelines laid down in police reports. Where relevant, case law will be taken into account. This thesis is organised as follows:

The second chapter will introduce the offense of human trafficking. In order to research the crime of human trafficking effectively, it is imperative to first adequately circumscribe it. Furthermore, the existing legal framework for human trafficking will be outlined. It is important to understand both the nature and extent of the problem and the bottle-necks related to it when examining possible perpetrators. The focus will be on human trafficking for sexual purposes, since this is the most widespread form of human trafficking.⁶

The third chapter will describe the processes of the most important crimes OMCGs are associated with step by step and examines whether the execution of these crimes require similar skills. The underlying assumption is that it will thus be easier for a criminal to engage in either one these criminal activities. The crimes examined here are human trafficking/prostitution, drug trafficking and extortion/protection.⁷ The analysis is based on the idea that organised crimes can be described as logistical processes, or ‘criminal business processes (see 1.3.2).⁸ The third chapter will therefore present an analysis of how these processes are organised in general.

In the fourth chapter, available documents (scientific, police, media, etc) regarding the extent to which OMCGs are active on multiple crime markets and whether this can be explained from a criminal enterprise perspective will be examined. At last, OMCGs actual criminal practice will be outlined. Hereby, there will also be looked into the issue whether OMCGs can be considered as one criminal entity or not.

Finally, chapter five presents the conclusions of this study. The remainder of chapter one first addresses the framework for analysis of three criminal activities mentioned above and defines the concept over ‘overlapping activities’ on different crime markets.

1.2 FRAMEWORK FOR ANALYSIS

⁶ EUROSTAT 2013, p. 10

⁷ KLPD and Politieregio Limburg-Zuid 2010, p. 68-82

⁸ Spapens, 2011, p. 10-22.

1.2.1 Defining overlapping criminal activities

As this study is based on the assumption that in order to establish whether OMCGs are simultaneously active in different criminal markets, it is important to first define the concept of ‘overlap’. The TRACE project asserted that human trafficking covers a number of supporting crimes. One can think of the use of violence, money laundering and the posting of nude pictures online as a form of marketing. Since they are functional for the overall crime of human trafficking, they should not be seen as distinctive crimes.⁹ Hence, overlap between criminal activities is seen as activities on distinctively different criminal markets.

On first examination of the literature, it appears that OMCGs are mainly active in human trafficking, in drug production (cannabis cultivation and synthetic drug production) and drug trafficking and in extortion/protection. This concerns activities on three separate ‘crime markets.’ Nevertheless, some convergence is thinkable, as would be the case when the female victims of human trafficking are addicted to drugs that OMCG Members who also exploit the women supply.

As a result, OMCGs could be active in multiple types of organised crime at the same time. It is also thinkable that they switch between criminal markets and adapt to changing circumstances in the field of profits and risks. This issue on later in this thesis.

1.2.2 Analysis of criminal business processes

This thesis analyses the three main crimes that OMCGs are associated with from the starting point that they are ‘criminal business processes.’ As every crime asks for its specific skills, it will be examined whether the required skills for the mentioned crimes show some overlap. The conclusion that the requisite skills do overlap, would be an indicator that OMCG’s can easily operate in multiple criminal markets if they possess these skills.

Therefore, an in depth analysis of these three crimes as such will be provided first. After that, the processes can be compared to each other. The theoretical framework used in this thesis to analyse the logistical processes of the three mentioned crimes is on the one hand derived from the script

⁹ TRACE Deliverable D1.3

analysis perspective developed by Cornish and on the other hand from the idea of ‘logistical chains’ derived from the criminal enterprise perspective.

The use of script analysis in criminology is the brainchild of Cornish, who took this on board from cognitive science¹⁰ and applied it in the context of situational crime prevention.¹¹ With the script perspective, knowledge about the procedure of a crime is generated, organized and systematised, in order to get a general overview of the procedural aspects of a crime.¹² The idea behind the script perspective is that if all stages of a crime can be taken into account in a detailed way, this will lead to better prevention of crime.

The criminal enterprise perspective looks upon specific crimes as business processes that do not differ from normal ones, except for the fact that they happen to be illegal. Investigators often use this method to map out processes of organised crime. The analogy between legal and illegal enterprise models allows for a multipronged strategy, targeting weaknesses within the criminal business process in question. In Europe, Sieber and Bögel introduced the logistical perspective to the analysis of different types of organised crime in 1993, including human trafficking for the purpose of prostitution.¹³ Meanwhile, it is generally acknowledged that a coordinated effort over a certain period of time, a minimum number of resources and persons with the right competences are prerequisite elements of organised crime.¹⁴ However, the mere studying of organised crime from a criminal enterprise perspective gives only a limited picture, as it does not offer much details of the practical conduct. As organised criminal groups have a variety of effective options and are often flexible in committing their crimes, this lack of detailed information complicates actual crime prevention.

By combining the two described perspectives, this study intends to gain a comprehensive insight into the criminal activities and possible fragilities of OMCGs.

¹⁰ Vries, M.S. de 2013, p. 3

¹¹ Situational crime prevention orients on the environmental circumstances causing specific forms of crime, instead of focussing on concrete perpetrators and their disposition. Therefore, situational crime prevention concentrates on reducing crime opportunities, rather than changing offenders. See for instance Felson, M. 1994 and Clarke, R.V. 1997

¹² Cornish, D.B. 1994, p. 160

¹³ Sieber, U. and Bögel, M. 1993

¹⁴ Spapens, T. and Fijnaut, C., 2005, Spapens, T., 2006 and Spapens, T., Van de Bunt, H. and Rastovac, L., 2007.

2. HUMAN TRAFFICKING – THE OFFENSE

“It ought to concern every person, because it is a debasement of our common humanity. It ought to concern every community, because it tears at our social fabric. It ought to concern every business, because it distorts markets. It ought to concern every nation, because it endangers public health and fuels violence and organized crime. I’m talking about the injustice, the outrage, of human trafficking, which must be called by its true name -- modern slavery.”

2.1 INTRODUCTION

This chapter will address the crime of human trafficking. Definitions which can be deduced from international regulations will respectively be sketched. In order to understand the need to fight trafficking, it is required to highlight its dimensions and the obstacles encountered in doing so.

2.2 DEFINITION

A divergence in definitions of trafficking in human beings existed from the outset.¹⁶ To bridge these differences the UN, after protracted negotiations, determined the definition as follows: “Trafficking in persons” shall 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.¹⁷ The term has proven to be a dynamic one. Where it previously only related to the trade in women for sexual exploitation, nowadays it comprises trafficking for sexual purposes, for domestic servitude, forced labour, exploitation of criminal activities, organ trade, forced begging and forced marriage. This enumeration is not exhaustive and other categories may yet be added. The category of forced marriages, for instance, is relatively new.

Three prerequisite elements can be perceived to constitute human trafficking; the acts, the means and the purposes. The definition first of all implies an act, for instance in the form of recruitment or transportation. Secondly, where it comes to the means by which this act is achieved, a certain form of coercion needs to be exerted. At last, the specific purpose of exploitation is a crucial characteristic of human trafficking. Exploitation in itself is not defined by the UN, leaving space

¹⁵ Obama, B. 2012

¹⁶ Pearson, E. 2000, p. 20 et seq

¹⁷ This definition can be found in Article 3a of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, which supplements the United Nations Convention on Transnational Organized Crime.

for interpretation at the national level depending on the circumstances of the relevant case¹⁸. In the third chapter these elements will be further elaborated.

One must not confuse human trafficking with human smuggling¹⁹. Albeit the two concepts are often mentioned in conjunction with one another, it genuinely concerns two different crimes. In contrast to human trafficking, human smuggling at its core comprises the facilitation of an illegal entry into the destined States' territory. Despite the fact that the profit not necessarily lies in financial benefits,²⁰ it can be said that smuggling concerns a covenant between two consenting parties, which at its basis stops once the demanded entry is accomplished. The distinction between human trafficking and human smuggling chiefly concerns the difference in interests at stake; with the criminalisation of the former the interest of the individual human being not to be exploited is intended, whereas the latter concerns the interest of States to be protected against deliberate evasion of its migration law. Whereas human smuggling thus necessarily implies border-crossing, human trafficking can also occur within but one country. A certain coherence between the two can nevertheless be perceived, since smuggled persons can indeed be exploited once arrived in the State of destination. It is furthermore assumed that the same push- and pull factors amount to the existence and growth of the both crimes. One of the consequences of this deputizing is a failing recognition of the victims, who are frequently identified as illegal immigrants.

2.3 SCALE OF THE PROBLEM

After the official abolition of Slavery late 19th and early 20th century, trafficking in Europe seems to have increased after the collapse of the former Soviet Union and the fall of the Iron Curtain.

In the year 2012, according to the International Labour Office (ILO), an estimated number of 20.9 million people were being trafficked worldwide.²¹ Hereof some 4.5 million people, incorporating 22% of the total global amount, were trafficked for sexual purposes.

¹⁸ Jordan, A.D. 2002, p. 32

¹⁹ See for instance the Protocol against the Smuggling of Migrants by Land, Sea and Air, which in conjunction with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition supplements the United Nations Convention on Transnational Organized Crime.

²⁰ Human smuggling can also appear for the main purpose of constituting family life.

²¹ ILO 2012. The report was launched on 1 June 2012, and hence does not contain statistics over the whole year of 2012.

Where it comes to Europe, statistics over 2012 range up to 4443 identified and 6555 presumed victims. A strong majority of 66% thereof, 6505 people, was trafficked for the purpose of sexual exploitation, hereby comprehending street prostitution, window prostitution and brothels, strip clubs and bars, the pornography industry, escort services and modelling agencies, the massage parlours and a rest category of others/unknown. Compared with the worldwide statistics, the percentage of trafficking for sexual purposes is thus relatively high in Europe. With a percentage of 96%, the victims are predominantly female. According to Eurostat, the top five of States of Origin of the victims within the EU are Romania, Bulgaria, the Netherlands, Hungary and Poland. The States that have the highest number of identified victims are Romania, France, Germany, Bulgaria and the United Kingdom. The top ten non-EU countries from which victims were trafficked into the EU are Nigeria, Viet Nam, China, Albania, Brazil, Ukraine, Philippines, Sierra Leone, Dominican Republic and Cameroon. It should be kept in mind that the offer must respond to the needs of the customers. That makes this branch trend sensitive. The top ten non-EU countries of origin of suspected traffickers are Nigeria, Albania, Turkey, Morocco, Brazil, Pakistan, Russia, Ghana, China and Serbia. Data show that a majority of 73% of all traffickers is male. A total amount of 1024 Court judgments was registered, Romania contributing to 427 of them. The five States with the highest number of convicted traffickers are Romania, Germany, the Netherlands, Bulgaria and Belgium.²² These figures, however, may be biased by differences in investigative priorities and as such do not indicate that human trafficking in these countries is a bigger problem than in countries that rank lower.

Remarkable in this respect is the discrepancy in between the top 5 of States of origin, of registered identified victims and of convicted traffickers. It is not clear why they do not correspond, but explanations could also lie in investigating priorities.

Diverse organizations report diverse statistics, making this criminal sector a difficult one to estimate. It is hard to find solid statistics for various reasons. Definitions vary in between different States, for example regarding when people can be considered victims of THB. Statistics of States where a low amount of victims is observed can be declared by a low amount of victims indeed. However, an increase in reported cases does not automatically imply an increase

²² Eurostat 2014. Not all EU-States reported their Statistics however, causing the numbers to be incomplete.

in the effective number of human trafficking situations, as acknowledged by inter alia Eurostat.²³ As noted above, one State may have a more active policy than the other. Differences may also be explained due to different levels or methods of reporting victims, or because of underreporting due to failing administration systems. This is even more so since a lot of trafficked persons do not intrinsically consider themselves victims. Problems can therefore be observed as regards the recognition of the victims.

With respect to the profits, it can be concluded too that it is difficult to calculate the amounts. A rough estimate for the entire branch of human trafficking comes down to 150 billion US dollar worldwide in the year 2012. Hereof, revenues of trafficking for sexual purposes are estimated at 99 billion US dollar.²⁴

2.4 LEGAL FRAMEWORK

2.4.1 Slavery

The history of the prohibition of trafficking can be traced back to a number of general anti-slavery regulations. The most important treaty in this regard is the UN Anti-Slavery Convention 1926, amplified with its Supplementary Convention on the Abolition of Slavery 1956, prohibiting slavery in every possible form. General penalizations of slavery are likewise enshrined in Article 4 of the Universal Declaration of Human Rights, Article 8 of the International Covenant on Civil and Political Rights and Article 4 of the European Convention on Human Rights.

2.4.2 Palermo Protocol

The increasing international concern about human trafficking after the fall of the Iron Curtain resulted in the adoption of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, one of the so-called Palermo Protocols. The Protocol is an addition to the United Nations Convention against Transnational Organized Crime and therefore intends to deal with the crime from this perspective. The need to develop a commonly accepted

²³ Eurostats 2013, p. 30.

²⁴ ILO 2014, p. 13. Compare also: OSCE 2014, p. 12

legal framework with a worldwide scope had resulted in the establishment of an Ad Hoc Committee, which was responsible for the drafting process of the Convention.

The Protocol was the first legally binding international instrument on human trafficking. It was adopted on 15 November 2000 and entered into force on 25 December 2003. At the time of writing, the Protocol is ratified by 163 Parties; the European Union being one of them. Article 2 provides the goals the Protocol aims to achieve, namely “to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among State Parties in order to meet those objectives.”

The UN authorised a Working Group on Trafficking in Persons with promoting and reviewing the implementation of the UN Convention and its Protocols.

2.4.3 Anti-Trafficking Convention

The Council of Europe has adopted the Convention on Action against Trafficking in Human Beings. Since the Convention was created after the example of the UN Protocol, the same definition is used under Article 3a. Where the Palermo Protocol is silent on the question of jurisdiction, the Anti-Trafficking Convention explicitly requires each Member State to establish jurisdiction over any trafficking offense committed on its territory.

The Convention was adopted in Warsaw on 3 May 2005 and entered into force on 1 February 2008. It has currently been ratified by 42 States.²⁵ By virtue of Article 1 it has three purposes, namely “to prevent and combat trafficking in human beings, while guaranteeing gender equality; to protect the human rights of the victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, while guaranteeing gender equality, as well as to ensure effective investigation and prosecution; and to promote international cooperation on action against trafficking in human beings.” The Convention is distinctive from the Palermo Protocol in its pursuit of gender equality, which can be declared by its embodiment of a human rights organizations’ vision.

²⁵ Belarus has ratified it, although it is not a Member State of the Council of Europe. Estonia and Turkey as Member States however have signed, but not yet ratified the Convention.

The Council established the so-called GRETA monitoring mechanism, a Group of Experts on Action against Trafficking in Human Beings supervising the States parties' compliance with the Convention. GRETA collaborates with the Committee of the Parties, composed of representatives of all Member States, making the monitoring mechanism two-jointed.

2.4.4 Directive on Preventing and Combating Trafficking in Human Beings²⁶

In the context of the European Union, the Directive on Preventing and Combating Trafficking in Human Beings of 5 April 2011 replaced the Council Framework Decision of 2002²⁷, until that time the leading EU-regulation on human trafficking. It is progressive to such an extent that it expands the definition, also enclosing illegal adoptions and forced marriages. Furthermore, it raises the maximum imprisonment term up to at least 10 years, in case of aggravating circumstances such as the committal within the framework of a criminal organisation.

Under Article 3 of the Directive incitement, aiding, abetting and attempt are made punishable. The Directive also extends the jurisdiction of her Member States to five possible scenarios; when “the offence is committed in whole or in part within their territory,” “the offender is one of their nationals,” “the offence is committed against one of its nationals or a person who is an habitual resident in its territory,” “the offence is committed for the benefit of a legal person established in its territory” and when “the offender is an habitual resident in its territory.” For the latter three scenarios the rule applies that Member States have to inform the European Commission of their intent of prosecution.

On 19 June 2012 the European Commission submitted the EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016,²⁸ which should support the implementation of the Directive.

2.4.5 Other

As for the rest, various regulations have been issued, addressing every possible aspect of

²⁶ European Parliament and European Council, Directive 2011/36/EU of 05 April 2011 on Preventing and Combating Trafficking in Human Beings and Protecting its Victims, OJ L 101, 15 April 2011

²⁷ European Council, Framework Decision 2002/629/JHA of 19 July 2002 on Combating Trafficking in Human Beings, OJ L203 1 August 2002

²⁸ European Commission 2012

trafficking. An example is the Council Directive 2004/81/EC on the Residence Permit Issued to Third-Country nationals who are Victims of Trafficking in Human Beings, which pushes the victims to cooperate with the investigators by means of granting them a residence permit. Given that these regulations are less relevant for the subject of this study than the aforementioned agreements, no further illumination is considered necessary here.

2.5 CONCLUSION

From the foregoing it can be derived that human trafficking is a business that is both very lucrative and has only slim chances of getting caught. The crime is aimed at the exploitation of another person. With respect to this study that specifically concerns the exploitation of the prostitution of others or other forms of sexual exploitation. Both traffickers and victims come from all over the world. Accordingly, the crime is transnational in nature and requires a reliable network spread over multiple countries. Law enforcement and trends in the market require perpetrators to be adaptable. Therefore, it is absolutely necessary for the authorities to collaborate, both multidisciplinary and internationally. This will remain a challenge at any rate.

3. COMPARING THE PROCESSES OF CRIMES ASSOCIATED WITH OMCs

“...But behind all these figures are the stories and destinies of women in search of a better life. These figures show us one thing: women and children end up in the prostitution market. Be it in windows or in massage parlours, in strip clubs or brothels, they are exploited in a sense no one would ever want to imagine. The links between the prostitution market and exploitation are there. The links between organised criminals are more and more evident. They don't have job descriptions.”

3.1 INTRODUCTION

In this chapter, the process and main actors of human trafficking will be outlined. The processes of drug trade and protection extortion are also defined. The three processes are compared to each other where it comes to the required skills.

3.2 THE BUSINESS PROCESS OF HUMAN TRAFFICKING

In general, it can be stated that the process of human trafficking consists of four consecutive phases, as identified in the subjoined diagram. At first, human traffickers need to find the right women, make a certain selection and get the women to the point that they are interested in what the traffickers have to offer. The second phase consists of transporting the women from the State of origin to the State of destination, where they will start working. In order to effectively do so, the entrance into the mentioned State has to be arranged as well. Once the women have arrived, they have to be housed somewhere. The next phase therefore consists of housing them, temporary or permanent. The phase of actual exploitation will take place once the women have arrived in their State of destination. During the whole process, a certain form of control over the victim is necessary in order to effectively get her to perform any tasks wanted. As this applies most in the stage of exploitation, it will be outlined in the paragraph that deals with that stage. Although formally it is not an element of the offense of human trafficking, the money laundering stage is relevant for this study. Therefore, this process will finally be looked into.

3.2.1 Recruitment

The Recruitment Stage

The first phase, the phase of recruitment, is aimed at obtaining a certain trust from the future victim. It consists of searching for suitable candidates, initiating contact and persuading them to accept a

²⁹ Malmström, C. 2013

job offer abroad.³⁰ Traffickers in search of women contact somebody who can deliver them. This phase thus begins with a certain need that has to be satisfied.³¹

In general, there are four discernible situations.³² At first, there are those women that are simply aware of their future work in prostitution. They are often already active in this sector. Secondly, there is a category of women that are misled about their fate in the State of destination. They are usually told they will get a decent job, such as modelling work or in a bar. The women are lied to regarding the nature of the work, their working and living conditions.³³ In both situations, the women mostly become aware of their exploitative situation only after arrival in the State of destination.

The third category of women is actually coerced by physical force yet in the State of origin. This can occur for instance by violence or administering drugs. Another method concerns what can be called “loverboy tactics.” This shortly means the seduction of mainly vulnerable young women, showering them with luxury gifts and subsequently pretending to be in serious financial need. The women are then kept responsible for the seeming debts of their “boyfriends” and are proposed to have sex for money. An important element of the last category therefore is isolation.³⁴ The loverboy method is the most preferable method, since it evokes the most loyalty from the women. Because of the demand for variety from the customers’ side, human trafficking is a crime which is sensitive to trends. Women are selected, based on their physical appearance, submissiveness and sometimes even ethnic background. It appears that preference inclines towards young unmarried, uneducated and unemployed women, mostly from rural areas.³⁵ Recruiters appear to search for women who are not only living in poverty, but also with a low self-esteem, resulting for instance from a history of violence and abuse.³⁶

The techniques recruiters use vary depending on the women they address. Sometimes they contact brothel owners in the State of origin. In that case it is possible to recruit women relatively openly, since the women are already selling their body. The internet is a very valuable source, because of

³⁰ Korsell, L., Vesterhav, D. and Skinnari, J. 2011, p. 104-105

³¹ Hughes, D.M. 2004

³² Spapens, T. and Fijnaut, C., 2005, p. 193 et seq.

³³ UNODC 2006, p. 61

³⁴ Spapens, T. et al 2014

³⁵ UNODC 2006

³⁶ Motus, N. 2004

social media and other network websites. The method of seducing women by internet is called grooming, but it often even occurs that women themselves reply at specific advertisements. One can take use of jobseeker centers or even search in orphanages. The women are lured with false promises, such as a better life, a marriage or a tourist holiday.³⁷

Women can play an important role in the recruitment phase. In the so-called “happy trafficking,” former human trafficking victims return to their States of origin and pretend to have had a well-paid job abroad. In this way, they can attract young women who would want to follow their example.

Nigerian organised crime has a large share in human trafficking in Europe.³⁸ Women are contacted by the trafficking network or relatives and sometimes they even contact the network themselves. These networks often operate in a specific way, using voodoo threats as a form of coercion. Ritual oaths are performed, which seal the agreement between the victim and the trafficker and express their reciprocal commitments. The victims’ fear for the consequences of breaking this pact is often so strong that they are fully under control of the traffickers, making this control method at least as effective as the use of violence. Besides, in these networks women have the opportunity to make promotion after fulfilling the oath.

The average stage of recruitment seems to take in between three and six months.³⁹ However, the work in the State of Origin seems to continue after the woman has left it, amongst other things with threatening her family if she would be obedient. Recruiters receive a lump sum per recruited woman.⁴⁰

Actors

The position of a recruiter comes in various forms. Loverboys form a large category. As they intend to build up a relation with their potential victim, their work requires specific social abilities.⁴¹ They operate locally based. In many cases, the social environment of the victim forms the basis of the recruitment. In any case, this environment will play a role in the women's deciding

³⁷ Motus, N. 2004

³⁸ IOM 2006

³⁹ Kennedy, M.A. et al. 2007, p. 8

⁴⁰ See Petrunov, G. 2011, p.173

⁴¹ Korsell, L., Vesterhav, D. and Skinnari, J. 2011

process. Especially in small groups, this process is fulfilled by the leader or someone close to the leader.

As mentioned, women can fulfill recruitment positions too. In some cases it concerns former prostitutes. Their statements are generally considered very credible, especially now the attention for the loverboy method has increased.

As in some cases the recruitment is done more direct and open, the people responsible for advertisements are relevant actors too.

At last, larger criminal networks sometimes make use of intermediaries, which bridge the gap between the one and the other side of the network.

3.2.2 Transport

The transport stage

The subsequent phase is the phase of transport. It comprises the complete period of movement of the women to their final destination. In this study the transport phase implies border crossing.⁴² Therefore, decent travel planning, ticket purchase and a number of other practical matters are needed. The travel costs are often paid in advance and later used as a means of exerting pressure.

Common modes of transportation are often used in order to let the travel appear to have a legitimate purpose. One can think of the bus, train, plane, trucks or simply cars. Ferries are used to travel overseas. The advantage hereof lies in the fact that checks on entry into the country are less well-developed than in case of flights. Sometimes there are even chartered bus trips arranged for women from for example Russia transported to Scandinavia. The women accordingly travel alone, with a companion or together with other women.⁴³

In the Sneep case we even see a circulation of the women between exploitative locations spread over Belgium, Germany and the Netherlands.⁴⁴ It is thus plausible that a certain interoperability takes place between different organised crime groups. For the combat against human trafficking,

⁴² Trafficking that takes place within one country is left aside here.

⁴³ TRACE D1.3

⁴⁴ Sneep case

it is therefore important to acknowledge that a State of destination could always be a State of transit too, and vice versa.

Although innumerable routes are conceivable depending on the State of Origin and the State of Destination, a few main routes can be observed.⁴⁵ Victims coming from the Balkan are often trafficked by boat from Albania to Italy, from where they are transported to France and further up northwards. This is called the Albanian route. An extension of this route is the Moldovan route, which leads from Moldova through Romania and Serbia. A more northern route for the women coming from the East of Europe runs from Russia and Ukraine through Poland and the Czech Republic or through Serbia. This is the so-called Russian-Ukrainian route. As mentioned before, a large number of human trafficking victims in Europe come from Nigeria. The Nigerian route can be taken directly by plane to the State of destination or a near State by boat or plane. Frequently, the victims first cover long distances in African countries such as Benin, Ghana or the Ivory Coast before they leave to Europe by boat or plane. The same applies for the Chinese route. The women can either fly in directly, or travel long distances over land through Russia and some of the aforementioned routes. Where it comes to the Ecuadorian route, when the women do not fly directly to their State of destination, they travel through for instance Colombia or Venezuela.⁴⁶

Whenever there are problems in crossing the borders, the routes are adapted. Therefore some extra efforts are required to identify the easiest route. This implies that the routes vary throughout the years.⁴⁷

Actors

In the case of illegal entry in the state of destination, human smugglers can play a role in the transport phase. Whenever the entry can occur on a legal base, basically any kind of transporter can be useful. Travel agents and agencies are sometimes involved too.

3.2.3 Entrance

The entrance stage

⁴⁵ The routes apply for both human trafficking and human smuggling.

⁴⁶ Home Office UK 2012 and European Commission 2001, p. 41 et seq.

⁴⁷ UNODC 2014 a, p. 48 and Salt, J. and Stein, J. 1997, p. 477

The phase of entrance is closely related to the phase of transport. The entrance itself in a State of destination can occur either legally or illegally. Since the establishment of the Schengen area it has become much easier to cross borders within Europe. As a rule, women coming from this area can therefore enter a State of destination with their own passports. Other ways to enter the State of destination are by means of a tourist visa or work permit.⁴⁸

When passing border checks it is necessary to arrange illegal documents. This is the case when the women come from countries outside the EU, or when the victim is underage. The arrangement is done either by counterfeiting documents or by buying them from corrupt officials. When border controls are avoided, the entry in the State of destination is accomplished by human smuggling. Women may have to cover distances by foot, often through natural areas.⁴⁹

Another way to let women enter a State of Destination is by means of marriages of convenience. The groom can either be a trafficker himself or a service provider. The danger in this regard is that investigative authorities often see the women as the perpetrators.⁵⁰

Nigerian groups have frequently abused the Dutch asylum procedure in order to let their victims enter Europe legally.⁵¹ Hereafter, victims were leaving the reception centers with unknown destination.

Actors

Illegal entry is established with the help of various actors. Travel documents or visa are often falsified by document forgers. In addition, corrupt public officials are a common and eternal problem. Depending on their position, they can issue the required documents or neglect to carry out border controls.⁵²

Traffickers also use facilitators, for example lawyers. They are advisors with specific local knowledge about inter alia border controls or asylum procedures.⁵³

⁴⁸ Salt, J. and Stein, J. 1997, p. 477 et seq.

⁴⁹ Salt, J. and Stein, J. 1997, p. 481 et seq.

⁵⁰ Europol 2014

⁵¹ BNRM 2009, p. 389

⁵² TRACE D1.3

⁵³ OSCE 2010, p. 58

Legal entry is most often done by the women themselves. After all, that is the least risky method. Albeit less regularly, legal entry can also occur with persons functioning as a reference. The most logical example is formed by convenience marriages.

3.2.4 Housing

The housing stage

Where it comes to the housing, the locations have some things in common. In spite of the variety in specific locations, the costs are generally kept as low as possible. The freedom of movement is reduced as much as possible, in order to maximise control.⁵⁴ The women are often forbidden to leave the house unaccompanied or even locked up. Sometimes the women live with someone from the trafficking network.⁵⁵

It is assumable that the accommodation is searched as nearby the work establishment as possible to limit the transport time and expenses. Housing can also take place in the establishment where the women work. This saves the costs of housing, but increases the possibility of police checks.⁵⁶

Actors

Brothel keepers form a small category of actors in the housing process. Since this increases the risk, women are not often housed in the same place as where they work. For motives of price reduction, women are not housed in hotels all too frequently either. More common actors are slum landlords, who close their eyes to the criminal activities in which they contribute. Furthermore, Nigerian women often live with their madam.⁵⁷

3.2.5 Exploitation

The exploitation stage

⁵⁴ BNRM 2009, p. 375

⁵⁵ Spapens, T. and Fijnaut C., 2005, p. 197

⁵⁶ Korsell, L., Vesterhav, D. and Skinnari, J. 2011, p. 114

⁵⁷ IOM 2006, p. 47

Eventually, the exploitation phase commences. This phase is what it's all about, as the definition mentioned in Chapter 2 states that the entire offense takes place for the purpose of exploitation. The main focus of the media is on this stage, as it captures the imagination most.⁵⁸

Upon arrival in the State of destination, the women are forced into prostitution. Exploitation takes place in every conceivable establishment. Examples are clubs, beauty salons, hotels, private houses, in brothels and so on. In some cases, the women are forced into street prostitution.⁵⁹

After some periods of time, the women are often moved to another location. This circulation serves multiple purposes. For the customers it provides variety. Customers enjoy a wide range of women. Offering new women will hence keep the customers coming and maximise the profits. Furthermore, it reduces the risk of being caught by the authorities. It also prevents the women from being rooted in the area where they are exploited.⁶⁰

Throughout the whole process, it is important to exercise control over the women.⁶¹ Once arrived in a State where they do not know their way, they are highly dependent on their traffickers. There is made use of their vulnerable position in various ways. Probably the most common method is that of debt bondage.⁶² The traffickers present the women a large debt, for the provided services that would have been necessary to get the woman at her new working place. In order to repay it, they demand daily fees. Their identity documents are often seized in order to prevent them from running away. The freedom of movement of the women is limited as much as possible. The use of violence appears to be a common practice in this branch. It can be used in case of any resistance of the women. Doing this in front of the other women, will frighten them and keep them cooperative. Then the mere threat of violence against the women themselves or their loved ones will yet help to keep her under control. Another form of coercion is the making of photos or videos with a sexual content. In the case of disobedience, the traffickers can threaten to send the material to her relatives. Especially in countries where the concept of honour is valued highly, this can destroy someone's social identity.⁶³ The victims are also threatened to be sold to another, more

⁵⁸ TRACE D1.2

⁵⁹ BNRM 2009, p. 277

⁶⁰ Spapens, T. and Fijnaut, C. 2005, p. 195 et seq

⁶¹ OSCE 2010, p. 50 et seq

⁶² OSCE 2010, p. 52

⁶³ OSCE 2010, p. 51

violent criminal group. Sometimes the women are used to check upon the other women in exchange for certain privileges. This breaks down any mutual trust in such a way, that no joint plans will be invented.

The opposite scenario is possible too. If the loverboy continues his tactics in the exploitation stage, he can claim to be in financial debts himself and needs the woman to help him with this. In that scenario, there will be less physical and more psychological forms of control.⁶⁴

The level of control varies from situation to situation too. In the more violent groups, one can see that the traffickers are in continuous contact with their victims over the phone. They set up systems to check on their victims, such as observing the number of clients to ensure that the women cannot withhold money from them.⁶⁵ In Nigerian groups, the mere fear that is created with the performed voodoo rituals allows a more loose system.⁶⁶

Actors

A number of facilitators can be observed in the exploitation phase. At first, there is the leader of the human trafficking network. As he is the one who will want to have control, he is one of the actors in the exploitation phase. However, he will often be involved in general decision-making throughout the whole process.

Where it concerns the Nigerian groups, a so-called Madam, often a former trafficking victim, is in control of the whole process in the State of destination.

Window prostitution operators, brothel keepers or owners of any other kind of establishment where the exploitation can take place, provide a location. In order to get to this location, taxi drivers play an important role. Enforcers are deployed to offer protection against threatening customers, keep the women under control and collect the debts.

In addition, trafficking is done with the help of a number of actors from legitimate businesses. One can think of lawyers and notaries, who help with the administrative work. The Dutch Sneep case concerned a very violent and well organised trafficking network. This network consisted of people who were in real estate, a consultancy office, tattooists and doctors. They even made use of and

⁶⁴ BNRM 2004, p. 76 et seq

⁶⁵ OSCE 2010, p. 50 et seq

⁶⁶ IOM 2006, p. 48

even an aesthetic surgeon, who performed breasts enlargements on the women. This surgeon provided the traffickers discounts, with a view to the large number of clients they brought in.

For the marketing part, photographers and ICT specialists are deployed.⁶⁷ They create advertisements and make the women knowable.

At last, there are the customers. Their role does not only lie in making use of the "product," and thus providing the money influx. They also meet each other on fora on the internet, where the prostitute's services are discussed and reviewed. Happy customers are the most cheap and efficient way of marketing for the traffickers.⁶⁸

3.2.6 Profit laundering

The profit laundering stage

After the traffickers have earned their money in the exploitation phase, it has to be laundered. Although it is no component of the offense trafficking in human beings, it is worthwhile to have a look at this stage too.⁶⁹

Interpol uses the following definition of money laundering on its website: "any act or attempted act to conceal or disguise the identity of illegally obtained proceeds so that they appear to have originated from legitimate sources."⁷⁰

As the "product," the woman, can be exploited for a longer period of time, their income arrives on a continuous basis. This provides manageable daily takes instead of major payments all at ones, as could be the case with for instance big drug deals. This more constant flow of money makes human trafficking a crime that is less dependent on large-scale payments. In the already mentioned Sneep case, the women had to pay their traffickers € 1000 per day.⁷¹ On top of this came other expenses, such as their room rent and security.

⁶⁷ Sykiotou, A. 2007

⁶⁸ Korsell, L., Vesterhav, D. and Skinnari, J. 2011, p. 107

⁶⁹ OSCE 2014

⁷⁰ www.interpol.int/Crime-areas/Financial-crime/Money-laundering

⁷¹ Sneep case

In literature, money laundering is traditionally seen as a process of three stages.⁷² The placement stage is the first stage, in which the often large amounts of money earned by the exploitation have their initial entry into the legitimate financial system. This is the most risky part of the process, because large amounts of cash become deposit money. This is most often done by means of financial institutions, such as Western Union. The placement can also take place physically. The money will then be smuggled or sent by post to third countries. The second stage is the stage of layering. The money is separated from its source by means of complex transfers. It is divided into multiple "layers," smaller amounts of money. That way, it is made difficult for the authorities to trace the origin. At last, there is the stage of integration, in which the money is made available for its use in the legal circuit. At current, criminologists plea for a four-stage model. Herein the first two stages are unchanged. The stage of integration is divided into two separate stages. The third stage would then be the stage of justification. With usually lots of paperwork, a fake legal origin is provided to the money. A small remark here is that this stage does not necessarily have to be passed in every money laundering process. Sometimes the last stage is went through without justifying the money. Finally, there is the stage of investment. If the other stages have been completed, the money that is released can be spent. The ways in which it is consumed vary; examples are buying luxury goods, investing in real estate or booking holidays.

Research points out that the money earned with human trafficking is generally used on three ways. Traffickers invest their money in businesses or real estate in their State of origin. They also spend it to buy luxury goods. At last, they can use it to reinvest it in the State of destination to finance other criminal activities.⁷³

Actors

The actors in the profit laundering process form a link between the upper world and the underworld. For the first stages, bankers or other people in the financial world from any kind are necessary. Lawyers, accountants or other advisers can provide important help. In the case of physical replacement of money, the traffickers need money couriers.

⁷² Chong, A. and Lopez-de Silanes, F. 2015, p. 97

⁷³ OSCE 2010 p. 53

Companies that typically deal with large cash flows can be used to disguise the criminal origin of the money. Examples hereof are beauty salons, laundry services or bars.

As regards the consumption, a common construction is the use of straw men. A fictitious ownership is established, for instance in the case of property. On paper, the straw man is the one who bought the house concerned. In reality, the one that used criminal money to buy it, remains in the shadow. Furthermore, actors can be found in all sectors where the money can be spent. This includes casino employees, car dealers, or people working in real estate.

3.3 THE BUSINESS PROCESS OF DRUG TRADE

The business process of drug trade can be divided into three main phases, which are production, trafficking and distribution.⁷⁴ Although drugs can be distinguished into several main categories, each with their very own characteristics, the main phases apply to all types narcotics.

The production phase also comprises different steps. The basic raw material for all types of narcotic drugs is of biological origin. For heroin it is poppy; for cocaine it is the leaves of the coca plant, for hashish and cannabis it is hemp and for ecstasy it is sassafras. The cultivation stage comprises the natural process of growing, producing or possessing of plants that will be used for the production of drugs. Colombia, Peru and Bolivia are the largest cultivating countries of coca leaves.⁷⁵ Hemp can be cultivated anywhere locally. For Europe, one of the main supplying countries for hashish is Morocco.⁷⁶ Cannabis cultivation has spread all over Europe, due to the development of indoor cultivation techniques. The majority of poppy plants, the natural base for opiates and opioids, is cultivated in Afghanistan.⁷⁷ Sassafras is mainly grown in China.

In the processing stage, the raw materials are manufactured into actual drugs. Where it comes to cannabis, the process is relatively easy. After harvesting, the plants are dried, the unusable parts are removed and the result is divided into the right portions.⁷⁸ For heroin, cocaine and synthetic drugs, one needs the right precursor chemicals, laboratory equipment and technical know-how.⁷⁹

⁷⁴ Reichel, P. and Albanese, J. 2014, p. 65. Consumption is not seen as a stage of the drug trade process in this study.

⁷⁵ UNODC 2014 b, p. 34

⁷⁶ EMCDDA 2014, p. 5

⁷⁷ UNODC 2014 b, p. 21

⁷⁸ EMCDDA and Europol 2013, p. 56

⁷⁹ EMCDDA and Europol 2013, p. 70

The trafficking stage comprises the process of transporting the drugs from the State of production to the State of consumption. Of course, this part of the process is not necessary if the drugs are to be sold in the country where they are also produced.

Basically, anything with a hollow area, including the human body, is suitable for smuggling drugs.⁸⁰ The larger part of cocaine shipments is transported on a large scale, by means of bulk transport from overseas.⁸¹ These shipments enter Europe via main ports, such as Rotterdam or Antwerp and also via Spain. Another common method is the smuggling of smaller quantities of drugs by air. Human couriers swallow small packages of drugs, strap them onto their bodies or smuggle them in their luggage.⁸² Heroin is mostly trafficked into Europe via the Balkan route, from Afghanistan to Europe through Iran and Turkey. Other routes are nevertheless quickly expanding.⁸³

Upon arrival in the State of consumption, the drugs must be distributed to the customers. In this stage, it is often observed that drugs pass a chain of distributors from upper level to lower level dealers.⁸⁴ The tolerant Dutch drug policy has caused a flourishing traffic by drug tourists in the Dutch confines of Germany and Belgium. They buy small packages of drugs in for instance Dutch coffee shops and sell them elsewhere. A broad network of suppliers is therefore imperative.⁸⁵

As the entire drug trade process is illegal, a well-established relation based at trust is most ideal.⁸⁶ Although sometimes inevitable, the use of violence is therefore preferably avoided.⁸⁷ A violent reputation is essential nevertheless.

3.4 THE BUSINESS PROCESS OF EXTORTION AND PROTECTION

It is generally recognised that extortion for organised crime groups is one of the central ways to collect their revenue.⁸⁸ Hunt defined extortion as “taking from another some advantage by intentionally subjecting him illegitimately to pressure which induces him to submit to the

⁸⁰ Duyne, P.C. van and Levi, M. 2005, p. 84

⁸¹ UNODC 2011, p. 24

⁸² Duyne, P.C. van and Levi, M. 2005, p. 51

⁸³ UNODC 2014 a

⁸⁴ Korsell, L., Vesterhav, D. and Skinnari, J. 2011, p. 110

⁸⁵ Spapens 2008, p. 191 et seq

⁸⁶ Korsell, L., Vesterhav, D. and Skinnari, J. 2011, p. 112

⁸⁷ Matrix Knowledge Group 2007, p. 45

⁸⁸ Konrad, K. and Skaperdas, S. 1998, p. 472

taking.”⁸⁹ The crime can come in many forms, but most relevant for this study is protection extortion.

Consecutively, the following activities constitute the crime of protection extortion. The process always starts with a contact phase, in which the extorters first present themselves to their future victim.⁹⁰ This can occur by telephone, email or letter. Most often though, this is done face-to-face.⁹¹ A key element of these arrangements is the threat to harm the victim. This concerns a future harm, constituting psychological control over the victim. Frequently used means of pressure are the threat to use violence, disclosure of information or sabotage.⁹² Although the coercion is often accompanied by violence, sometimes the mere violent reputation of the extorter is sufficient to let the victim cooperate.⁹³ Those who run the greatest risk of protection extortion are small companies with large cash flows, such as retail businesses, bars or night clubs.⁹⁴ Thereafter, the negotiation stage takes place.⁹⁵ In this stage, the extorter imposes obligations on the victim. A common practice is the situation in which a problem is set up by the extorters themselves, in order to offer protection to it later on. The process ends with the stage of demand and consumption, in which there is actual compliance with the imposed deal by the victim. Especially in the case of protection extortion, this can be systemic and by periodic payments lead to a continuous income for the criminal group. Next to gaining an income, protection extortion can for instance also be aimed at obtaining control over a certain market sector.⁹⁶ A criminal group can strengthen its position compared to their competitors that way.

A well-known reputation of violence has to be built up in order to obtain credibility. Naturally, the criminal group should have the actual power to reinforce the threats if necessary. Therefore, it is convenient to have some weapons at one’s disposal. Given that the claimed sum of money depends on the financial needs of the extorters and the financials of the victim, some insight into the latter’s

⁸⁹ Hunt, P.M.A. 1967, p. 164

⁹⁰ Putten, C. van, 2012, p. 5-6

⁹¹ Leiden, I. van, et al. 2014, p. 73

⁹² Leiden, I. van, Vries Robbé, E. de and Ferwerda, H. 2007, p. 82

⁹³ La Spina, A. et al., 2014, p. 25

⁹⁴ Transcrime 2008, p. 27

⁹⁵ La Spina, A. et al., 2014, p. 21

⁹⁶ Transcrime 2008, p. 21

financial aspect is advantageous.⁹⁷ Next to this, little up-front investment is required in terms of money or other preparations.⁹⁸

The director is the brain behind the whole extortion process. The contact maker and, if present, the confidant are the persons who are in contact with the victim. Through this contact, they are aware of the victim's reasoning and can lead its decisions. The role of controller is necessary to exert pressure on the victim. Finally, the aggressor is the actor who does not avoid the use of violence.⁹⁹ The extorters can fulfill several of these roles simultaneously.

3.5 COMPARISON OF THE SKILLS REQUIRED FOR THE THREE BUSINESS PROCESSES

The aim of the analysis of the three criminal business processes is to establish where the necessary skills overlap, in order to explore whether this may enable criminals to easily engage in different types of crime.

Trafficking for sexual exploitation

As outlined in this chapter, the consecutive stages of trafficking in human beings have been extensively outlined. Recruitment for the crime of human trafficking comprises finding women that correspond to the demand in the State of destination. This only requires some social skills. For the entry in the State of destination in question, skills in the field of falsifying identity documents are valuable. Controlling the victims is essential in the entire business process of human trafficking. This is most evident in the stages of housing and exploitation. A variety of methods can be used in this regard, whereof the most important ones are applying threats or violence, isolating the victim from her environment and creating a situation of dependency.

Drug production and trafficking

The various stages of drug trafficking each require their specific abilities. Finding the right persons for the various stages of this crime requires recruiting skills too. For the production of various types of drugs, a certain technical know-how is required to deliver products of high quality.¹⁰⁰ In

⁹⁷ Transcrime 2008, p. 24-25

⁹⁸ Paoli, L. 2003, p. 165

⁹⁹ Putten, C. van, 2012, p. 7-9

¹⁰⁰ Spapens, T. 2006

contrast to human trafficking, where the offenders can use regular transport methods to accommodate the women, with drug trafficking the product itself is illegal. Therefore, some more effort is required than in the case of trafficking in human beings. Actors may have skills in the field of technique, which helps to build hidden compartments in trucks. Knowledge of routes, planning or paperwork is an advantage in this phase too. Furthermore, as it concerns international negotiations in an environment without legal protection, trade skills are very important to establish long-term relationships. Therefore, a violent reputation generally is a strong asset in the criminal market of drug trafficking. This prevents “rip deals” of competitors or people in the business that cannot be relied upon.

Extortion/protection

The process of protection extortion is less labour-intensive than the other examined crimes. This process starts with finding the right victim, which in a sense is a form of recruitment too. As is the case in trafficking in human beings, control of this victim is an elementary feature of the business process of protection extortion. The overlap in skills between extortion and human trafficking lies in the ability to use violence whenever needed and above all, the appearance and reputation that create fear at the victim. This prevents the situation in which the victims would take measures as going to the police or undertaking acts of violence themselves.

Comparison of skills

When looking at the required skills of each of the examined crimes, the following conclusions can be drawn. For each of the three crimes, finding the right persons is a necessary first step. In human trafficking, this concerns finding women that correspond to the demand and are eligible for exploitation. In the process of extortion, this recruitment concerns finding the right victims to exploit financially. Where it comes to drug trafficking, the search is not aimed at victims, but at facilitators with the right knowledge and abilities. The transport and storage and housing stages of human trafficking and drug trafficking differ from each other in terms of means of transport and type of property. The most salient overlap in skills, where it comes to all three of the crimes, lies in having a violent reputation and the ability to apply violence. This helps to assure that persons perform activities involuntarily and reduces the risk of being ripped off by fellow criminals or business partners.

3.6 CONCLUSION

It can be said that human trafficking is a highly specialised crime, which takes a lot of time and energy. Throughout the whole process, various positions need to be fulfilled.

From a legal point of view, the crime of human trafficking starts with the phase of recruitment. Actual exploitation is thus not required in order to be punishable for human trafficking. It can be stated that human trafficking is a process that takes time and energy. Investing in getting to know the victim's social circle in the recruitment stage, can be very useful in the exploitation stage when the women are obstructive. As stated, the threat to hurt their relatives is an efficient method to establish control. This means that if the earlier stages are carried out carefully, the benefits thereof can be reaped later. However, the emphasis in literature and media is always primarily on the exploitation stage. Although money laundering is a separate discipline, which is not related to this particular offense, the benefits of the crime could not be enjoyed without this stage. It is therefore important to take this stage into account too when looking at the crime of human trafficking. The most important conclusion that can therefore be drawn in this regard is that attention should be paid to the entire process.

Looking at the skills required for the treated offenses can provide an insight into possible overlap of activities in several criminal markets. In that respect, this chapter outlines the skills that are proven useful in the studied offenses. As we have seen above, particularly the ability to 'recruit' victims is useful for human trafficking, drug production and trafficking as well as extortion and protection. In addition, violence is a key element in any activity of organised crime, both to implement rules and to fight rival competitors. Having a violent reputation provides advantages in different types of crimes.¹⁰¹ For OMCGs the latter seems to be of particular importance. The next chapter examines this in more detail.

4. OUTLAW MOTORCYCLE CLUBS

"I've been associated with 1%er motorcycle clubs since the late 1950's. ... Our clubs and our bikes are what we live for, and anything else is just that, anything else. It goes without saying that

¹⁰¹ Chu, Y.K. 2000, p. 114

we've worked hard for our reps and will do everything in our power to maintain them. We do not apologize for a damned thing."

Sonny Barger¹⁰²

4.1 INTRODUCTION

This chapter will further examine the overlap in crimes dealt with by outlaw motorcycle clubs. At first, a description will be given of OMCGs in general. Secondly, possible overlap is researched. At third, explanations for the results of this research are given.

4.2 OMCGS: BACKGROUND AND ORGANISATION

OMCGs as we know them nowadays are rooted in the Post-World War II era, to allow veterans to combine their search for some excitement with their love of motor driving.¹⁰³ Members are often referred to as 1-percenters, a term which arose from a press statement of the American Motorcycle Association, in which it allegedly stated that 99% of all bikers were law-abiding people. The OMCGs adopted this term as an honorary title and have used it ever since. The lifestyle of OMCGs is characterised by brotherhood and non-conformity. The biggest OMCGs in Europe are the Hells Angels MC, the Bandidos MC, the Outlaws MC and Gremium MC.¹⁰⁴

Meanwhile, the clubs have expanded into large international networks. The clubs are divided in chapters and regional departments, which are closely interrelated. The clubs have a highly hierarchical structure. Despite minor differences, the various clubs are similarly governed. Each chapter generally has its own President, Vice-President, Treasurer, Secretary, Road Captain and Sergeant.

Each club can be recognised by its own "colours." It's the official club uniform, consisting of back patches and possible front patches, which represent the member's ranking. The back patch consists of a top rocker which indicates the club name, a bottom rocker which indicates the club location and the emblem with the letters MC in the middle. The front patch represents any ranking. The

¹⁰² Barger, R.S. and Zimmerman, K. 2001

¹⁰³ Dulaney, W.L. 2005

¹⁰⁴ Europol 2012

colours are personalised and are its wearers' biggest pride. Nevertheless, they remain property of the club. Where it concerns recognisability, tattoos supplement the colours. This image contributes to their reputation as one aggressive entity.

Membership is not open to everyone. Newcomers must be introduced by members and start as a so-called hang-around. If the motor club considers them worthy they will be promoted to the status of prospect member. In this period, which can last up to multiple years, their compatibility and loyalty are tested. The club carries out an intensive intelligence gathering about their background. Only by unanimous vote, prospects can be inaugurated as full colour members. Expansion also occurs by "patching in" or "patching over," in other words by assimilating other clubs into the organisation. This concerns a somewhat accelerated approval procedure, aimed at physical preponderance.

Membership of an OMCG is a costly affair. Logically, there are the costs for the motor. These are mostly Harley Davidsons. Each member has to pay its club fees at set times. Santerra Manuhutu, the President of the originally Dutch OMCG Satudarah, mentioned that their contribution comprises € 50 per month.¹⁰⁵ The clubs organise meetings, parties and runs, both nationally and internationally. Members from all chapters are expected to be present. According to the KLPD, these costs altogether can barely be earned in a legal job.¹⁰⁶

4.3 INVOLVEMENT IN (ORGANISED) CRIME

It is often assumed that OMCGs are deeply involved in criminality. Situations where members of OMCGs were involved in human trafficking, drug trade or protection extortion are in the newspapers regularly. The clubs have specific codes of conduct, such as a pledge of secrecy. Members themselves will therefore never provide any information that can affect their motor club negatively to the police.

Members of the Hells Angels are said to be active in the cultivation and distribution of cannabis in Northern Europe.¹⁰⁷ They are generally linked with poly-drug trafficking, amongst others along

¹⁰⁵ Volkskrant 2011, Interview with Xanterra Manuhutu, President of Satudarah MC

¹⁰⁶ Politie Dienst Landelijke Informatieorganisatie 2014, p. 65

¹⁰⁷ Europol 2011 a, p. 20

Balkan Route.¹⁰⁸ Europol has set up project Monitor, to keep a close eye on the developments in Eastern Europe.¹⁰⁹

Where it comes to the involvement in human trafficking, only recently “Operation Casablanca” was conducted. Hells Angels from Germany, Luxembourg, Spain and Turkey were arrested on the suspicion of belonging to a criminal organisation, which would have committed crimes in a high number of countries across Europe.¹¹⁰ The Spanish police arrested 25 Hells Angels, among them the President of the Hannover chapter Frank Hanebuth.¹¹¹ As this process is still underway, it is important to exercise caution where it comes to drawing conclusions. At current, the Prosecutor announced to bring to trial 55 Hells Angels. Women with tourist appearances would be brought to Spain. The victims would be exploited in sex clubs in Germany and even transport their incomes to Mallorca themselves. If necessary, even cosmetic surgery would be performed on the prostitutes.¹¹² The HAMC members are said to have cooperated with a Bulgarian group, who would falsify identity documents for them. Chapters in other countries would have laundered the money. Money would also have been laundered by investments in the Formula 1 in Mallorca. Third parties would have been involved in the laundering process too. As such, a farm would be purchased at someone else’s name. The arrested members were also associated with other crimes, of which extortion is the most common one.¹¹³ Remarkably, even an agent of the local police of Palma, an agent of the national police and someone from the Guardia Civil would have collaborated in the human trafficking process.¹¹⁴ One out of the many lurid details of the case is the fact that they penalised the women by locking them up in dog cages.¹¹⁵

In Germany, OMCGs are frequently associated with human trafficking, drug trade and protection extortion.¹¹⁶ There are indications that motorcycle club members are the ones practically in charge of some establishments in the background. This is possibly the case in Hannover, where the previously mentioned Frank Hanebuth is said to have the actual power over a number of sex clubs.

¹⁰⁸ Europol 2010

¹⁰⁹ Europol 2010

¹¹⁰ Europol 2013, p. 36

¹¹¹ Guardia Civil 2013

¹¹² ABC.es 2013

¹¹³ Diario de Mallorca 2013

¹¹⁴ El País 2015

¹¹⁵ El País 2013

¹¹⁶ Vahldieck, H. 2010, p. 3

According to the German newspapers, an extensive network in prostitution has formed over the years. Several well-known businessmen and lawyers would be involved.¹¹⁷ A while before, the German media had already mentioned an alleged motorcycle gang war between the Bandidos and the HAMC in the Red Light District of Hannover.¹¹⁸

Case law research points out that at least in the Netherlands OMCGs are only minimally intertwined with human trafficking. This image is confirmed by police research.¹¹⁹ The offenses committed included mostly drug- and weapon offenses and extortion. During the process of writing this study, a member of Satudarah MC was convicted for extorting the owner of a strip club in Eindhoven. The harsh threats included cutting of the fingertips of her and her relatives and planning a large-scale invasion into the club with other Satudarah Members.¹²⁰ The researched cases do however indicate a certain level of organized criminality. Offenses are committed as a club regularly. A situation was observed in which five members committed a violent home robbery, wearing their colours and hereby making use of their fearful club image. Since the offense was in this case committed by approximately one third of a chapter, one could see this as a club offense. In one situation, members of the Hells Angels even entered a police office by force, in order to break down a hearing of witnesses. As in the Netherlands, they are convicted mainly for violent or property crimes,¹²¹ it would be more logical that they are active in protection, extortion or in the profit laundering stages.

Quinn distinguishes four types in OMCG criminality, namely spontaneous expressive acts, planned expressive acts, short-term instrumental acts and ongoing criminal enterprises.¹²² The first two categories concern violent acts, mostly directed at rivals. Instrumental acts are aimed at achieving a specific goal. The last category serves to finance the club and its members and require more long-term efforts. Human trafficking falls within the last category.

Wolf indicates that bikers are divided into radicals and conservatives.¹²³ Quinn & Forsyth elaborate on this.¹²⁴ They explain that conservatives are attached to traditional values, such as

¹¹⁷ Der Zeit 2010

¹¹⁸ Der Spiegel 2009

¹¹⁹ Politie Dienst Landelijke Informatieorganisatie 2014, p. 190 et seq.

¹²⁰ Omroep Brabant 2015

¹²¹ Blokland, A., Soudijn, M. and Teng, E. 2014, p. 15

¹²² Quinn, J.F. and Koch, D.S. 2003, p. 296

¹²³ Wolf 1991, p. 272

¹²⁴ Quinn, J.F. and Forsyth, C.J. 2011, p. 217

motor-riding, camaraderie and a rough reputation. Radicals' primary interest is criminal gain and therefore they are hindered by negative attention. They use the climate of their motor club for criminal entrepreneurship. Albeit the two philosophies are present in every motorcycle club and possibly every biker, it is a question of priorities. Eventually, one of the two categories will prevail and influence the club.

What can be seen in the working methods of OMCGs, as well as in those of human traffickers in general, is that they make use of public officials. Corruption is thus a broad problem that should always be paid close attention to.

A strong indication moreover is that they are often spotted in neighbourhoods where many sex trade is done. What is seen in both trafficking organisations and in Outlaw Motorcycle Gangs is that there is an overlap between the legal and illegal circuit. As a rule, those carrying out illegal acts always need people from the legal world. Corruption is a major problem that recurs in many transnational crimes too. In the Casablanca case, Spanish police agents would have cooperated with the Hells Angels, as is often observed in human trafficking too. Furthermore, they are said to have made use of document forgers from the East of Europe, which is also the case in some trafficking organisations.

However, no ruling has been done yet in the aforementioned Operation Casablanca. Until that time, no firm conclusions can be drawn from this operation.

4.4 REFLECTION

It is difficult to give consistent explanations for the criminal behaviour of members of OMCGs. The fact that OMCGs are put under a microscope by the authorities and media undoubtedly leads to more detected cases. In this section there will be given some reflections on the criminal activities of OMCGs and possible explanations.

According to Europol, OMCGs clubs seem to recruit their members based on certain qualities, such as transnational contacts, technical expertise or for instance the possession of an establishment with large cash flows. Work in the legal or transport sector can also be an advantage. It is observed that they select members from street or prison gangs, extremist groups, hooligans

and the military in search of specific skills.¹²⁵ Besides, OMCG members appear to have some common characteristics, such as a violent personality and a display of provocative behaviour, fearlessness and impulsiveness. Members of OMCGs thus often have the skills that are essential for successful criminal activity, especially when it comes to violence. They seem to be chronically aggressive. The reputation of the clubs as such also contributes. If the use of force is necessary, single Members can always count on the support of the entire club and intimidate adversaries with the fact that other club members will take revenge. This reputation of violence is well-known all over the world. The group can be seen as some “inner holiness” with its very own norms and values, such as male superiority, an oath of secrecy and strong loyalty to the group.¹²⁶ Members are very loyal and remain silent under all circumstances when it comes to club matters. These factors, together with the general aspect of group pressure, provide the ideal climate for undertaking criminal activities.

Apart from the characteristics of the group and its members, the results of a study by Blokland et al.¹²⁷ of criminal careers of OMCG members also points to opportunity theory. As a rule, perpetrators often commit their first offenses during adolescence but members of OMCGs, usually start their criminal careers at a considerably later age. This would suggest a relation between the membership of an OMCG and involvement in criminal activities.

It seems very likely that the German and Spanish chapters of the Hells Angels, where Operation Casablanca focused on, did commit crimes in the sphere of human trafficking. It is conceivable that for bikers there is little moral difference in between the sexual exploitation of women and other types of crime in which threat and violence are not avoided. As Quinn stated, bikers do not actively distinguish crimes and make a moral selection of their criminal activities. On the contrary, the most prominent character of a bikers’ lifestyle is the abandonment of the norms and values that apply in normal society. He relates the involvement in prostitution to their “saloon society’s chauvinistic hedonism.”¹²⁸ Thus, there is little in the way of OMCGs becoming involved in different types of crime, including human trafficking. But do they in the Dutch context indeed engage in human trafficking?

¹²⁵ Europol 2012

¹²⁶ Watson, J.M. 1982, p. 337 et seq.

¹²⁷ Blokland, A., Soudijn, M. and Teng E. 2014

¹²⁸ Quinn, J.F. and Koch, D.S. 2003, p. 297-301

In the literature, it is assumed that Dutch OMCGs clubs are indeed deeply involved in human trafficking, but it is not clear in which role. The conclusion that the Hells Angels are involved is mainly underpinned by their continuous presence in the Red Light District of Amsterdam.¹²⁹ However, this can also imply involvement in other offenses, such as drug dealing. The Dutch police assume that this presence may also be related to extortion/protection of operators in the Red Light District who rent rooms to prostitutes and maybe also the pimps. Albeit extortion might give rise to exploitation, since the money concerned has to actually be earned, it is a bridge too far to state that this indirectly makes someone who is guilty of extortion, guilty of human trafficking too. As stated in chapter 2, the definition of human trafficking requires that exploitation is the main purpose. In the case of extortion of the owners of sex establishments, the purpose is not to sexually exploit the victims, but to obtain money from the owners. In addition, the Dutch police also suspect the Hells Angels to extort bars, tattoo shops and dealers in Harley Davidson motorcycles. Furthermore, there are few indications of systemic involvement of other Dutch OMCGs in the prostitution business.

Therefore it is very well possible that the Dutch Chapters do not focus on the actual exploitation phase, but on other parts of the process, such as the facilitation of houses or delivering the ‘service’ of protection. This would make clear why such few links to involvement in human trafficking in the Netherlands are found; it is mainly perpetrators stemming from abroad who take care of the recruitment, transport and exploitation. Furthermore, it is easier to extort than to organise the entire trafficking process, particularly because most of the prostitutes do not stem from the Netherlands.

Perhaps for the Dutch clubs the drug trade is also far more profitable. The TRACE project also suggests that human trafficking is time-consuming and specialised in such a way, that this would leave little time for other crimes.¹³⁰ The example would be upheld by Quinn’s theory about the four categories of crimes, when it is taken into account that human trafficking can be classified as an ongoing criminal enterprise. However, one could also argue that OMCGs usually have enough members available to divide activities on different criminal markets amongst them.

4.5 CAN OMCGS BE CONSIDERED AS HIERARCHICAL CRIMINAL ORGANISATIONS?

¹²⁹ See for instance Projectgroep Emergo 2011, p. 217 and Spapens 2012, p. 14

¹³⁰ Spapens et al, 2014.

From the previous section, it transpires that members of OMCGs are simultaneously involved in several crimes. Does this however imply that these are club activities or the work of individual members for which the club cannot be held accountable? To what extent are OMCGs ‘organisations’? As a matter of fact, the issue at hand is the one Mr. Witteman wondered about in an interview with Daniel Uneputty, President of the HAMC Amsterdam; are these clubs criminal organisations or organisations with criminals?¹³¹ The former president of MC Satudarah, Henk Kuijpers, even went as far as to make a comparison with the Catholic Church, stating that criminals can be found in practically any group of people.¹³² Should OMCGs, due to the fact that many of their members have a criminal record, be seen as criminal entities?

The answer to this question differs between countries. In Germany, OMCGs such as the Hells Angels have been forbidden, as several of their members were linked with *inter alia* the three types of crimes dealt with in this study. Already in 1988, the German Court ruled that their violent reputation justified a ban on this group. The unconditional solidarity of the members towards each other in case of criminal activities was considered a decisive factor in that regard.¹³³ On the contrary, the Dutch judiciary argued, in a criminal case against the Hells Angels, that although the club may be violent in nature, it cannot be held responsible for the actions of its individual members. The mere fact that the club had not explicitly distanced itself from the criminal activities of its members did not carry enough weight for a total ban.¹³⁴ In the Netherlands, as a consequence, no OMCGs have been labelled as organised crime groups so far.

There are some factors that point to a classification of organised criminal groups. As mentioned before, OMCG members are selected based on skills that are useful to commit crimes. The hierarchical structure that typifies the organisation of OMCGs produces an ideal climate for criminal activities.¹³⁵ This is illustrated by interclub wars, such as the Great Nordic Biker War in the 1990s,¹³⁶ which appear to have been caused by the aim of the groups to expand their influence

¹³¹ Pauw and Witteman 2007, Interview with the former President of the Hells Angels Amsterdam Daniel Uneputty

¹³² Pauw and Witteman 2012, Interview with the former President of Satudarah MC Henk Kuijpers

¹³³ See BVerwG v. 18.10.1988 – 1 A 89/83, NJW 1989, 993

¹³⁴ As decided by the Regional Court of Leeuwarden, 6 March 2007 (ECLI:NL:RBL EE:2007:AZ9940), later confirmed by the Court of Appeal of Leeuwarden, 12 December 2007 (ECLI:NL:GHLEE:2007:BB9782) and the Supreme Court, 26 June 2009 (ECLI:NL:HR:2009:BI1124)

¹³⁵ UNODC 2002, p. 35

¹³⁶ Hojbjerg, J.H. 2010, p. 2

in criminal markets.¹³⁷ Furthermore, a lot of energy is invested in misleading the police, for instance by using code words or installing equipment that prevents wire-tapping. They even carry out their own counter surveillance. Information on police investigations and on what activities rival motorcycle clubs are involved in is carefully maintained. This at least feeds the assumption that they have something to hide.¹³⁸ The facts that OMCGs do not distance themselves from criminal actions of individual members, adds to the suspicion of the existence of a criminal organisation. In fact, some clubs have good relations with notorious criminals. The infamous Dutch criminal Willem Holleeder has regularly visited the Hells Angels in Amsterdam and later on No Surrender MC. Remarkably, some OMCGs do not even require the possession of a motor or even a motorcycle license.¹³⁹

However, the freedom of association is a fundamental right, which should not be infringed upon all too easily. It is enshrined in Article 11 of the European Convention on Human Rights. It is not impossible that OMCGs in some countries have developed into full-fledged criminal organisations, and in others not.

A great variety exists between the different OMCGs and even between the different chapters within them.¹⁴⁰ It is therefore important not to draw the conclusion that entire OMCGs are criminal organisations too fast. The need for a prohibition must be properly balanced case by case. Although there lies a certain risk in the unit the clubs radiate, the presumption of innocence should never be overlooked. Nevertheless, it makes sense to monitor the clubs.

4.6 CONCLUSION

The analyses presented in this chapter suggest that OMCGs represent an ideal structure for criminal activities. The gangs are indeed associated with human trafficking, drug production and trafficking as well as extortion and protection. However, differences between countries exist. In the Netherlands for example, case law and police research indicate that there is virtually no involvement of OMCGs in human trafficking. Hardly any bikers have been convicted for trafficking in human beings. Bikers are often visible in red light districts, but it remains unclear in

¹³⁷ Europol 2012

¹³⁸ Politie Dienst Landelijke Informatieorganisatie 2014, p. 176

¹³⁹ Ibid, p. 35-38

¹⁴⁰ Shields, D. 2012, p. 8

what context. Available information seems to point more to protection and extortion than to involvement in sexual exploitation.

The findings in the literature that OMCGs are highly involved in human trafficking, seem not to apply in general. Each club and each chapter has its very own character

OMCGs are poorly permeable networks. On the contrary to the average trafficking organisation, OMCGs have a very hierarchical and permanent structure. The codes of honour of the clubs, such as the pledge to remain silent, make it difficult to trace any trafficking activities. Therefore it is important to keep abreast of the developments in the court cases abroad.

5. CONCLUSION

This thesis is written to examine the possible involvement of OMCGs in human trafficking in combination with activities on two other criminal markets: drug production/trafficking and extortion/protection. The research question was: “To what extent are OMCGs involved in human trafficking for sexual purposes and do they combine this possible involvement with other criminal activities, specifically drug trafficking and extortion/protection?” Consecutively, the offense of human trafficking, the criminal process and the role of OMCGs herein are clarified.

With respect to human trafficking for sexual purposes, the following observations can be noted. It encompasses the actions of 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. The exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation. The crime has a high profit potential, combined with low risks of getting caught. It is trans-boundary to a large extent. As a result, trafficking networks cover many countries.

The process of human trafficking has been compared to the processes of drug trafficking/production and protection/extortion. Successfully carrying out the three examined crimes requires some specific skills. The most important in this regard are a violent reputation and the ability to apply violence.

In the literature, it is often presumed that OMCGs are highly involved in human trafficking. This assumption seems logical. The large profits of the crime makes it an attractive business to pay the high costs that membership of a motor club entails. Bikers have certain features that come in handy for this crime. They have a communal violent character, are bound by an oath of secrecy and demonstrate a high level of collaboration. Their homogeneity, as a result of their recognisable appearance, assures that individual members can use the group’s reputation to their advantage. Aggression and a violent reputation are useful assets for human trafficking, as well as drug production/trafficking and extortion/protection. OMCGs should therefore theoretically be able to be active on all three criminal markets.

In countries such as Spain and Germany, OMCGs are indeed associated with all three types of crime. However, in the Netherlands OMCGs seem not to be systematically involved in trafficking in human beings. There are only few cases in which bikers have been convicted for human trafficking. The visibility of bikers in neighbourhoods with many sex establishments leads to many assumptions. However, the mere presence in a sex district does not automatically imply direct involvement in trafficking in human beings. When the assumptions with respect to bikers are incorporated in the stages of human trafficking, occupation would most logically occur in either the protection sector or in the profit laundering stage. It is also possible that they extort the owners of sex establishments.

So far, the common involvement of OMCGS in human trafficking is no proven fact. The clubs and their chapters may be very different from each other. Even if certain bikers are convicted of human trafficking, it is difficult to draw conclusions about the involvement of the entire club. In each case, judges must review the specifics of the case. Hence, until the contrary has been proven, the innocence of those concerned should be assumed.

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