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## Epilogue

### Epilog

**Abstract:** The Epilogue begins by describing the ambiguity of the meaning of human trafficking (HT) before offering a review of the 4P's that represent the primary responses to combatting HT. A brief reference is then made to a 'new' P - participation - and how it can play an essential role in fighting HT. The article then notes that there remains a dearth of research on forced labour trafficking despite its rich history. A summary of the articles is presented with an emphasis on identifying existing gaps in our knowledge and research. The Epilogue concludes with several vital suggestions for future efforts to combat forced labour trafficking.

**Keywords:** human trafficking, labour trafficking, forced labour, Palermo Protocol, exploitation

**Abstrakt:** Epilog rozpoczyna opis niejednoznaczności terminu „handel ludźmi”. Następnie zostały przedstawione cztery podstawowe sposoby zwalczania tego zjawiska (4P), a także omówiono zagadnienie „nowego uczestnictwa”, mogącego odgrywać kluczową rolę w walce z handlem ludźmi. Zauważono także, że mimo bogatej historii badań poświęconych handlowi ludźmi, wciąż brakuje badań dotyczących pracy przymusowej. W epilogu zawarto także podsumowanie artykułów opublikowanych w niniejszym numerze, przy czym szczególnie nacisk położono na identyfikację luk w dotychczasowej wiedzy i badaniach. Epilog kończy się kilkoma sugestiami odnośnie do przyszłych działań na rzecz zwalczania pracy przymusowej.

**Słowa kluczowe:** handel ludźmi, handel ludźmi do pracy, praca przymusowa, Protokół z Palermo, wykorzystanie

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Human trafficking or trafficking in persons—the official terminology used by the United Nations Office on Drugs and Crime (UNODC)—is yet another type of crime whose meaning and expression are both *relative* and *evolutive*. As has been widely debated among various scholars, although there is general agreement about what constitutes the main elements of human trafficking (i.e. the *act*, the *means*, and the *purpose*), there is less agreement on what the meaning of human trafficking is (Kakar 2017; Scarpa 2019). This point is clear and transparent in the articles of this Special Issue (SI).

Both human trafficking and the response to it are *evolutive*. In 2000, the United Nations adopted the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children (more commonly referred to as the Palermo Protocol)<sup>1</sup>. The UNODC advocated three main approaches to combating human trafficking: prosecution of trafficking perpetrators, protection of victims of trafficking, and **prevention** strategies. Commonly referred to as ‘the 3 Ps’, these three methods parallel how the criminal justice system attempts to address crime in general. Although much has been written about the merits of the three Ps, there is little research into whether any Ps might represent a more effective response protocol than the others. Instead, most governments call for approaches that include all three of the Ps and some countries, like Canada and the United States, have a fourth P, which stands for a *partnership* to build capacity at local, regional, and national levels for combating human trafficking—including (forced) labour trafficking<sup>2</sup>. Despite an increasing push towards the protection of victims, the literature on the subject shows an ongoing disproportionate emphasis on the offender’s prosecution (Farrell, Owens, McDevitt 2014). However, by way of example, when one looks at prosecution rates for human traffickers, the results are arguably abysmal (Board, Muraszkievicz 2019). Finally, on several levels, prevention has been touted as a more effective and efficient response than prosecution. Still less clear is which form of prevention tends to work better? Is it *primary*, *secondary*, or *tertiary* prevention (Bales 2005)? Not to mention the various levels of the other two Ps.

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1 28 October 2020 marked the 20th anniversary of the United States signing their *Trafficking Victims Protection Act* (TVPA), as did many other countries, and when governments and scholars around the world began to give increasing attention to human trafficking. The Canadian Human Trafficking Hotline was not launched until 29 May 2019. Ironically, it was only after the Palermo Protocol was signed that we saw the emergence of a dedicated journal on human trafficking: for example, the *Journal on Human Trafficking* was not founded until 2015; the journal *Anti-trafficking Review* was established in 2012; and the *Journal of Trafficking and Human Exploitation* was not established until 2016.

2 In 2012 the Canadian Federal Ministry of Public Safety introduced the ‘National Action Plan to Combat Human Trafficking’. In the plan, they identified the 4 Ps and list several initiatives to combat human trafficking. The Plan notes that relative to trafficking for the purposes of sexual exploitation, there is both a lack of evidence and awareness of the problem in the country (<https://www.publicsafety.gc.ca/cnt/rsrscs/pblctns/ntnl-ctn-pln-cmbt/ntnl-ctn-pln-cmbt-eng.pdf>).

In 2004, then United States Secretary of State Hillary Clinton proposed a fourth P: partnership. This fourth P spoke to the need to build a cross-sector approach combining diverse strengths and services to combat human trafficking more effectively. However, depending on which source or perspective one reads, partnership is expressed as either dynamic or static in nature. Hence, it is a relative and dynamic concept that lacks a clear operational definition, like all the Ps.

Finally, as further evidence of the term human trafficking's enigmatic nature, a fifth P has been advocated by several human trafficking scholars (Winterdyk 2019) further to strengthen our responses to this type of crime. Although not formally acknowledged by the UNODC or any other formal organisations, the fifth P is participation, which emphasises a need for partners to work together cooperatively and collaboratively in (more) effectively addressing the complex phenomenon of trafficking. Not only does it denote the active engagement of all multidisciplinary role-players and service providers in efforts against human trafficking, but participation also amplifies the requisite 'density, intensity, and quality of [...] connections that allow it to change and respond to disturbances' (Van der Watt 2019: 772) from the human trafficking system. Without the fifth P, the 3 Ps +1 will remain flagrantly disconnected, and for this reason, it is an indispensable pillar to combating forced trafficking—in fact, any form of human trafficking. Without participation, the response to human trafficking will not be evolutive.

When the United Nations first acknowledged human trafficking and signed the Palermo Protocol, the primary focus of combating human trafficking was on trafficking for the purposes of sexual exploitation. This orientation's evolutive legacy can be traced back to 1921, when the League of Nations (the forerunner to the United Nations formed in 1919) signed a multilateral treaty titled the International Convention for the Suppression of the Traffic in Women and Children. The purpose of the Convention was to address the perceived problem of the *international* trafficking of women and children for the purposes of sexual exploitation. The Convention was also relative in that it responded to the need for further follow-up to the social reform movement that began in Paris in 1901 and was revised in 1904 (the International Agreement for the Suppression of the White Slave Traffic) and subsequently in 1910, when just over 40 countries signed the International Convention for the Suppression of the White Slave Traffic. However, since the League of Nations was unable to prevent the outbreak of war, it dissolved, as did the Convention's efforts.

As social reform grew and women's rights began to gain traction, however, the plight of girls and women being trafficked retained some attention among various vested interest groups, reinforcing the primary focus of human trafficking on sexual exploitation. As a result, forced labour trafficking and other forms of trafficking remained comparatively obscure and understudied and investigated, allowing them to flourish. For example, the organ trafficking industry, according to Bain (2018), is a multi-billion-dollar industry wherein a kidney can fetch more than 62,000 USD on the black market. While the UN acknowledged that other forms

of trafficking exist, the purpose of sexual exploitation remains the primary focus of most scholars. A review of the literature (related books and journal articles) will reveal that a disproportionate number of scholarly output focuses on the sexual exploitation of children and women. Without applying a critical lens, the evidence put forth by such organisations as the UNODC, the International Organization for Migration, Walk Free, Polaris, and the International Justice Mission, among others, would lead one to conclude that sex trafficking is the number one type of human trafficking in the world.

Although human trafficking for the purposes of forced labour also has a rich history there has been a relative dearth of research on the subject<sup>3</sup>. Nonetheless, some scholars assert that the market for labour trafficking may be far more extensive than the demand for sex trafficking (Kaye et al. 2014). Here again, we see a need to ensure that the response to human trafficking is tailored to its evolutive and relative nature.

In the criminological theory known as crime opportunity theory, the view is based on the premise that criminals can make rational choices gauged by the target's perceived *suitability*. For example, Africans were readily exploitable and of substantive stature to be subjected to hard work (i.e. the *motivated 'offenders'*). Simultaneously, the plantation owners preferred cheap labour to optimise their profits, and there was an *absence of capable guardians*—there were no laws to restrict the sale or mistreatment of slaves. The Routine Activities Theory developed by Cohen and Felson in the early 1970s can be used to explain how and why forced labour trafficking has emerged as a thriving enterprise and a by-product of globalisation, internet connectivity, extensive international transportation links, sophisticated financial systems, and mass migration.

What is forced labour? Like Marx, one could argue that wage slavery requires us all to engage in forced labour. However, this understanding negates the possibility of a standard against which society could measure whether labour is acceptable or coerced. History tells us that the designations of free and unfree labour are subjective. Although indentured servitude has a long history, it was understood as free labour during much of the nineteenth century since employees ostensibly consented freely to contracts that committed them to work for a set period. Some of the countries where indentured servitude was more common include India and Mauritius (Harrington-Watt 2019). By today's standards, such instances would fall under the category of forced labour, as the state guaranteed the terms of these contracts—regardless of how the employees were treated—by employing the help of the police or sheriff to physically return those who sought to escape exploitative,

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3 As described by Wilkins (2019), among others, human trafficking is seen by some as being virtually synonymous with the term 'slavery' and with the abduction of Blacks from Africa and their relocation to the southern United States to serve as workers on cotton and sugar plantations which began around 1619 when British privateers brought nearly two dozen African slaves Point Comfort, Virginia, near Jamestown.

abusive, or brutish conditions and by allowing employers to administer corporal punishment for breach of contract (Steinfeld 1991).

Just as the term human trafficking is nebulous, so is the term forced labour (Cockbain, Kleemans 2019). Using Marx's perspective on labour and the fact that any work involving a wage, or some form of compensation can never be genuinely equitable—because, for the employer to survive, they must make more money than what they pay their workers—the workers, though they can (at times) negotiate their wages, are always required to be dependent on what their employer is willing and able to pay. The challenge in a capitalist system is to objectively gauge whether the labour needed for the wages offered are acceptable or coerced. Therefore, as we have seen throughout history, what constitutes free or unfree labour is subjective. For example, there has been limited discourse on how much profit should accrue to owners. Yet, many major companies accrue great riches to owners and shareholders. At the same time, employees sometimes earn wages less than adequate to ensure access to such essentials as education, health care, and essential goods. Thus, as several of the SI articles have expressed, forced labour remains a somewhat elusive concept.

Ever since the signing of the Palermo Protocol, the body of criminological and sociological literature on human rights and other related disciplines and themes associated with human trafficking has increased. However, most of the literature has been primarily focused on sex trafficking (Mancuso 2014; Savona, Giommoni, Mancuso 2014; Cockbain 2018; Serie et al. 2018; Wijkman, Kleemans 2019). Some of the more common research themes have focussed on the victims and the characteristics (i.e. risk factors), making them vulnerable to exploitation. There is also a substantial body of research on the role and structure of criminal networks.

By contrast, and as acknowledged in the Introduction and several articles in this SI, empirical research on labour trafficking is still in its infancy and tends to be more local in its focus. The latter point is evident in most of the articles included in this SI. Furthermore, no transparent or standardised methodologies are in place to stem the generalisability of forced labour literature. For example, Cockbain et al. (2018) recently conducted a systematic review of the available literature on labour trafficking in Europe. Of the 6,000 documents they found on labour trafficking, only eight (less than 0.2 per cent) met the essential criteria of scientific rigour to be considered scientifically sound. The authors concluded that even though there were many documents, very few studies were published in peer-reviewed journals. Most of the studies' content was fragmented and mostly descriptive, and almost exclusively reliant on qualitative data collection techniques. As Cockbain and Kleemans (2019: 1) noted, 'when it comes to human trafficking, hype often outweighs evidence'. Yet, as noted in the Introduction to this SI and expressed in several of the articles, one of the first steps in our effort to counter labour trafficking is to begin to identify and acknowledge it because labour trafficking to date has infrequently been a concern for law enforcement agencies (Ricard-Guay, Hanley 2019).

In this SI, 11 articles discuss different aspects of forced labour. Although their respective themes vary, the subject matter is the same. Collectively, we can make several observations about forced labour trafficking. Although most of these points not novel, they are collectively presented in this SI for the first time and they serve to reinforce what is found throughout this SI and related literature. Here is a summary of the key points raised and identified throughout this SI.

- Despite various efforts, there are no reliable (i.e. non-dubious) estimates of how many people are involved in labour trafficking. Still, there seems to be a reasonable consensus that the numbers are more than 20 million and growing. The articles in this SI have served to reinforce, if not prioritise, the need for more reliable data to better inform policy and response protocols.
- As noted in several of the articles in this SI, there is no explicit definition of forced labour. Ironically, internationally, more specific laws cover a spectrum of situations—from severe cases of slavery to other possible manifestations, such as the intermediation, employment, and exploitation of a workforce (Corrado et al. 2018).
- Regardless of whether we look at the literature on sex trafficking or forced labour trafficking—although 20-plus years have passed since the Palermo Protocol was signed and the body of related research has mushroomed—as Bryant and Landman (2020) and others have pointed out, we still do not have any reliable answers for combating any form of trafficking. Therefore, there is an (urgent) need for vested scholars and decision-makers to stand together and commit to eradicating all forms of forced labour.
- As van Meeteren and Heideman noted in their contribution, ‘too many assumptions are made about labour trafficking based on research findings from studies on sex trafficking’. Despite the same definitional elements being present in both forms of trafficking, there remain significant differences in how these phenomena manifest, the victim and perpetrator profiles, where these crimes are perpetrated within the borders of countries, and, arguably, the constellation of circumstances surrounding the trafficking processes and why victims submit to exploitation. With the research *lacunae* so evidently documented in this SI, one can only speculate on the scholarly community’s motivation to expand and broaden the focus on forced labour.
- Except for specific forms, women and girls are disproportionately victimised by forced labour. Still, there are regional (e.g. particularly in regions in Africa and South Asia) and work-environment differences (e.g. men in the fishing industry vs women in the textile industry) that deserve closer attention on an international and comparative level to better inform response policies.
- Forced labour trafficking is still commonly seen as a problem of organised crime, but as evidenced in this SI and eloquently described in Choi-

-Fitzpatrick's 2017 book on indentured labour in India, just as there are different forms of sex trafficking, the scope and breadth of forced labour exploitation remains hidden (Viuhko 2018; van Meeteren, Heideman, in this issue). Therefore, as referenced in this SI and discussed by Purkayastha and Yousaf (2019: 146), if we are going to prevent and protect against labour trafficking, we will need to move beyond the (regional and local) descriptive accounts to look at how we might be able to improve preventive and protective efforts 'through political, economic, and social channels'. As noted above, this will require the actualisation of active 'participation', a fifth P, by the vested parties.

- As illustrated in the articles in this SI by Haverkamp and Murray, Solin, and Shea, greater attention needs to be paid to the nexus between migrations and exploited labour and peculiar patterns and insights that may be overlooked in human trafficking scholarship. Haverkamp poignantly highlighted the resiliency of the Bulgarian day labourers in Munich, who are from a Turkish-speaking ethnic minority. The day-labourer exchange in Munich, consisting mostly of people from the same Bulgarian town, is well acquainted and supports each other in a self-organising network. To circumvent the scarce and expensive accommodation, these migrants save money in Munich by living on the streets and depending on welfare. Their vulnerability to labour exploitation is self-evident. Murray, Solin, and Shea point to a 'specialisation' of specific regions in particular labour trafficking types. These include the observation that strangers tend to trick people into involuntary (i.e. forced) work in the USA.
- In contrast, family members and friends trick victims into slavery in Russia and Kazakhstan. Lebanon is identified as the frontrunner for tricking people into factory enslavement. Leading nations in child begging, unspecified child labour, and children in the hospitality industry include Senegal, Uganda, Ghana, and Haiti.
- Forced labour can involve a wide range of areas ranging from domestic workers to the fishing industry, the sex trade industry, the catering industry, and private individuals using forced labour with the state authorities' complicity in the spectrum of abuses (Cortes-McPherson 2019).
- Human trafficking law, legal reforms, 'agency', and the lack of unanimous agreement on what can be considered labour trafficking continues to contentious and controversial, yet several contributors call for clarity and uniformity about the essence of forced trafficking in order to more coherently and effectively combat forced labour trafficking.
- The focus is on conditions within a country or region. These include Polish men recruited for forced labour in the UK, the experiences of Bulgarian day labourers in Munich's train station district, child labour exploitation in Latin America, victims' experiences and the 'ignored topic' of forced labour and trafficking in Hungary, and debt bondage, labour, and human

rights violations in the Thai fishing industry. Only two of the articles in this SI focus on forced labour from a broader perspective (see Bryant and Sanchez in this SI). Most of the articles with a national or regional focus are primarily qualitative and show some nuanced methodological approaches. Cockbain and Kleemans (2019) included several articles in their recent special issue, a follow-up to a conference they hosted in 2018, which focussed on ‘innovations in empirical research into human trafficking’. Future research on forced labour should consider using mixed-method designs, which have the advantage of enhancing the validity and reliability of the results through a convergence of different data and findings. In so doing, the results reduce the risk of making ill-informed response protocols (Bachman, Brent 2014; Creswell, Clark 2017).

- As observed in several of the articles in this SI and the literature on forced labour trafficking, there is an (over-)reliance on qualitative data. For example, while open-source data is commonly used, caution should be exercised because of variations in law enforcement priorities, journalists’ subjective selection process in reporting what is newsworthy, etc.
- The country accounts could best be described as ‘exploratory’ studies that, while essential to helping map out the nature and extent of the various forms of exploitation in the respective countries covered in this SI, remain mostly descriptive. Notwithstanding the implicit limitations in all human trafficking scholarship, the articles in this SI serve as additional arrows in the forced labour and trafficking knowledge quiver.

## **Moving forward: Responding to the globalisation of indifference**

Forecasting, or predicting, the nature and extent of forced labour trafficking can take many forms. They range from the ad hoc practices of staring into crystal balls or bowls of tea leaves, reviewing experts’ (informed) opinions, brainstorming in focus groups, generating scenarios, using Monte Carlo methods, and other strategies. Since two of the key pillars of combating human trafficking are prevention and participation, it requires proactive measures. However, solving (i.e. forecasting) equations dictated by the impacts of physical laws, political ideologies, social events, or economic theories—and thus constituting largely unknown variables—is at best a risky business. Or as James Q. Wilson commented in 2011, ‘hopelessly, embarrassingly wrong [...]’. Since then, I have embraced the view that social scientists should never predict, leave that job to pundits’ (Winterdyk 2019: XIIX). Nonetheless, we have a moral and ethical obligation to address the blight of forced labour trafficking in all its manifestations at the risk of doing nothing.



Not only does this SI coincide with the 20-year commemoration of the Trafficking Victims Protection Act (TVPA), the adoption of the United Nations Palermo Protocol, and the 75th anniversary of the United Nations<sup>4</sup>, it also weaves into a new era of complexity and opacity in efforts to combat human trafficking stirred up by the ongoing COVID-19 pandemic, geopolitical discontent, and widespread systemic injustices with concomitant calls for systemic reforms. Arguably, global efforts in combating (forced labour) human trafficking over the past two decades have been normative (Winterdyk 2019). Forced labour remains primarily overshadowed by sex trafficking among researchers in the bid for attention and a piece of the investment ‘pie’. Simultaneously, the globalisation of indifference increasingly cloaks its victims in trades and practices that are brazenly visible. As Lasocik observed in the Introduction, there is a discomfort with the uncomfortable facts resulting from cognitive dissonance, which is part of the problem faced by practitioners and researchers alike.

The ‘*broad and rich palette of perspectives*’ (see Lasocik, Introduction to this SI) on the issue of forced labour brings with it a fair amount of uncertainty, ambiguity, and volatility in the contested spaces of research, response, and policy. Another prickly issue that demands more attention in labour trafficking research is clarity on the meaning of ‘exploitation’, which is still not clearly defined in international law and may have unintended consequences for exploited people that policymakers aspire to protect (Howard 2020). The non-exhaustive list of exploitative practice examples—provided by the Palermo Protocol—is simply not good enough. Practices listed and defined elsewhere in international law—including slavery, practices like slavery, and forced labour—were intended by the Protocol drafters to allow for flexibility in understanding trafficking and suggest limitations on the type of exploitation being addressed. However, research shows that this ‘lack of precision’ challenges the consistency of responses to human trafficking (McAdam 2020).

The ever-present perplexing dynamics of the trafficking phenomenon, trafficking research, and trafficking responses are evident in this SI. However, solutions and opportunities await to be coaxed from this dizzying landscape. As pointed out in this SI and this Epilogue, the imperfections of a criminal justice response to forced labour are amongst those that can benefit from a reconfigured lens. From a societal and corporate perspective, the loss of independence or lack of influence on working conditions and wages can no longer be treated as an acceptable cost of migration. Here the inclusion of new variables into a factor analysis by country of exploitation may prove valuable and may serve as evidence-based justification for more culturally relevant interventions.

Finally, as Kevin Bales noted in his 2005 article on forced labour, the primary criterion for combating forced trafficking should be predictive validity. However, as he and several of the contributors in this SI have noted, how can we begin to predict ‘when there is no way of being sure that the variables under consideration

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4 10 December 1945.

are valid?’ (Bales 2005: 351). In preparing this SI we hope to have helped shed some light on the enigma of forced labour trafficking. We also trust that, as the Member States and Observer States to the United Nations have acknowledged, by 2030 (i.e. the Social Development Goals Agenda—specifically target goal 8.7), we commit to ending forced labour in all its forms and manifestations.

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