

LearningNetwork Brief 04

NGOs AND HUMAN TRAFFICKING: TENSIONS, BLIND-SPOTS AND POWER

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NGOs and Human Trafficking: Tensions, Blind-spots and Power

I've been working on issues of human trafficking for almost 15 years and I have as many questions now as I did when I started, although they are not necessarily the same questions. This paper reflects on some of the things that I have learned as I sit with these questions: the need to hold onto tensions, be wary of blind-spots, and aware of power dynamics.

Prosecution and Protection

I begin with the importance of holding onto key tensions in our work. We are not engaged in the issue of human trafficking for long before we are confronted with the tension between prosecution and protection. Right from the Palermo Protocol, we see that this tension has not been held well. The protocol had some articles that were obligatory for nations that signed and other articles that were optional. The articles addressing concerns of prosecution were obligatory; the articles on protecting human rights were optional.

We see a similar kind of development in Canada where our national response to human trafficking has focused primarily on efforts to prosecute traffickers and only secondarily on efforts to protect the human rights of people who have been trafficked. So, we have a Temporary Resident Permit (TRP) for people who have been trafficked, but it is critically flawed – so much so that those who should be accessing this permit choose not to do so because they don't feel sufficiently protected by the process. And even though, a person does not have to be cooperating with law enforcement to

receive the initial TRP, what Non-Government Organizations (NGOs) are seeing is that the person's TRP is unlikely to get extended without that cooperation with law enforcement. This leaves the survivor between a rock and hard place: frightened that they will get deported if their story is not believed by the CIC officer and frightened of what will happen if they testify.

Ironically, when the emphasis is on prosecution over protection, it actually undermines the prosecution side of the equation because when people don't feel protected enough to come forward, it is that much easier for the traffickers to get away with their crimes.

Collaboration and Mission

Another tension is that between collaboration and mission. Law enforcement officials have been clear in expressing the appreciation that have for the work that is done by social agencies and NGOs in providing services to people who have been in situations of trafficking. Indeed, law enforcement relies on this outreach and care. Likewise, there have been times when service agencies have needed the investigative work and the protection of law enforcement as they deal with risks and complexities in the lives of people who have been trafficked. This collaboration is a very good thing.

But, if our Coalitions, NGOs and service agencies are to respond in ways that protect and promote human rights, we must also maintain a clear awareness of the limits to this collaboration. Let me give you an example: I'm thinking of some migrant

workers I met who had been in situations with strong elements of trafficking. They came to Canada under the Temporary Foreign Worker Program but the contractor took them to a place of employment that was not on their contract so immediately they were in violation of that contract. The contractor also made sure that they knew about this violation. In fact, it was one of many methods employed by the contractor to control them as he exploited them.

By the time I met them, they had run from the contractor and were trying to figure out what they could do next. After discussing the pros and cons of various options, they decided to go underground to try to find a new job with a better situation.

In NGO work, there are times when we need to maintain some distance in our relationship with the police. In my mind, deportation would have been a terrible outcome for these workers who only wanted a job with fair pay. I was trying to help these workers find the space and the information that they needed to make their own choices about what was best for their future. In a context filled with complexity and ambiguity, this seemed like the best way to promote their human rights. For me, it is about remaining faithful to the mission of the organization to which I belong.

So, while there is much to be gained for trafficked persons when there is collaboration between law enforcement and NGOs or community coalitions, there are also limits to the collaboration and indeed there are times when our mandates and agendas are at cross purposes. This is one of the tensions with which we live.

Outreach and Advocacy

A third tension is that between outreach and advocacy. The Coalition to which I belong is focused on assisting trafficked persons. We have a wide range of service agencies represented at the table and, when a person who has been in a situation with elements of trafficking comes forward to one of our agencies, it takes all of us working together to respond well. People who have been in situations of trafficking can be dealing with a lot of trauma and they can be impacted in many different ways. It takes a lot of time and coordination to respond well to these diverse needs.

This level of outreach could be all-consuming but we mustn't let it. As we accompany people who have been trafficked, we also learn a great deal about the strengths and weaknesses of government policies in Canada. It is incumbent upon us to inform politicians and policy people about our learnings.

What's more, when we truly grapple with this tension between outreach and advocacy, it leads us to the root causes of human trafficking. Root causes draw us into the big social questions: poverty, sexism, racism, militarism and unbridled profit-seeking, to mention just a few. We could spend a week looking at all of this – and we should because these are the patterns that shape our lives, privileging some of us and marginalizing others. But there's no time for that today. Instead, I want to give just one example of how the tension between outreach and advocacy can lead us into these bigger questions.

Shortly after I began working on human trafficking issues, I started to meet migrant workers whose stories held strong elements of human trafficking, and I quickly

realized that I needed to learn more about the Temporary Foreign Worker Program. It was an eye opener. Here's just one of the problems: work permits are tied to specific employers, so if there is a problem with the employer you're stuck.

Now in response to critiques such as this, the federal government has issued an information package that outlines the rights of temporary foreign workers. It says, "All temporary foreign workers are allowed to change employers, and you will not be penalized or deported for looking for another place to work." It then goes on to list the steps that must be followed.

What it doesn't say is that, even if a migrant worker can find another employer who is willing to go through the process to hire them, it can take months for the employer to apply for and receive the Labour Market Opinion (LMO), and for the worker to then apply for and receive an amended work permit. During these months a migrant worker is not able to work. I haven't met any migrant workers who can survive for months without working.

This is not a solution; it is papering over the problem. These are the kinds of things we learn when we accompany people who have been trafficked, and we need to speak out about these things because they are contributing to the creation an underclass of disposable workers whose labour is exploited. Holding the tension between outreach and advocacy awakens us to the need for deep change.

So those are three tensions that I've learned that I need to hold onto in my own work: prosecution and protection, collaboration and mission, outreach and advocacy. There are others but these three

give us a sense of the challenges that are raised by human trafficking.

Labels and Categories

A second theme that I want to touch on is: exploring the blind spots that are created by our labels and categories. The most obvious blind-spots are commonly-held stereotypes of persons who have been trafficked – the stereotype of young women from foreign countries who are manipulated, lied to, perhaps kidnapped and forced into sex work. While the stereotype does describe some people who have been trafficked, it's still a stereotype that needs to be constantly challenged because it prevents people from realizing the many diverse faces of trafficked people and the many diverse lines of work into which they may be trafficked.

The identification of a trafficked person is difficult and time-consuming because of the complexity of the crime of human trafficking. Even the relationship between trafficker and trafficked person can be complex and multifaceted. We need to take the time to let the person's story unfold. We need to build relationship. We need to be open enough to let our own categories be broken open. I heard a talk by one of the Royal Canadian Mounted Police (RCMP) officers involved in the Opa case. Early in the investigation, she went to the Crown Attorney twice and was told each time that the situation she was talking about was not human trafficking. Thank goodness that officer continued to pursue the matter.

As service agencies and NGOs, we need to be prepared to do the same thing. We need to know that exploitation outside the sex trade is often dismissed as "bad working conditions." We need to struggle

against the current trend in which it seems that, for exploitation outside the sex trade, there need to be a larger number of trafficking indicators for decision-makers to accept that trafficking may be occurring.

The prevailing assumption is that most of the trafficking that goes in Canada takes place in the sex trade. This is because most of the cases that are recognized and prosecuted take place in the sex trade -- and these are the statistics that many rely on. But we can't buy into the assumption that the cases that are prosecuted are the only ones that are occurring. As I've already mentioned, foreign nationals who are trafficked for labour exploitation are very reluctant to come forward to police; many fear being deported while their families still have large debts to pay.

Statistics from the International Labour Organization indicate that, globally, 22% of the people who are trafficked for labour exploitation are trafficked into the sex trade, 68% are trafficked into other forms of labour exploitation (agriculture, construction, domestic work, and factory work). The other 10% are in state-imposed forms of labour. Now I'm not suggesting that these statistics would hold true if we just looked at Canada. The stats are skewed by the very high number of people trafficked for all different kinds of labour in the Asia-Pacific area. But here's the thing, we are finding people in Canada who are trafficked from this Asia-Pacific area. We are affected by the larger global patterns and we need to be attentive to these patterns. And as the Opapa case shows, it's not just the Asia Pacific area that we need to be attentive to.

We cannot let current statistics blind us to more hidden forms of human trafficking. Otherwise, we may end up with the same blinders that seem to have

affected the people of California. Last November, they voted to adopt Proposition 35. The "Official Voter Information Guide" says, Proposition 35 "increases prison sentences and fines for human trafficking convictions. It requires convicted human traffickers to register as sex offenders." Do you hear the conflation of sex trade exploitation and human trafficking? Why else would all human traffickers have to register as sex offenders? And what would be the point of registering someone who trafficked people into the construction industry as a sex offender? There is no point -- they've just become blind to other forms of trafficking.

One final comment, with regard to the blind-spots that are created by our labels and categories: the language of "victim" is a problem. On one level, it is a problem because of the passive role that it gives to the person who has been trafficked. On another level, it's a problem because many people who are trafficked don't see themselves as a passive victim. Instead, they may be feeling naïve, ashamed or angry about having been tricked or manipulated into the trafficking situation. It's another one of those labels that creates blind-spots -- but in this case it may create blind spots for the person who has been trafficked.

At the same time, it can blind us from recognizing a person who has been trafficked because they're not the "weak traumatized victim" that we expect. One woman told me her trafficking experience made her strong. We were talking about her upcoming interview with Citizen and Immigration Canada (CIC) and she said that she could go through anything now. It wasn't what I expected, but it was her experience.

Power and Control

I want to finish with some reflections on power and control. I'm understanding power here as our human capacity to influence people and shape events, so it can be a positive thing, a way to set a direction for ourselves. But it can also be a negative thing when it deteriorates into patterns of control.

First, I want to reflect on the power of the trafficker. One of the things that make it a challenge to identify human trafficking is that the methods of control that are used are not always obvious. When physical violence or threats are used to control a person for the purpose of exploitation, it's an easy call. The problem is that there are many other ways to control a person and these are not well-acknowledged.

Some people were trafficked into Canada because they took a chance on a job, which they did because they, or their family, had huge debts. Sometimes the debt is part of the recruitment process itself. In any case, people are often controlled by the pressure of alleviating their family's debt. It's not physical violence but the control is just as real. Or a migrant worker in an irregular situation may, in theory be able to refuse to work beyond normal working hours, but what if language barriers or doubts about legal status leave them feeling like they have no choice? What if they're afraid because the controller pushed them into committing a petty crime as a way of controlling them?

Methods of control can be multifaceted and subtle. This needs to be better recognized by CIC officers who are making decisions about whether or not to grant TRPs.

And this takes me to another aspect of the issue of power. CIC officers have discretionary power when it comes to granting TRPs. In some ways, this is good because each person's story is unique and needs to be heard in its totality.

However, it becomes a problem because NGOs, government and survivors, together, have not done the work of finding common ground when it comes to identifying clear indicators of human trafficking that acknowledge the ways in which a convergence of medium control factors, along with indicators of abuse of vulnerabilities. Because this work has not been done, the discretionary power of the CIC officers ends up disempowering the survivors and the NGO reps that accompany them. It's just too hard to know whether or not the TRP is likely to be granted. Too much is left up to the CIC officer's discretion and we can't know where they will land.

By contrast, the Organization for Security and Cooperation in Europe has adopted the Delphi Indicators which acknowledge how a convergence of medium and weak control factors can create a situation of human trafficking, as well as acknowledging how taking advantage of a person's vulnerable position can create a situation of human trafficking. If we in Canada had this more nuanced understanding of human trafficking, it would greatly enhance our protection of people who have been trafficked.

Finally, I want to talk about the power of narrative and, in this case, the need to take them with a grain of salt. My example goes back to December 2012. The headlines shouted out that an Ontario-based human smuggling operation had been busted and 30 people had been detained with police still looking for 35 more. Here's the thing. I happened to be

working at my computer on the day that this happened and I had the Canadian Broadcast Cooperation (CBC) news website in view. When the story first broke, the headline said that a human trafficking ring had been busted. Then a short time later, the headline changed; it was a human smuggling ring. Here's a bit of the news article: "The smugglers would offer to get people into Canada, promising them good jobs, according to a government source. But once they arrive, they find they owe large debts to the smugglers and some allegedly turn to thievery."

Well now, I'd be the first to say that I don't have enough detail to know if it was human trafficking or not. But here are the questions that were raised for me: How large were the debts that were owed? Were the people forced into committing acts of theft as a way to pay off their debts? Because if the debts are overwhelming and they were pushed into stealing, then this could well have been a case of human trafficking.

And I cannot help but wonder if the indicators of trafficking were even seriously explored because the news story also mentioned that "Sources tell CBC News that many or most of the detainees are Roma, an ethnic groups whose refugee claims have spiked in recent years." And a little later in the article: "Minister Kenny has frequently cited the Roma as an example of bogus refugee claimants."

Again, I do not know the details. But I cannot help but question the narrative about smuggling instead of human trafficking --- because it does not pass the smell test. If it is called human trafficking, the people will have their human rights protected; they will not be deported. If it is called smuggling, the people can be arrested, detained and deported. I cannot

help but wonder if bias against the Roma prevented a serious look at whether or not this was human trafficking. And I cannot help but think that we NGOs need to be better at networking quickly to find and share information about such incidents.

So, from my perspective, these are some of the challenges that we face. They are challenges that are best addressed by bringing together people from different sectors (government, law enforcement, people who have been trafficked and the NGOs that accompany them) to learn, dialogue, and work together. Such dialogue is starting to happen, and we will be able to judge the quality of the listening and learning by looking for concrete changes that lead to better protection of the human rights of people who have been in situations of human trafficking.