

## ***ALLIANCE AGAINST TRAFFICKING IN PERSONS***

### **“An Agenda for Prevention: Non-Discrimination and Empowerment” (11-12 October 2012)**

Panel 1: Discrimination on any Grounds – a Vulnerability Factor

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The politics of trafficking have very much focussed on gender and the power of patriarchy. In contrast to public debates on migration, which have tended to be more focussed on race, and which have been criticised for lacking a gendered dimension, trafficking has not had much explicitly to say on race. For this reason I want to think about race, acknowledging its connection to gender. I want firstly to look at what we mean by race and racism, then to consider how this affects trafficking by examining the relation of racism to nationality and citizenship, ending by considering the role of the law, not just in protection, but also in the creation of categories of people who can be discriminated against. I think this helps us to sharpen the tool of the law and make it more effective for dealing with the situation of trafficking victims.

We all know that there is no such thing as race. People have different skin pigmentation in the same way as they have different hair colour, but this does not make people of certain hair colour or pigmentation of a different race. But that there is such a thing as racism. Racism, the idea that people with different physical characteristics can be put on a hierarchy as more or less civilised, more or less intelligent, more or less human, that for sure is an important way that our world is organised. Racism is not a natural response to race. Rather it is racism that invents race. At its most basic level, racism makes skin pigmentation matter. It makes skin colour noticeable. It is important to recognise though, that colour matters, but it is not the only way that racism works. In many countries of the world national minorities can have the same skin pigmentation as the majority population. They can be marked by their physical type in other ways and still be regarded as inferior. Historically in Europe there have been groups whose skin may be white, but who are viewed as racially inferior: Jews, Roma, Eastern Europeans, prostitutes, the rural and the urban poor have all at times been depicted as not properly white, literally and metaphorically. Racism makes culture and tradition, as well as skin colour, visible. A person who is visible and who is regarded as inferior and not civilised can always be reduced to their body. That is the signifier of all that they are. This has its parallels with gender. While of course there are worlds of difference between a middle class woman in a wealthy state and her migrant domestic worker, there are times and spaces where both can be reduced to their bodies alone. Walking through a lonely park at night, faced with a violent drunken husband, privilege falls away. Now let's not forget that her domestic worker is more likely to have to endure dangerous spaces like the park than her employer, and that privilege can reduce those moments when the wealthy are reduced to their bodies, but still this reduction is an ever present possibility. Similarly with race, when colour is made visible, people lose their humanity and become simply bodies. Those who are white and who are privileged, in contrast to those who are Black and who are poor usually find that their colour and their culture are invisible and not worthy of note. They can leave their bodies behind as if we are all not shaped in many and complicated ways by culture and by our pasts.

It is important that we recognise these dynamics when we are seeking to understand and develop policy responses to the relation between racism and trafficking because there seem to be multiple counter examples. Many white people are victims of trafficking, so doesn't that suggest that trafficking is a crime inflicted on people regardless of race? Recognising how racism works reveals that it is generally only a certain type of white person, whose white pigmentation is overridden by poverty and culture, and whose white body can then become visible and disturbing, who is subject to trafficking. Similarly, saying that racism matters, is not to deny that Black people can be traffickers and abusers of Black and white. For instance many of the employers of domestic workers in the UK are themselves migrants of colour this, and them being women, does not stop them from physically and mentally abusing their employees. It is only by recognising that racism is about our ideas of being civilised, of tradition and of poverty and culture projected on to physical bodies, that we can recognise how gender and race structure abuse and exploitation deeply, and not just in defining who are the victims and who are the perpetrators.

Thinking about race in this way reveals important links between race and nationality. Nationality is related to our ideas of race. The specificities of the relation are complex and depend on the particular history of the state and area that we want to focus on, but to be of a different 'nation' of a different kinship group and culture, is often equated, directly or indirectly, with being of a different race. 'Different' can be a neutral, purely descriptive term to delineate communities, but it can also be problematic when 'different' is tied too closely to race and thereby associated with being more or less civilised, and carrying connotations of inferiority and superiority. Moreover, nationality can give stronger or reduced claims to rights through its relationship to citizenship. Race and nationality may be linked to citizenship in terms of formal citizenship status. People who descend from a certain 'people' may find they have a right to citizenship even if they are not born on a territory for example, but conversely in some states minorities can be denied citizenship, or, if they have citizenship legally they can nevertheless, find in practice its rights difficult to exercise and access, for reasons of language or discrimination for example. This can make them vulnerable to abuse and exploitation, with no recourse to legal protections, whether in their state of birth or elsewhere. A person who is not recognised as a citizen and who does not have a passport will be extremely vulnerable to trafficking as they will not be able to travel legally. A person who has citizenship, but who is discriminated against and marginalised in their state of origin, with limited access to education or employment opportunities will also be vulnerable to illegal or debt financed migration.

When we see that race is about poverty and culture its links to gender, to migration, and to labour abuse and exploitation, become clearer, because trafficking and labour exploitation is predominantly abuse of the bodies of the global poor. This abuse is systemic and must be treated as such. We can take inspiration from the fight against slavery, which was not simply a fight against a moral problem, and not simply a fight against discrimination. Slavery was not only about the personalised domination that masters exercised over slaves, but about a system. Excising the personalised domination, ensuring that masters treated their slaves with kindness and consideration (which some surely did), while clearly important in terms of individual slaves' life experiences, was not a sufficient solution. The system itself had to be eradicated.

Attention to slavery reveals that sometimes the law can be part of the problem rather than the solution. We are accustomed to thinking of the law as a protective mechanism, a tool that comes in to regulate pre-existing social relationships that can be unjust and illiberal. However, the law does

not simply do this, it also helps to create these relationships in the first place. Slavery for example was a legal relation, as was indenture. In what ways does the legal relation of being a different national, that is, of being a legal or an illegal migrant help create vulnerabilities to trafficking? A non-citizen can be legitimately denied equal labour, health and social rights. This can enable employers, husbands, abusers, to exercise considerable control over migrants and can lead to hyperdependence on abusers. This is not to say that the law is responsible for migration, of course it is not, but it does often describe a legally differentiated group of people, tied to their employers, subject to different legal constraints than their co-workers for instance. It is usually perfectly legal to distinguish between people on the grounds of their citizenship and immigration status. For example, a non-citizen can be tied to a particular employer or a particular employment sector and subject to sanction, including removal, should they leave. For a citizen to be in this position would typically be considered a gross infringement of their rights (though importantly, not if they are a criminal). This discrimination is not subject to legal protection, indeed it is often legally required.

To conclude: race is not only to do with skin pigmentation, but also to do with ideas about culture, rationality and civilisation. Racism is not simply the provenance of racists but is to do with social hierarchies that can be endorsed in common sense views about national minorities, different religions and so on. Ideas of race and nationality and citizenship are linked. The law can be a means of creating difference and can facilitate as well as remedy discrimination. Thus the requirement for anti-trafficking protection can arise not only from individual racism but also from problems that have their roots in legally constructed dependencies.