

# 全球時代的人類安全威脅： 以跨國犯罪之人口販運為例

## Human Security Threats in a Global Era: Case of Human Trafficking in Transnational Organized Crime

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*“Transnational organized crime will be one of the major problems facing policy makers in the 21<sup>st</sup> century. It will be a defining issue of the 21<sup>st</sup> century as the Cold War was for the 20<sup>th</sup> century and Colonialism was for the 19<sup>th</sup>. No area of international affairs will remain untouched as political and economic systems and the social fabric of many countries will deteriorate under the increasing financial power of international organized crime groups.”*

- Louise Shelley, Director of Transnational Crime and Corruption Center  
(Testimony Before the House Committee on International Relations, October 1, 1997)

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## I. Introduction

The end of the Cold War has come as a surprise to many analysts, policy makers, and social scientists. As some stated, it was easier to explain why it happened, than why it happened at that particular time (Przeworski, 1991). Huge political and economic reforms initiated in the Soviet Union and East-Central European countries in 1989 marked the end of the most dangerous military stand-off ever in known history. Subsequent political, economic, and social changes led to the gradual dismantling of nuclear and conventional arsenals and increased security relaxation between the former ideological adversaries of the West and the East.

Considering the scale and tempo of the changes, taking place not over the span of decades or even years, but sometimes only mere months, some went as far as to suggest the end of history, that is the beginning of the era of general peace and prosperity. As suspicion and tensions lessened and the general atmosphere seemingly allowed for considerable cuts in national defense budgets, numbers of people employed by defense establishments, and lessening of focus and attention to security issues, new developments have been taking place, slowly, but consistently succeeding the Cold War threats. Since the Cold War was marked by the overarching threat not only to one or two nations, but to the very survival of the human race, all other problems were almost naturally automatically put aside. Some of them, like the increasing devastation of natural environment, appeared on the international agenda emerging from the Pandora's box of historical processes suppressed by the Cold War reality together with civil wars and ethnic conflicts resulting from the unsettled historical and political grievances.

The chaos, not to say anarchy, ensuing in many states of the Eastern bloc after the collapse of the Berlin Wall created fertile conditions for the development and spread of criminal organized enterprises, increasingly operating transnationally. As poverty spread and resources for state institutions were severely lacking, the influence of the increasingly organized criminal groups was rising: through corruption, intimidation, and unhesitant use of force, increasing number of influential authority figures, state agencies, and institutions were falling under the control of the wealthy criminal organizations. The initial wars among them did not lead to their extinction, as some optimists hoped they would. On the contrary, they resulted in the proverbial survival of the fittest, which ever since strengthened their position in their countries and spread their reach far beyond the borders of the their own countries.

In the new millennium accompanying with globalization, border controls and barriers in most of the world were lowered, in some places disappearing altogether. Considering the huge numbers of international transactions taking place every minute, it is hardly possible to monitor them adequately (Sullivan, 1996). Thus, this phenomenon making life easier for the majority of hard-working and law-abiding citizens made life also easier for the criminal underworld. It became much easier to conduct criminal activities over longer distances and resulted in

approaching and entering the traditional turf zones of other criminal empires. Following the initial turf struggle among various mostly ethnic-based criminal organizations, their pursuit of interest led to the creation of transnational alliances and mergers. As a result of that, the 'new' organized crime of the developing and transitory countries formed marriages of convenience with the 'old' criminal enterprises of the West, including La Cosa Nostra, the Colombian cartels, Italian mafias, and other transnational criminal groups. According to the Interpol, the organized crime groups from the former USSR and East-Central Europe in general are presently operating on all continents and their influence is rapidly growing (Mutschke, 2000).

Speaking of internationalization of organized crime, this criminal activity is spurring increases in rates of homicide, racketeering, drug abuse, prostitution, and economic fraud in these countries." (Voronin, 1999). It is increasingly admitted that in terms of structure and modus operandi major transnational criminal enterprises constitute nothing less, but a global criminal web (Robinson, 2000). This is not to say that there is one huge criminal organization. There is evidence, however, that the levels of sophistication, financial and intellectual power, and political influence of the modern criminal enterprises are far beyond what they used to be before the end of the Cold War. Intelligence, influence, and contacts are shared among criminal enterprises, not unlike they are among allied states. Criminal organizations are much less bound by the territorial borders of the countries in which, or from which, they operate. Intelligence, services, and contacts are shared among criminal enterprises, not unlike they are among allied states. It has been documented by police agencies that the heads of various criminal groups hold regular meetings to coordinate their organizations' activities, set goals for the future, and solve emerging disputes. Moreover, various criminal organizations have their 'ambassadors' at the headquarters of other criminal groups, which obviously resembles very closely official state behavior. Cali cartel, for instance, is said to have its "ambassadors" in at least forty countries, which obviously resembles very closely official state behavior and manners.

Trafficking in migrants has become a global problem which affects a complex matrix of origin, transit and destination countries, their international relations and security and their economies. A number of axioms have emerged which provide a generally accepted framework for the evolution of trafficking, although many details have yet to be empirically verified. The usual starting point is that migrants are driven by a range of home conditions to seek the services of traffickers and that push conditions are dominant. In view of some survey findings that many trafficked migrants are reasonably well off in their home countries, such a generalization should be approached with care. Trafficking is also assumed to occur because the possibilities for regular migration have declined, as more stringent entry controls force migrants into using illegal channels (Graycar 1999). A different view is that lax entry controls have made it easier for trafficking to thrive, because anti-trafficking legislation is scarce and its enforcement frequently weak. Whether either (or both) of these views holds, the consequence is

the emergence of a market for irregular migration services, in which the mechanisms and forms of organization are still relatively unknown. Irregular migrants using these services are exposed, both to unscrupulous service providers and to the immigration and policing authorities, thereby generating a dependence on the safeguards provided by the trafficking networks. Thus a symbiosis develops between trafficker and trafficked. Such a schema provides only a starting point, since each step in the analysis presented attracts a number of caveats. Although the existing literature provides broad support for the framework outlined, many of the mechanisms in the trafficking process and empirical knowledge of their effects remain in the realm of (variously informed) speculation.

The purpose of this article is to review the operation of human trafficking through human security approach. It is largely derived from a concept review of evidence on trafficking. What is revealed is that the enormous interest and concern for trafficking in governmental, inter-governmental and non-governmental organizations, is running ahead of theoretical understanding. This has implications for policy measures designed to combat trafficking, which may not work and also have unintended side effects. The article begins with a discussion of the main conceptual and definitional issues. This leads to an assessment of the main theoretical approaches of human security that have been developed, followed by an analysis of linkage of trafficking and organized crime. The paper concludes by indicating some of policy implications.

## 1. Defining Transnational Organized Crime (TOC)

Though there may be many definitions of the TOC, some of them more overlapping than others, the problem can in fact be defined. Hence, considering various definitions of the TOC, Lee states that “most definitions include at least three characteristics – continuity of operations, practice of corruption, and a capability to inflict violence. Some include Weberian attributes such as a hierarchical structure, clear division of labor, and prescribed organizational codes and taboos.” (Lee, 1999). The then-director of the FBI, Luis J. Freeh, described the TOC as “a continuing criminal conspiracy having a firm organizational structure, a conspiracy fed by fear and corruption” (1994).

Those structures of transnational criminal character are increasingly considered a threat to national security, values, and societies of various countries. Brian Sullivan of the Institute for National Strategic Studies, describes the TOC as a ‘growing national security threat’ and quotes the 1995 The National Security Strategy of Enlargement and Engagement, which states that “Not all security risks are immediate or military in nature. Transnational phenomena such as narcotics trafficking (...) have security implications for both present and long term American policy.” (Sullivan, 1996). He goes on to say that “organized crime also injures or poses grave threats to the United States through a host of other illegal activities including: smuggling illegal migrants, murder-for-hire, terrorism, corrupting political and police officials, currency and document counterfeiting, arms trafficking, and pirating of intellectual properties.”

Thus, before moving to next section, it is appropriate to sum up why the TOC has in recent years moved from the level of ‘challenge’ to the level of ‘threat.’ David L. Carter from the School of Criminal Justice at Michigan State University in his description of international organized crime enumerates several reasons, including:

- “International organized crime is becoming more entrepreneurial
- Short-term alliances between criminal groups are growing
- Crime cartels are focusing on a greater diversity of commodities
- Transnational criminal alliances are increasing”<sup>1</sup>

## 2. Defining Human Trafficking

“Trafficking”, as in the trade in narcotics, implies an illicit exchange of goods but, because these goods are human beings, there is a clear moral dimension absent from the illegal trade in materials. Trafficking has taken on the mantle of a latter-day slave trade with coercion, deception, violence and exploitation as central themes. These themes take on even greater consequence when gender and age criteria are introduced. To “trafficking” is so often added the rider “particularly of women and children” to underline unequivocally the heinous nature of the process and its links to prostitution, pornography and paedophilia. The unanimous adoption of Convention 182, the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor of the International Labor Organization in June 1999, perhaps the most widely accepted international convention to date, reflects global repugnance towards the trafficking of children. This Convention seeks international action to eliminate the worst forms of child labor, including “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor”. International conferences seeking the prevention of trafficking of women, however, go back to the last decade of the nineteenth century but are a continuation of longer established action towards the abolition of slavery (Wijers and Lap-Chew, 1997).

The emphasis on exploitation in trafficking means that the internal movement of those trafficked is often incorporated in any assessment of the issue. Such an approach, while logical in terms of the nature of the process, makes policy intervention more complex as the internal affairs of particular states are then addressed rather than a bilateral or multilateral concern among sovereign states. The internal trade of women may have been going on for centuries and be seen as part of the “traditional” practices of a nation. In order to try to separate such traditional practices, no matter how exploitative they might appear to western eyes, the role of the intermediary – the “trafficker” – is essential. These individuals are seen to profit from the trade in people and are thus key agents in linking the exploited labor to the capitalist global economy.

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<sup>1</sup> <http://www.cj.msu.edu/~outreach/security/orgcrime.html>

## II. Theoretical Basis of Human Security

The traditional security studies, based on neorealist paradigm, which excluded security challenges from non-state actors (e.g. terrorist organizations), though fit fairly well the nuclear confrontation climate of the Cold War era, were proved inefficient in accounting for and analysis of the emerging security ambiance of the post-Cold War period, which exposed the significance of growing environmental problems, identity crises, and transnational crime. Thus, a number of international relations scholars, who already previously had questioned the primacy of the military threats and the central role of the state, begun search for new conceptions of security. A strong tendency has been to widen the security agenda by claiming the security status for issues in the economic, environmental, societal, and human realms. Among the key “wideners” of security studies were Ullman (1993); Jahn, Lamaitre, and Waever (1987); Nye and Lynn-Jones (1988); Matthews (1989); Brown (1989); Nye (1989); Crawford (1991); Haftendorn (1991); Tickner (1992); Waever et al. (1993); Krause and Williams (1996, 1997); Buzan, Waever, and Wilde (1998); Paris (2001).

Steven Walt, one of the key opponents of the widening of the security studies, maintains that security should be always understood as studies of war and that it should be defined as “the study of the threat, use, and control of military force.” In his opinion, widening the concept of security to include issues related to environment, economy etc. “would destroy the intellectual coherence and make it more difficult to devise solutions to any of these important problems.” (Walt, 1991: 212-213). However, such an approach both in terms of theoretical and policy analysis risks practical idleness, delayed reaction, and subsequently significant danger – all in the name of “intellectual coherence.” Obviously, in reacting to what is or may become a threat, timing is often imperative. Allowing delay for a rather non-military issue to achieve the status of a military threat to security in order to decisively counteract it is not only shortsighted, but in fact ‘inviting’ future problems - the proverbial spark is easier to control than a full-fledged fire. Thus, in order to better accommodate the study and analysis of the threat posed by the TOC, it may be helpful to look at the ‘wider’ notion of security studies.

### 1. Wider Understanding of ‘Security’

The ongoing debate of the last two decades resulted in the emergence of two general security perceptions:

- the traditionalist one, centered on the state and military threats to it or actual use of force;
- the “widened” one, which included environmental, societal, military, political, economic, and human realms into the security studies agenda, taking under consideration non-state actors;

This work stems from and is based on the latter view with the understanding that the Transnational Organized Crime constitutes exactly one of those new threats to security, which

the neorealist perception would not treat as such. Hence, the prism of security analysis applied in this study is based on what has come to be known as the “Copenhagen School.”

## 2. The Copenhagen School

Part of the problem for both policymakers and academic analysts specializing in the study and analysis of the TOC is the issue of definition. As Margaret E. Beare, the Director of the Nathanson Centre for the Study of Organized Crime and Corruption, put it, “We have learned over years that the Centre has been in operation that at times it would be easier to concede that ‘everything’ is organized crime and ‘every’ form of organized crime presents a threat to national security! This is not true – and determining what is or is not serious, persistent and exploitive remains our focus.” (Beare, 2000). In order to assess the impact of the threat posed by the TOC on the security of states and international order and avoid the problem of all-inclusiveness, an appropriate theoretical tool for this endeavor appears to be the “Copenhagen School’s” framework for security analysis.

The ‘Copenhagen School,’ represented by Buzan, Waever, and Wilde (Buzan, 1991; Waever, Buzan, et. al, 1993; Buzan, Waever, Wilde, 1998) comes from the understanding of security as related to survival, in which case a particular “issue is presented as posing an existential threat to a designated referent object (traditionally, but not necessarily, the state, incorporating government, territory, and society)” (Buzan, Waever, Wilde, 1998: 21). Such a definition, of course, allows for inclusion under the “security” rubric of a wide range of issues that scholars and policy analysts might consider as present or potential existential threats. Most important about that definition is the fact that it expands beyond the traditional notion of politico-military threats to a state. Hence, issues perceived as threats are those, which have been “securitized.” If an issue is rejected as a security matter, it enters the realm of politics. Thus, it depends on the policy-makers and analysts on how successful they are in securitizing a particular matter that is moving it to the list of priorities.

### *Actors*

Copenhagen School defines three general categories of actors, or, as they are called, agents:

- 1) referent objects – “things that are seen to be existentially threatened and that have a legitimate claim to survival,” for instance states and other collective actors (Buzan, et al., 1998: 36)
- 2) securitizing actors – “actors who securitize issues by declaring something – a referent object – existentially threatened” (ibid.) (states, non-governmental and international organizations etc.)
- 3) functional actors – “actors who affect the dynamics of s sector. Without being the referent object or the actor calling for security on behalf of the referent object, this is an actor who significantly influences decisions in the field of security” (ibid.)

### *Security Sectors*

Those agents operate within five ‘security sectors,’ including political, economic, military, environmental, and societal, however this work looks mainly on the first three:

- 1) *political* security sector – encompassing “organizational stability of states, systems of government, and the ideologies that give governments and states their legitimacy” (Buzan et al., 1998: 119); hence, phenomena leading to or causing organizational or legitimacy instability will be considered threats to political security;
- 2) *economic* security sector – though three general theoretical positions (mercantilists and neomercantilists; socialists; and liberals) state different definitions of what an economic security means, the discourse “is now shaped largely by the dominance of the liberal agenda and by the consequences of attempts to implement that agenda (...). The particular characteristics of the liberal ascendance mean the contemporary discourse on economic security centers on concerns about instability and inequality” – in both cases looking through domestic and international lens (Buzan et al., 1998: 97); thus, all the phenomena leading or causing economic instability and inequality fall under the rubric of threats to economic security;
- 3) *military* security sector – encompasses mainly traditional military threats to states and subsystems; thus, all phenomena leading to or causing military instability (use of military, troop movements and buildup, arms race etc.) will be considered a military threat; as the Copenhagen School authors say, this sector is “still dominated by regional security dynamics but with an increased prospect for local dynamics in weak states – that is, regional security complexes and microcomplexes” (Buzan et al., 1998: 70).

### *Levels of Analysis*

Within each of these sectors operate five levels of analysis, which include: international systems (currently entire planet), international subsystems (e.g. Mercosur), units (e.g. states, nations, transnational firms), subunits (e.g. bureaucracies, lobbies), and individuals.

Obviously, the five security sectors may be overlapping and Transnational Organized Crime, as a challenge or threat, may be found in several of them, depending on the TOC group and geographic area of its activities.

## **III. Nexus between Human Trafficking and Transnational Organized Crime**

TOC is involved in virtually all criminal activities, which bring profit to the organization, including drug-trafficking, gambling, money laundering, labor racketeering, smuggling of people, conventional weapons and nuclear elements, and many more (Ryan, 1995). In order to conduct those activities, the TOC often endangers political stability and undermines legitimacy of state regimes while also threatening human security by coming into conflict with state

institutions from law enforcement agencies and police forces to the courts of justice to the more active and less intimidated politicians. In order to overcome those obstacles, the TOC does not hesitate to employ corruption or use violent physical force. In such environment it is difficult to assume that state institutions will function freely and will express the will of the people presuming that a given state is or is struggling to become a democracy. This aspect of the problem is significant considering that democracy is what a large portion of the states, which regained their independence or emerged on the geopolitical maps for the first time after the Cold War have chosen to achieve.

Looking at this issue from the perspective of the *arenas of consolidated democracy*, as suggested by Linz and Stepan (1996), *free and lively civil society* and *the rule of law*, which the authors enumerate along with three other components necessary for a functioning, consolidated democracy, become questionable to say the least. Public trust in the legitimacy of given government and political system of the state is significantly challenged while the international standing and prestige of that state are undermined (a clear example if that situation is present-day Colombia). The debate over precise definitions for the concepts of “trafficking”, “smuggling” and “organized crime” has come to a head only in the second half of the 1990s (IOM, 2000). Contributing to the confusion is the fact that different competent institutions (governments) use a range of descriptive terms: alien smuggling; trafficking of aliens; illegal immigrant smuggling; human trafficking; trade of human beings. Individual research studies have thrown up a few additional terms: “human commodity trafficking” (Williams, 1999); “human trade”, “trafficking in human beings” and “trafficking in persons” (Meese et al., 1998). The potential differences of approach to dealing with trafficking depend on how terms are used (Budapest Group, 1996).

In recent years, European states have moved nearer to a consensus on the definition of trafficking. There is growing awareness of a dichotomy between the concepts of smuggling and trafficking. At the global level, the on-going Vienna process is insisting on the differences between the two, and identifying two types of migrant as a result. The main basis for the dichotomy is linked to the purpose of trafficking and the concept of exploitation. This difference has been well expressed in a recent paper by Graycar (1999) who suggests that

smuggling is clearly concerned with the manner in which a person enters a country, and with the involvement of third parties who assist him/her to achieve entry. Trafficking is a more complicated concept, in that it requires consideration not only of the manner in which a migrant entered the country but also his/her working conditions and whether he/she consented to the irregular entry and/or these working conditions. Trafficking and more voluntary forms of undocumented migration are best thought of as a continuum, with room for considerable variation between the extremes. It is frequently difficult to establish whether there were elements of deception and/or coercion, and whether these were sufficient to elevate the situation from one of voluntary undocumented migration, to trafficking.

There appears to be a growing acceptance that the main purpose of trafficking is to place persons in situations where their labor can be exploited under conditions which often involve human rights abuses (Lee, 2003). Trafficking, according to many recent definitions, involves severe forms of labor exploitation. By contrast, the main purpose of smuggling may be simply to facilitate the illegal crossing of a border. However, this is not to say that human rights abuses do not sometimes occur during the course of smuggling operations. Smuggling is a risky activity and migrants often undergo very hazardous journeys which sometimes result in tragedies occurring (Peterson, 2007). Thus, in effect, trafficking is now associated largely with exploitative work at the destination accompanied by human rights violations. There is an assumption that this work is generally at a location and in a type of employment chosen by the traffickers, although there is evidence too that migrants are often at least partially aware of the circumstances in which they are placing themselves.

However, trafficking may sometimes involve an element of what has come to be defined as smuggling, particularly when it uses the same routes, forged documentation and organizational networks as the smugglers. Further, those who are being smuggled frequently have little idea of the degree and nature of exploitation that awaits them. In consequence, it may in certain circumstances be more appropriate to use the term “trafficking” generically to include “smuggling”, leaving “abusive exploitation” to describe those employment conditions that contravene human rights and are usually illegal.

#### **IV. Migration and Human Trafficking**

It is estimated that about 2 million women from South and South-East Asia work overseas as domestic helpers (Hugo, 2008), and the flow of female entertainers has also grown in recent years, as will be discussed in subsequent sections. These facts have raised much concern. Against this backdrop, trafficking in women and children is considered to be increasing in the region. The routes, destinations, and modes of trafficking are fairly well known and stories of corruption among public officials and local authorities are common. However, trafficking presents a particular challenge to researchers, as the identification of cases is far from obvious, even after the UN Convention Against Transnational Organized Crime provided some conceptual boundaries.

There is a certain pattern to the processes in which either legal male migrants or trafficked women are recruited, transported, and possibly exploited by sets of brokers in both the countries of origin and destination. As Skeldon (2000) observes, there is a continuum of facilitation ranging from fairly transparent recruitment at one end to the flow through networks tightly controlled by organized criminal groups at the other. Both labor migration and trafficking fall between two ends of the continuum, although the latter admittedly involves more illegal practices and exploitation. In addition, unlike smuggling, which necessarily involves border

crossings, trafficking also includes internal movement of trafficked persons per the UN Convention.

Furthermore, the difficulties of separating trafficking from other forms of migration becomes even more problematic, when we consider the international flows of adopted children and brides who have been abducted from their communities. China is an example of this conundrum as internal bride trafficking has been frequently reported, while systematic research on these diverse forms of trafficking is sorely lacking. Traditional bride prices defy any automatic application of concepts such as profit. Thus, it is difficult in a practical sense to isolate the movement of trafficked persons, but available information indicates a number of lasting patterns of migrant trafficking within the Asian regions and some variation by subregions (IOM, 2001).

While the UN definition is difficult to absorb, the three core elements of the definition are the activity, the means, and the purpose, where: (1) The *activity* refers to some kind of movement either within or across borders; (2) The *means* relate to the involvement of some form of coercion or deception, and (3) the *purpose* is the ultimate exploitation for profit of a person and that person's loss of self-determination (IOM, 2004). "Push and pull" factors reported elsewhere are found underlying the seemingly growing problem in East Asia. Such factors that render persons, especially women and children, vulnerable to trafficking are development processes that marginalize women, in particular from employment and education, gendered cultural practices, gender discrimination, and gender-based violence in families and communities.

Restrictive immigration policies and laws contribute to the development of underground migration channels, in particular by generating a market for trafficking. Indeed, the migration policies and laws of both Japan and South Korea are considered restrictive in a sense that both countries limit their intake of foreigners as long as the flow is considered temporary, in spite of the structural labor shortages in parts of their economies. This has been closely linked to the region's high volume of irregular migration, as these two countries are one of the four main destination countries in Asia. Furthermore, globalization is believed to have accelerated the development of such economic sectors in these countries, which demand gender-specific cheap labor, as well as the growth of commercial sex industries in the region. However restrictive the overall immigration policies may be in these two countries, the Japanese and South Korean visa policies (including their entertainer visa) have inadvertently facilitated the inflow of women who end up working illegally in bars and forced to perform sexual services. This observation has generated a fair amount of criticism from both academic researchers and activists.

The admission of legal migrants as settlers might seem to be a clearly separate type of migration from trafficking: a process conforming to the immigration law of developed destination countries. Here, too, however, there are grey areas. A whole brokerage industry of immigration consultants has emerged to coach potential applicants through the immigration

process and facilitate the paper work (Jackson, 2005). Many of these concerns are legitimate businesses, but others have proven unscrupulous and willing to be less than honest in the interests of their clients. In Hong Kong, during the late 1980s and early 1990s, more than 100 companies cited migration advice as their primary business (Hardie, 1994). Consultancy fees ranged from a “moderate” US\$3,000 up to around US\$12,000 in the early 1990s and for this service the agency will “create” in their client a particular ideology of migration which will help him/her over the various hurdles of the application process. Much more dubious are services to arrange new nationalities and passports in order to provide access to particular states, such as passports from the Dominican Republic or Tonga that might allow the purchasers advantages in entering the US or Canada.

### ◎Analysis of its Impacts on Development

There may be also linkages between the trafficking in persons and the international trade in narcotics and in other core activities controlled by international crime such as money laundering. Also, and most clearly, prostitution is an integral part of the international trade in women. The criminal syndicates have the financial resources to “influence” key agents along the way and the contacts among brokers and traffickers to achieve their objectives. However, it would be incorrect to assume that all trafficking or illegal migration is controlled by international criminal syndicates. There are many amateurs, either individuals or small groups of villagers, and small groups of criminals as well as transnational syndicates, involved in the process. In fact, trafficking seems to lend itself to a fissiparous operation requiring little start-up capital and little in the way of organizational capital. Individual entrepreneurs and petty criminal groups are both capable of attempting to bring in or export small numbers of workers. The operative word appears to be “flexibility”, with groups responding to particular situations, constantly changing routes and tactics, involving whoever can assist at specific locations and specific times.

Rather than any large organization, trafficking is the product of diverse groups constantly shifting in composition and alliance as the need arises. All these issues illustrate that trafficking is a hugely complicated and multimillion dollar business. They are writ large in any discussion of migration in and from Asia, and trafficking in and from that region is, at the highest level of generalization, essentially a reflection of a failure in policy. The trafficker, in a sense, helps to make the labor market more efficient by facilitating the movement of labor from where it is to be found to where it is needed. Such a transfer, however, need not necessarily be in the best interests of the state of destination. A continual inflow of labor can depress wage levels in certain sectors and perhaps maintain outmoded, labor-intensive industries in areas undergoing rapid upward shifts towards capital-intensive application. The example of the garment industry in New York, maintained in large part by illegal Chinese labor, is a case in point (Kwong, 1994). The business of trafficking can be conceptualized as in continuous tension with the state controlled business of immigration control, always seeking to by-pass it and sometimes seeking

to subvert it. Trafficking is in constant conflict with that state apparatus which, in turn, grows and becomes ever more complex because of trafficking as it seeks to manage more effectively entry to the state.

Not all trafficking need be negative for development or for the welfare of the migrant. Perhaps a parallel can be sought in the debate on child labor where some child work can be considered to be in the best interests of both children and their families. What is important is that the worst forms of child labor should be eliminated. Similarly, it is the worst forms of trafficking that require urgent attention. The next section of this article will attempt to outline the principal characteristics of undocumented and illegal migration in and from Asia and then consider the issues with a focus on the worst forms of trafficking in the region.

## V. Conclusions

Transnational Organized Crime constitutes not only a challenge, but in fact a threat to international security and stability in general and state and human security of some nations in particular through:

- a) undermining the proper functioning of state institutions through corruption, intimidation, and/or use of physical force against state representatives (judicial, executive, legislative, law enforcement, and military structures are the most common targets);
- b) destabilizing effect the strong links between the TOC and some governments may have on some states (particularly the weaker ones), which in turn may lead to destabilization in a particular region; once the criminal entities are well positioned within the state, it is very difficult to reverse the process
- c) blurring lines between the TOC and terrorist organizations.

In terms of human trafficking, despite the clandestine nature of the phenomenon, it is absolutely crucial to develop reliable measures of trafficking activity; without such measures, the governments and the international community cannot evaluate the performance of their counter-trafficking activities. The success in identifying indicators and measures of trafficking depends on the accurate conceptualization of the framework and definitions of trafficking. One of the factors hindering research and policy on trafficking has been the lack of definitions and clarity in distinguishing among different phenomena involving movement of people across borders. The United Nations Convention Against Transnational Organized Crime and its supplementing does provide the bases for a conceptual framework for trafficking that is differentiated with smuggling, but not without some critical caveats (Raymond and Hugh, 2005).

The elimination of trafficking, no matter how desirable, is unlikely to be realistically achieved through legislation and declarations of intent. Rather, the improvement in the

socio-economic status of the population, particularly through the education of girls, is likely to lead to reductions in its worst forms. While strategies to achieve such goals can be successful only over the long term, options remain for more short-term action. This article has attempted to highlight the complexity and changing nature of trafficking in Asia. Blanket policies to eliminate all forms are hardly realistic or even appropriate. It is important to target the injustices created by criminal groups on the one hand while at the same time regularizing or “managing” those forms of trafficking that benefit local populations and even those trafficked on the other. Thus, strategies to deal with the phenomenon of trafficking will have to have multiple objectives from increasing penalties on traffickers and targeting their profits at one level, to protecting those trafficked at another.

Trafficking is but one dimension of the trade in labor that is an integral part of development. Once its role in development is understood and the sheer range and complexity of its forms appreciated, then a more coherent policy response will be possible. This paper argues that a market for irregular migration services has emerged, in which the mechanisms and forms of organization are still relatively unknown. Irregular migrants using these services are exposed both to unscrupulous service providers and to the immigration and policing authorities, thereby generating a dependence on safeguards provided by the trafficking networks. Thus a symbiosis has developed between trafficker and trafficked. The enormous interest and concern for trafficking and human smuggling in governmental, inter-governmental and non-governmental organizations, in the media and popular opinion, is running ahead of theoretical understanding and factual evidence. This has implications for policy measures designed to combat trafficking and human smuggling, which may not work and also have unintended side effects.

Furthermore, though the threats posed by the TOC to individual states vary in their intensity, effective response to those threats is beyond the reach of any single state and requires coordinated international effort at a supranational level. In other words, transnational threats need to be countered with transnational counter-measures. As Juan Gabriel Ronderos from the Nathanson Centre for the Study of Organized Crime put it, “Fragmenting criminal behavior over different parts of the world is a successful tactic in avoiding capture due to the lack of a multinational law enforcement agency with global jurisdiction. The global response to this problem is a critical one, as only through cooperation and homogenization of internal laws can different nations have an impact on crime.”<sup>2</sup>

Another possible way to tackle the general problem of TOC in general and drug trafficking and money laundering in particular is to destroy processing laboratories instead of eliminating marijuana or coca fields and instead of arresting low-level cartel members, it might be a better idea to follow the money of the money laundering schemes in order to reach the highest echelons of TOC cells (Smith, 1999). By and large, however, there is a growing need for a

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<sup>2</sup> <http://www.yorku.ca/nathanson/Newsletters/newsletter2/americas.htm>

supranational organization to fight the TOC threats more effectively and take away their major weapon: state jurisdictions. As long as state frontiers prevent the pursuit of justice, transnational criminal organizations will thrive, somewhat ironically, on the freedoms provided by the 'global village' and open markets.

Thus, the scale of activities and their very nature, capabilities, and reach of Transnational Organized Crime in the post-Cold War era have by far outgrown the traditional, Cold-War and earlier notions of organized crime. The TOC has become the source of domestic and international/foreign threats to political, economic, and military order of states and international system and needs to be re-assessed in order to be effectively countered. The above demonstrates some of the ways in which the TOC poses serious and growing threats in the political, economic, and military sectors. It reaches to every corner of the world and is highly organized. Though, as was said earlier, there is no single, global criminal organization, we may speak of a global criminal network of highly sophisticated criminal enterprises. The TOC appears to be a step ahead in the organizational adjustment to the world market forces – it does not limit itself to specific countries or regions (as used to be the case before the end of the Cold War), but takes full advantage of globalization and regional integration in all parts of the planet. While state sovereignty is being partially and sometimes considerably sacrificed for the economic well-being in many areas of the globe (e.g. European Union, MERCOSUR), it still remains the core premise of international relations and foreign policymaking. However, state sovereignty has impact mainly on the law-abiding citizens, but not on the criminals, who - not unlike the outlaws of the American Wild West – defeat national justice systems and police agencies in the moment they cross international borders. Obviously, there have been improvements on that front and the processes to make national laws more or totally uniformed are under way in several regions. Overall, however, they have been progressing too slowly, allowing the TOC groups to outcompete the states in this struggle for economic, legal (or il-legal), and violence monopolies.

The situation will not improve, however, as long as there are politicians, scholars, analysts, and policymakers, who due to their analytical beliefs or for the purposes of 'intellectual coherence' (not realizing the lethal policy implications of such an approach) chose to treat transnational organized crime merely as a nuisance, rather than a threat. They often approach the problem from the perspective of eternal existence of organized crime and since the thieves have always been there, are there, and will be there, they find fighting the TOC to be a senseless, quixotic endeavor. Well, if the last thirteen years following the post-Cold War have not convinced them about being wrong, then one may only hope that they will not be the ones in charge of decision-making about the ways and means of combating transnational organized crime. R. James Woolsey, the former Director of Central Intelligence and Global Organized Crime Project Steering Committee Member, summarizes the 'old' vs. 'new' organized crime issue in the following manner:

“While organized crime is not a new phenomenon today, some governments find their authority besieged at home and their foreign policy interests imperiled abroad. Drug trafficking, links between drug traffickers and terrorists, smuggling of illegal aliens, massive financial and bank fraud, arms smuggling, potential involvement in the theft and sale of nuclear material, political intimidation, and corruption all constitute a poisonous brew – a mixture potentially as deadly as what we faced during the cold war.”<sup>3</sup> One is left to reflect on the fact that that warning was made before the September 11<sup>th</sup> attacks and the intelligence community’s alarm about the threat of portable nuclear device being smuggled into New York City. Thus, perhaps we should not care about whether other, remote countries are true democracies in which law is obeyed and respected and whether their peoples live happy lives for such a concern and appropriation of necessary resources would be contrary to the ‘realist’ approach to foreign policy and go beyond the concern in one’s country’s sovereign interests. But perhaps we should learn the lesson of not looking further into the future having experienced the horrible costs such ignorance may bring to bear upon us if we choose idleness instead of proactive, international actions countering the real threats.

If the abstract concept of ‘state sovereignty’ is to be partially sacrificed in order to effectively combat international criminal outlaws and their organizations for the benefit of saving not-so-abstract freedoms of democracy and human lives, then such a cost seems to be worth paying for. This presents an ironic paradox, which, as a warning, should be taken very seriously: in order to protect state sovereignty in the long term, we may have to sacrifice part of it now. For if we are too protective of it in the short term, thus allowing the challengers to state authority and international stability in the form of transnational organized crime prevail, in the long term there may be no sovereignty at all left for us to protect.

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<sup>3</sup> See Center for Strategic and International Studies – Global Organized Crime Project at <http://www.csis.org/goc>

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