

# **Demand Arguments in Debates on Trafficking in Human Beings: Using an historical and economic approach to achieve conceptual clarification**

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## About the project

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Trafficking in human beings covers various forms of coercion and exploitation of women, men and children. Responses to trafficking have traditionally focused on combating the criminal networks involved in it or protecting the human rights of victims. However, European countries are increasingly exploring ways in which to influence the demand for services or products involving the use of trafficked persons or for the trafficked persons themselves. **DemandAT** aims to understand the role of demand in the trafficking of human beings and to assess the impact and potential of demand-side measures to reduce trafficking, drawing on insights on regulating demand from related areas.

**DemandAT** takes a comprehensive approach to investigating demand and demand-side policies in the context of trafficking. The research includes a strong theoretical and conceptual component through an examination of the concept of demand in trafficking from a historical and economic perspective. Regulatory approaches are studied in policy areas that address demand in illicit markets, in order to develop a better understanding of the impact that the different regulatory approaches can have on demand. Demand-side arguments in different fields of trafficking as well as demand-side policies of selected countries are examined, in order to provide a better understanding of the available policy options and impacts. Finally, the research also involves in-depth case studies both of the particular fields in which trafficking occurs (domestic work, prostitution, the globalised production of goods) and of particular policy approaches (law enforcement and campaigns). The overall goal is to develop a better understanding of demand and demand-factors in the context of designing measures and policies addressing all forms of trafficking in human beings.

The research is structured in three phases:

- Phase 1: Analysis of the theoretical and empirical literature on demand in the context of trafficking and on regulating demand in different disciplines, fields and countries. From January 2014–June 2015.
- Phase 2: Three in-depth empirical case studies of different fields of trafficking – domestic work, prostitution, imported goods – and two studies on different policy approaches: law enforcement actors and campaigns. From September 2014–December 2016.
- Phase 3: Integrating project insights into a coherent framework with a focus on dissemination. From January 2017–June 2017.

## Project Facts

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**Table of Contents**

**1 INTRODUCTION..... 2**

**2 REMARKS ON TERMINOLOGY..... 4**

    2.1 COLLOQUIAL TERMINOLOGY..... 4

    2.2 LEGAL TERMINOLOGY..... 5

    2.3 SOCIAL SCIENTIFIC OBSERVATION CATEGORIES..... 6

    2.4 TERMINOLOGY IN POLITICS ..... 7

**3 THE ORIGINS OF THE DEMAND ARGUMENTS IN HISTORICAL DEBATES ABOUT ‘WHITE SLAVE TRAFFIC’ ..... 8**

**4 THE CURRENT REFERENCE TO DEMAND ARGUMENTS IN THREE POLICY FIELDS IN AN HISTORICAL PERSPECTIVE..... 10**

    4.1 THE DEBATE ON TRAFFICKING IN THE CONTEXT OF MIGRATION CONTROL AND CRIME PREVENTION ..... 11

    4.2 ‘ENDING DEMAND’ IN THE CONTEXT OF DEBATES ON PROSTITUTION ..... 12

    4.3 DEMAND IN THE UN TRAFFICKING PROTOCOL AND EUROPEAN POLITICS..... 14

    4.4 CONSIDERING DEMAND IN THE DEBATES ON TRAFFICKING FOR FORCED LABOUR..... 15

**5 EXPLORING THE CONCEPTUALISATION OF THE DEMAND-SIDES OF THB IN SOCIAL RESEARCH..... 17**

**6 DEMAND AS AN ECONOMIC CONCEPT AND ITS IMPLICATIONS ..... 19**

    6.1 IDENTIFYING MARKETS..... 20

    6.2 FACTORS INFLUENCING THE DEMAND FOR FINAL GOODS AND SERVICES..... 20

    6.3 THE ABSENCE OF COERCION..... 21

    6.4 THE ROLE OF PRICES ..... 21

    6.5 THE ROLE OF STATES..... 22

**7 RECOMMENDATION FOR THE PROJECT CONTEXT ..... 23**

    7.1 DEFINITION OF DEMAND AND ITS IMPLICATIONS..... 23

    7.2 DEFINITION AS DEMAND-SIDE EFFORTS ..... 24

    7.3 THE NEED FOR SPECIFICATION OF TRAFFICKING AND EXPLOITATION ..... 24

**8 GLOSSARY: DEMAND AND RELATED TERMS..... 25**

**9 REFERENCES..... 26**

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## Abstract

The 2000 UN Trafficking Protocol has obliged states to discourage demand that fosters exploitation that leads to trafficking. Fifteen years later, there is still no shared understanding of what demand means in the context of debates on trafficking in human beings (THB). Although debates are characterised by terminological ambiguity, even the claim that a definition is necessary is denied. This paper takes a contrary position. It aims to raise awareness that the usage of vague terms can produce misunderstandings and hamper evidence-based debates on important policy issues. In more general terms, we argue that terminological clarity improves the overall likelihood of policies being based on the best available evidence.

After exploring the use of demand terminology in different contexts, the paper reviews historical and economic research with regard to the reference to demand arguments in past and present debates on THB. This review reveals that the term is often introduced in policy and academic debates without a clear definition, is inconsistently used and is applied to a range of different contexts. Subsequently, the economic understanding of demand is introduced in this paper and implications for the improvements of debates on THB are explored. Consequently, three terminological suggestions are presented regarding the purpose of the research in the **DemandAT** and similar projects.

## Recommendations regarding the terminology for the project

**Definition of demand:** Use of the term ‘demand’ in an economic sense – *as the willingness and ability to buy a particular commodity* – is recommended. This is a colloquial meaning of demand and does not imply subscription to the assumptions and methods of the discipline of ‘economics’. However, it *does* imply that researchers should always be able to specify *who wants to buy what*. Otherwise, the demand-and-supply terminology should be abandoned. In particular, the phrases ‘demand for trafficking’ or ‘demand for labour exploitation’ should be avoided because trafficking and exploitation cannot be purchased.

**Definition of demand-side policies and measures:** Demand in an economic sense can be identified in different markets for goods, services and labour. It is suggested that the term ‘*demand-side measures or policies*’ be reserved for activities that seek to influence the *demand for final commodities*, also known as consumer goods and services. Efforts to change the demand for final commodities address it via one or more factors which influence it. Other measures and policies, aimed, for example, at the reduction of worker vulnerability or employers’ increasing compliance with labour rights, are not without the scope of the project, but should be addressed as *alternatives* to demand-side measures and policies.

**Specification of trafficking and exploitation:** The terms ‘trafficking’ and ‘exploitation’ are used at once as categories of social and political *practice* and as categories of social and political *analysis*. Without further specification, the terms are not appropriate analytical categories for social analysis. For all empirical statements, exactly what is concretely addressed in the context under observation should be specified.

## 1 Introduction

The starting-point for this analysis is a phrase included in the 'Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women, to the Convention against Transnational Organized Crime' that was concluded in 2000 in Palermo (in the following UN Trafficking Protocol). States are obliged to 'discourage the demand that fosters all forms of exploitation of persons, especially women and children, which leads to trafficking'.<sup>1</sup> The phrase connects three central terms in a complex way: demand, exploitation and trafficking. The UN Trafficking Protocol suggests that demand somehow leads to exploitation and exploitation somehow leads to trafficking, therefore the state should do something about this undesirable form of demand. However, the term demand as such was not defined but remained undetermined and, like other elastic terms, was deemed 'incapable of performing serious analytical work' (Brubaker and Cooper 2000: 11).

The general vagueness of the term demand is clearly acknowledged in a report by the United Nations High Commissioner for Human Rights:

While accepting the need to address demand, it is important to acknowledge the limits of a term that is not properly defined, is under-researched and is still subject to debate and confusion (OHCHR 2010: 97).

The conceptual confusion and vagueness is used and reinforced by voluntary associations engaged against THB, which advocate for their goals with a language that is emotive, metaphorical and vague (Dauvergne 2007; Kurasawa 2014; O'Connell Davidson 2010, 2012).

The involvement of voluntary associations which criticise the public handling of prostitution is a general feature of past and present debates on trafficking since the 1870s. These voluntary associations shared the language of slavery and trafficking in order to mobilise public support and push governments to take action against traffic in white slaves (Irwin 1996). But they sharply disagreed, in the early years of the debate, on the question of whether prostitution should be outlawed or tolerated as a private vice. Since the late 1970s, the debate on trafficking was renewed in different sectors such as international migration control and international crime prevention. Throughout time, 'trafficking' has been viewed as a profit-driven business responding to a demand – but usually without any clear specification of what that demand actually is. The adopted language of trafficking and 'modern slavery' suggested implicitly that demand refers to the illicit trade in human beings in the colloquial sense (see Bales 2008; Carmi 2011; Parreñas *et al.* 2012).

Certainly, to call something 'slavery' helps to raise attention and to galvanize action, But will it help the world's poor and distressed to end their misery? The answer is no. Ending slavery or forced labour requires targeted actions to change law, to bring offenders to justice, to protect victims and to empower those at risk. (...)

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<sup>1</sup> United Nations General Assembly, Annex II, Article 9 (Prevention of Trafficking in Persons), paragraph 5: 'States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.'

Hence definitions help to narrow down a problem and to target action” (Andrees 2014).

However, recently, the high-ranked Interagency Coordination Group against Trafficking in Persons (ICAT)<sup>2</sup> openly discarded the requirement to provide a concise and coherent definition:

While there has been a lack of clarity about what constitutes ‘demand’, it seems that it is not so much a more detailed definition that is required, but broader consensus about the full set of options that can be taken to effectively discourage demand both directly and indirectly, along with a willingness to implement, monitor and evaluate the measures concerned (ICAT 2014: 9).

This position allows anti-trafficking actors to create the impression that they agree with the strategy of discouraging demand while, in practice, pursuing different agendas. It is challenged as incoherent and detrimental for the declared targets.

But in order to change, we need to have a shared understanding of what it is that we want to change. Problem solving starts with a simple but crucial first step: defining it. For how we define something will determine whether and how we solve it (Andrees 2014).

In this paper, the authors argue, in accordance with other experts, that terminological vagueness and confusion undermine the capacity to design evidence-based policy measures (Andrees 2014; Jordan 2011a, 2011b; Weitzer 2014). When it comes to knowledge generation through scientific research and the sound designing and evidence-based evaluation of concrete practical actions, a clear and concise definition of central terms and concepts is an indispensable requirement (Brubaker and Cooper 2000; Gupta 2015).

We start this paper with some preliminary remarks on colloquial, legal, scientific and political terminology and their function in different settings (Section 2). It also takes a brief look at the initial emergence of reference to demand arguments in early debates on the public handling of prostitution since the 1870s in the UK and how these concerns became institutionalised at the international level (see Section 3 below).

Section 4 places current topical debates in their historical context so that the origins of current misconceptions become clearer. It identifies the transnational crime prevention context as a policy field in which the term trafficking reappeared in the late-twentieth century with a new meaning referring to the facilitation of illegal border crossings. It shows that feminist debates on prostitution policies since the 1980s revived and sharpened demand arguments and triggered the inclusion of a vague reference to demand in the UN Trafficking Protocol. Once introduced in the UN Trafficking Protocol, the

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<sup>2</sup> The membership of ICAT comprises 16 international organisations and UN bodies, while the ICAT Working Group comprises representatives from the International Labour Organization (ILO), the International Organization for Migration (IOM), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children’s Fund (UNICEF) and the United Nations Office on Drugs and Crime (UNODC).

demand provision was included in other policy documents at both international and regional levels. Finally, it shows how institutionalised efforts to combat forced labour at the international level connected with the debates on trafficking in human beings (THB) but failed to develop a concise idea of demand in the context of debates on trafficking for labour exploitation in the new millennium (Cyrus forthcoming).

Section 5 summarises some observations on how trafficking and demand are used in research and practice, showing that the same terms are likely to refer to different aspects of the social world. Section 6 makes terminological suggestions, based on the often-evoked economic context. Demand is defined as the willingness and ability to buy a particular commodity. It explores some of the implications of using the term in this sense and considers the consequences for designing measures against trafficking. Finally, Section 7 includes three recommendations for the use of terminology in the project concerning demand, demand-side efforts, trafficking and exploitation.

## 2 Remarks on terminology

This section draws attention to the distinction of colloquial, legal, political and social-scientific terminology and thus leads us directly into one of the origins of the current terminological confusion of debates on THB. The subsequent historical and economic conceptual analysis can be better understood if we are aware that terms play a different role depending on the context of application.

### 2.1 Colloquial terminology

Terms in colloquial language are often vague and adopt several meanings according to the semantic context. Usually, this is no problem for communication, as the appropriate meaning is usually context-dependent (Bridges 2010; Wittgenstein 1958). Whether we speak of a ball in the sense of a dancing party or in the sense of a toy is usually clear without any explanation. Many colloquial terms, as this example shows, have more than one meaning, thus displaying lexical and referential ambiguity (Sennet 2011). This is also true for the three terms 'traffic', 'demand' and 'exploitation'.

As dictionaries seek to track the actual use of language and inform on the spectrum of meanings, they can be used as a good indicator of the variety of ways in which terms are commonly understood. Here, we take the Oxford English Dictionary (OED) as our reference ([www.oed.com](http://www.oed.com)).

We should acknowledge that the first, and thus most common, meaning of the verb *traffic in* refers to trade – to carry on trade, to trade, to buy and sell – and a further meaning refers to *dealings of an illicit or secret character*. Thus, whenever the term trafficking is introduced, the association with trade is always evoked.

Exploitation has mainly two colloquial meanings: the neutral meaning of an action that results in profit or advantage – for example the productive working or profitable management of a business – and the negative meaning of such an action undertaken for selfish and unfair purposes, disregarding the concerns of others (on exploitation, see Elster 1985: 166-233; Moravcsik 1998; Munro 2008; Wertheimer and Zwolinski 2013).

For demand, the OED indicates a large number of meanings. The term can be used as an authoritative or peremptory request or claim, a legal claim, an urgent or pressing claim or requirement, a need actively expressing itself, or the manifestation of a desire on the part of consumers to purchase some commodity or service, combined with the power to purchase, the latter with the correlative supply.

The highlighted colloquial vagueness of the three terms impacts on the application in legal, scientific and political contexts. It should also be noted that a large part of the debate on trafficking takes place in international arenas, using international English. When terms are translated into native languages, they may carry different connotations.

## 2.2 Legal terminology

Legal terms relate to social reality in the sense that it must be possible to subsume a specific individual case with specific observable circumstances under the legal term. In the realm of international and European law, human trafficking as introduced in the UN Trafficking Protocol and the EU Anti-Trafficking-Directive is, at the same time, a narrow and a wide legal construction.

The UN Trafficking Protocol provides a very narrow definition, as the three constitutive elements (act, means and purpose) have to occur coincidentally in order to constitute the offence of trafficking in the legal sense (Gallagher 2010: 80). At the same time, the definition is wide because the elements of act, means and purpose each cover a wide array of situations. The first element refers to a wide range of *transfer acts* such as recruiting, transporting or harbouring; the second element to a wide range of *illicit means to influence a person's decision* – such as force, abduction, fraud and the abuse of vulnerability – and the third to the *purpose* of exploitation in several fields.

This legal concept of the offence trafficking has been criticised as a poor legal definition because it includes a term (exploitation) that is not defined as such but merely characterised by an enumeration of legal concepts from other areas (Gallagher 2010: 34). What exploitation *should* mean in the context of the UN Trafficking Protocol is only indicated by a minimum list which includes, among others, the exploitation of prostitution or persons or other forms of sexual exploitation, forced labour or services and organ removal as examples, but also trafficking for slavery or slavery-like situations. Enlisting slavery as one of the purposes of trafficking acts, the legal term includes the colloquial meaning of trafficking in the sense of the selling and buying of people (Jordan 2011a).

It is important to recognise that legal proceedings require a binary decision in the end: Can the charge of trafficking be proven or not? Judicial practitioners complain that the concept refers to the intention of a perpetrator. Purpose is a subjective feature which is hard to prove in legal proceedings (Cyrus *et al.* 2010: 53f). For practitioners in the current legal framework, it is important to draw a clear line not only between trafficking and legitimate transactions (it was trafficking or a legal transaction), but also between trafficking and other criminal offences (it was rape, fraud or abduction, but not trafficking).

This legal distinction has consequences for the real world: If a judge convicts someone for human trafficking, the sanctions are more serious. The ascription of a trafficking-victim



status includes the entitlement to social assistance. If support agents and police classify victims of crime as likely to be trafficked, it means they have an entitlement to institutional assistance and the permission to stay at least for a limited time.

The UN Trafficking Protocol introduced demand discouragement as an obligation to states in an international document, but it is not a legal term requiring binary decisions in the states' legal orders.

### 2.3 Social-scientific observation categories

Like legal proceedings, social-scientific research also claims to rest on clear definitions, lending itself to the idea that researchers could simply adopt legal concepts. However, the international legal definition of trafficking in human beings is *not* such a suitable concept for social-scientific research. As already indicated, THB exists not as a brute fact but as an 'institutional fact' (Searle 2010) constituted by the declaration of international law to outlaw and punish particular actions. Due to its complex definition, including aspects like 'purpose', it is not immediately observable but can only be identified by using indicators. Moreover, as the legal construction refers to a wide array of phenomena, these cannot be observed simultaneously by social scientists. Therefore, it is likely that any studies that make statements about trafficking in general without reference to a specific field are overgeneralising the results or do not conform to scientific standards.

The terms 'trafficking' and 'exploitation' are used as categories at once of social and political *practice* and of social and political *analysis*. *Categories of practice* are categories of everyday social experience developed and deployed by ordinary social actors. They are reified and used by 'lay' actors in some (not all) everyday settings to make sense of a situation. They are also used by political entrepreneurs to persuade people to understand situations in a certain way. In contrast, *categories of analysis* are experience-distant categories used by social analysts who should 'avoid unintentionally reproducing or reinforcing such reification by uncritically adopting categories of practice as categories of analysis' (Brubaker and Cooper 2000: 5).

Social analysis 'requires relatively unambiguous analytical categories' (Brubaker and Cooper 2000: 12). Without further specification, the terms 'trafficking' and 'exploitation' are therefore not appropriate analytical categories for social analysis. For all empirical statements, it is necessary to specify what is concretely addressed in the context under observation.

Thus, when social scientists seek to observe and explain phenomena in social reality, they should adhere to scientific standards which require – according to Popper (1972) – at a minimum the conceptual precision of the central categories under investigation, theoretical stringency, methodological appropriateness, impartiality with respect to unexpected findings, and the falsifiability of findings. The elementary criteria for the quality of research methods are reliability and validity (Lewin 2005: 216). *Reliability* refers to the accuracy, stability and consistency of measurements. *Validity* refers to whether or not the measurements collect the data required to answer the research question. '... attention to how (constructed) facts relate to (constructed) claims and theories is a widely recognized hallmark of good-quality research' (Seale 2004: 411).

It is obvious, therefore, that researchers cannot fulfil the criteria for good empirical research if they try to analyse 'trafficking' as defined in legal terms; no one can conduct meticulous empirical observation and analytical interpretation in an endless number of fields. Even if only those fields which are explicitly mentioned in the definition are explored, it is difficult to imagine that an individual has the knowledge and capacity to theoretically grasp the issues in such difficult and contested fields as prostitution, forced labour, begging and organ removal, and to have the time and resources to make well-documented empirical observations in these fields, which all involve hard-to-reach-populations.

Therefore, good empirical research on THB concentrates on a particular field, using a specific operational definition of trafficking that is both suitable and applicable. Similarly, any proposition claiming a social-science reputation has to provide an explanation of how demand is defined in the context of any particular research project.

However, as evaluation research emphasises, academic investigations do not always meet scientific standards (Chelimsky 2006: 48–49). Researchers may feel tempted to draw wider conclusions from their research, may not realise that they have analysed only a small segment of what could potentially be trafficking in a legal sense or may be embedded in a political paradigm and willing to mould the presentation of their results to the expectations of that paradigm. As a matter of fact, the reliability and validity of much of the current social-science research on trafficking in human beings that informs policy-makers and orients policy programmes is fundamentally challenged in academic reviews which point to conceptual, methodological and empirical flaws and misconceptions (Fedina 2015; Jordan 2011a, 2011b; Vance 2011; Weitzer 2014).

## **2.4 Terminology in politics**

In the political realm, the colloquial vagueness and ambiguity of terms can be utilised to enable compromises by their deliberate introduction. In disputes on contested issues, this vagueness and ambiguity usually serve as an opportunity to raise awareness and influence public opinion (Edelman 2001; Thompson 2014).

In political disputes, terms are often linked to what political scientists call 'frames' (Schön and Rein 1994) or 'paradigms' (Hall 1993). 'Policy-makers customarily work within a framework of ideas and standards that specifies not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing' (Hall 1993: S279). Problems and solutions are embedded in a taken-for-granted terminology with which policy-makers communicate information about their work.

Within the same policy field, there is often fierce competition between the competing frames with their particular nested terminology. In policy controversies, as Schön and Rein (1994) argue, contesting stories are told about a situation, each conveying a different view of reality. Issues are selected for attention and named in such a way as to fit the frame constructed for the situation. Through the process of naming and framing, the stories make the 'normative leap' from data to recommendation, from fact to values, from 'is' to 'ought'. It is typical of diagnostic-prescriptive stories that they execute the normative leap in a way which makes it seem graceful, compelling and even obvious. Stories used in policy

controversies are inherently normative, implying a sense of the good to be sought and the evil to be avoided. Naming and framing fulfil the essential problem-setting functions and select for attention a few salient features and relations from what would otherwise be an overwhelmingly complex reality (Schön and Rein 1994: 23–28). In the topical context considered in this paper, the terms ‘sex workers’ or ‘female victims of the sex industry’ immediately evoke two different sets of problem definitions and policy solutions for those who have been engaged in debates on the sale of sexual services/prostitution. In one and the same policy field, debates about terms are often fierce as they are understood as debates about problems and solutions. Activists insist on the use of specific terms.

However, even more complicated is the fact that actors from the various policy fields and debates may not always realise that they talk about different social realities when using the same term. For example, debates about the regulation of prostitution, labour markets, organ transplantation and migration control are largely characterised by different histories, stakeholders and arenas. In some of these fields, the terms ‘trafficking’ and ‘demand’ have been used to refer to different social realities.

### **3 The origins of the demand arguments in historical debates about ‘white slave traffic’**

Looking at the occurrence and conceptual history (Koselleck 2006) of the term ‘demand’ in debates on trafficking helps us to see the root of some of the current misunderstandings in the anti-trafficking-debate, we argue. The idea that the reduction or suppression of trafficking for sexual exploitation can be reached by addressing a demand-side was already developed and launched about 150 years ago by an abolitionist movement, although the original understanding was substantially different from the present-day idea of an ‘Ending Demand’ approach.

The reference to ‘demand’ was and is a continuous feature of past and present debates on the public handling of prostitution. The demand provision entered the UN Trafficking Protocol due to the initiative of a non-governmental network (CATW) in launching an ‘Ending Demand’ campaign which calls for the criminalisation of male purchasers of commercial sexual services (see Section 4.2). This initiative is usually perceived as the continuation and successor of the historical abolitionist movement formed in 1870.

Abolitionist organisations were part of an alliance of private organisations that called for the repeal of the Contagious Diseases Acts regulating prostitution in the UK between 1860 and 1886 (McHugh 1980). These Acts authorised the police to arrest common prostitutes, order them to undergo a medical examination and, if they were found to be diseased, detain them until they were pronounced cured. If a woman refused to cooperate, she could be jailed until trial in which *she* had to prove that she was virtuous. Women and girls who had been falsely accused were also arrested and examined, with the consequence that they lost their jobs and, in some cases, committed suicide.

The backbone of the so-called repeal movement was the abolitionist organisations established by Josephine Butler. She founded the International Abolitionist Federation and formulated an abolitionist agenda that influenced the public handling of prostitution and international politics on trafficking over the following 150 years, although present-

day references often miss or distort the key ideas of this historical movement. What historical feminist abolitionists called for was not the abolition of prostitution or the criminalisation of male purchasers of sexual services *per se*, but the abolition of the *state regulation* of prostitution (Flexner 1920: 119). This state regulation was considered as the expression of a 'double moral standard' that allowed men to live out their vice without state suppression (buying sex) while women were harassed by police for their part in the deal (selling sex), or merely for being suspected of doing so. Although abolitionists considered prostitution as morally wrong, the main concern was the defence of women's rights and liberty, even the freedom to engage in prostitution. Abolitionists strongly opposed any attempt to impose morality through state coercion. In the abolitionist view, prostitution is considered to be a private matter in which state authorities should not interfere as long as consenting adults act in a decent way without the interference of any third party. While prostitution as such should be tolerated, any state regulation of prostitution should be abolished. In their view, the state should neither subject suspected prostitutes to forced medical examinations and arrests, nor promote prostitution by licensing brothels.

However, it was not only abolitionist campaigners who engaged in the repeal movement. They were joined by organisations of conservative social-purity reformers and moralising feminists, who shared the abolitionists' discontent with regulation policies but pursued different aims. Social-purity reformers' concern related less to the protection of women's rights and more to the protection of moral order and the family. For moralising feminists, chastity was a highly valued ideal since

carnal sexuality, identified with the male instinct, was behaviour associated with savages and animals, while spirituality, identified with delicate female sensibilities, was the most elevated expression of the human spirit. (...) Men with their sexual urges, were therefore universally perceived as the problem; and the virtues of continence and self-restraint embodied by women would supply the solution (Phillips 2004: 57f).

Already, in earlier debates, the issue of demand was raised and basically concerned the buyers' side in the prostitution market, addressing the willingness of men to purchase sexual services. However, why this demand existed and how it should be dealt with were contested. Defenders of the state regulation of prostitution argued that male desires cannot be suppressed. In particular, in situations of demographic imbalance, these desires would drive men to spend money for commercial sex, so the regulation of prostitution would limit threats to the social order and public health. Moralising feminists promoted the suppression of male desires and the resulting demand in favour of chastity as a higher civilising achievement. Social-purity reformers wanted to suppress the demand for commercial sexual services through public education, the abolition of seductions like alcohol and the repression of individuals with a bad character through repressive law, surveillance and policing. The abolitionists tolerated prostitution between consenting adults as a private vice but were concerned about what they considered to be the 'artificial' demand created by state systems for the regulation of prostitution. The licensing of brothels was believed to signal approval of a market for commercial sexual services that actively created, or at least amplified, an 'artificial' demand for commercial sexual services (Flexner 1920: 45f). To satisfy this artificially amplified demand, brothel-owners were suspected of luring vulnerable women into prostitution in order to increase profits.

In order to mobilise for their cause, abolitionists and other actors in the repeal movement resumed the language of the anti-slavery movement and accused the state regulation of prostitution of 'white slavery', naming the inmates of licensed brothels as 'white slaves'. Consequently, the repeal coalition subsumed any procurement for prostitution into licensed brothels as 'traffic in white slaves' (Butler 1876; Flexner 1920: 94; Kurasawa 2014). However, public debates were dominated by the colloquial understanding of traffic as abduction of innocent white girls. Due to its use of the powerful 'white slavery metaphor', the repeal movement finally reached its goal of abolishing the state regulation of prostitution in the UK (Bristow 1977; Chaumont 2009, 2011; Gorham 1978; Irwin 1996; McHugh 1980; Walkowitz 1992).

Subsequently, international voluntary organisations began to call for international efforts to suppress procurement into prostitution across international borders. Use of the 'white slavery metaphor' was consequently extended to include even the procurement of adult women consenting to work in prostitution abroad (Knepper 2010, 2011; Limoncelli 2006, 2010; Garcia 2012) In spite of contemporary serious scepticism that an international white-slave traffic existed, the continuous rescue activities and information campaigns caused widespread public concern about this 'traffic in white slaves' (Sabelus 2009; Soderlund 2013), with culprits frequently being presented as 'Jewish' (Bristow 1983) or, in the US American context, as 'Black' American (Grittner 1990).

Originally initiated and continuously pushed forward by international voluntary organisations against traffic in women, from 1904 onwards, a series of international agreements<sup>3</sup> aimed to suppress the traffic in women (Knepper 2011). The 1949 UN Trafficking Convention considered prostitution to be 'incompatible with the dignity and worth of the human persons' (Reanda 1991: 209) and implemented the abolitionist agenda by outlawing any profit-oriented third-party involvement in prostitution. But the selling and buying of sexual services between consenting adults without third-party interference was *not* outlawed. The 1949 UN Trafficking Convention is, in principle, still valid today but with little impact due to the low number of signatory states.

#### **4 The current reference to demand arguments in three policy fields in an historical perspective**

Until the adoption of the UN Trafficking Protocol in December 2000, 'the term "trafficking" was not defined in international law, despite its incorporation in a number of international legal agreements' (Gallagher 2010: 12). The impetus for the drafting of the UN Trafficking Protocol occurred in the international policy field of crime prevention and criminal justice (see Section 4.1 below). The UN Trafficking Protocol was developed in the UN Crime Prevention and Criminal Justice framework as a supplement to the UN Convention against Transnational Organized Crime.

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<sup>3</sup> The first Agreement against White Slavery was adopted in 1904 and amended in 1910. The League of Nations (LoN) resumed the initiative and adopted the 1921 Convention on the Suppression of Traffic in Women and Children, amended in 1933. Another amendment drafted in 1937 was halted but provided the basis for the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of Prostitution of Others which was finally adopted by the United Nations.

The UN Convention and three supplementary protocols dealing with the trafficking of human beings, the smuggling of migrants and the illicit trafficking in firearms were negotiated by the member-states between 1998 and 2000. The negotiations were attended by representatives of other UN bodies, international organisations and NGOs registered at the UN with a consultative status. These stakeholders also engaged in other policy fields, particularly in the protection of human rights, sex-workers' rights, migration management and labour rights (Gallagher 2001; Vlassis 2002) and, within these fields, adhered to competing frames.

The final insertion of a reference to demand in the UN Trafficking Protocol was instigated by a network of NGOs which campaigned for the criminalisation of male purchasers of commercial sexual services and successfully lobbied to get a reference to demand into the UN Trafficking Protocol of 2000 (as outlined in Section 4.2). The feminist controversy deeply influenced the reference to demand arguments in debates on THB and subsequently successfully introduced demand as an issue that should be addressed in European policies (see Section 4.3).

As forced labour is named as an exploitative purpose in the Protocol, stakeholders from international labour politics reflected on what a reduction in demand could mean in their ongoing efforts to eradicate forced labour. However, demand is used quite differently in labour-market contexts and efforts to connect the two concepts have not yielded convincing results in the debate (Section 4.4).

#### **4.1 The debate on trafficking in the context of migration control and crime prevention**

In debates on international crime prevention, the trafficking in human beings and the smuggling of irregular migrants over international borders were initially used synonymously (IOM 1994: 2; Taran 1994). From the late 1970s, security concerns about irregular migration increased when immigration restrictions became more widespread throughout the world. The number of governments pursuing a policy to reduce immigration increased from 6 per cent in 1976 to 33 per cent in 1995 (United Nations 1998). The enforcement of immigration law also intensified (Pécoud and Guchteneire 2006; UNDP 2009). Consequently, the facilitation of illegal border crossing became more organised and was considered to be a major field of transnational organised crime. Any business that profited from transporting people illegally across international borders was addressed as 'trafficking' (Aronowitz 2001). The reappearance of the term 'trafficking' in the context of international crime prevention debates alluded to the fact that criminal networks often cared little about the well-being of their human cargo once the price for the journey was paid (Ghosh 1998; Taran 1994; Weiner 1995).

In 1994, at the World Ministerial Conference on Organized Transnational Crime in Naples, several countries proposed the adoption of a UN convention to deal with the issue (Gastrow 2002). In the negotiations hosted by the United Nations Office on Drugs and Crime (UNDOC) in Vienna, trafficking was initially addressed as a cross-border crime involving the smuggling of persons and the trade in drugs and arms. In a UN publication of 1998, traffickers were characterised as facilitators of illegal migration by illegal means, with 'the migrant who is party to the transaction making a voluntary choice' (United

Nations 1998: 219). This understanding has changed, although it is still present in media reports (TRACE 2014).

The UN Trafficking Protocol finally introduced a distinction between human smuggling and trafficking that is captured well in the following quote: 'Traffickers enslave and exploit trafficked persons, while smuggled migrants have a consensual relationship with their smugglers and are free at the end of their journey' (Shelley 2014: 3). However, notwithstanding this distinction, the mentioning of 'smuggling and trafficking' in tandem is still frequently applied in public documents and research on migration policy issues (Vermeulen *et al.* 2010).

In the context of migration, trafficking in human beings is continuously addressed as an irregular border-crossing issue, as European Union documents show. 'Irregular migration and trafficking in human beings' is one of the pillars of the 'Global Approach to Migration and Mobility' of the European Union, introduced in 2005. When the heads of member-states formulated the priorities in implementing the Global Approach in 2014, they prioritised 'addressing smuggling and trafficking in human beings more forcefully, with a focus on priority countries and routes' (European Commission 2011: 3).

In this view, trafficking is first and foremost a border-related crime. Consequently, border-enforcement agents are trained in the identification of victims of trafficking – with little success thus far. This lack of success is due to the fact that trafficking can rarely be detected at the border because it is not clear at that stage whether or not the journey will end up in a situation of coerced exploitation (FRA 2013: 14). 'Smuggling and trafficking' is described as a business triggered by criminals without elaboration of the demand-side aspects (for the possibility of applying supply-and-demand terminology in this context, see Section 5.)

#### **4.2 'Ending demand' in the context of debates on prostitution**

We need to turn to prostitution debates to learn why a reference to the demand-side arguments was introduced into the UN Trafficking Protocol. During the 1980s, women's organisations, concerned about the expansion of the sex industry, seized any opportunity to introduce a new frame of interpretation. In this 'sex-domination frame' (Roth 2012: 21f), prostitution is perceived to be a human rights violation that 'make[s] all women vulnerable, exposed to danger, open to attack' (Barry 1995: 317). As Kathleen Barry, the leading thinker in so-called radical feminism, explicitly declared, this view broke with the abolitionist ideas of the toleration and de-criminalisation of prostitution to which she had previously adhered (Barry 1979: 277f). The abolitionist distinction between 'free' and 'forced' prostitution was discarded and prostitution, as such, redefined as sexual violence to which a woman cannot freely consent. In the sex-domination frame, consent to prostitution is 'never a state of freedom' and, consequently, 'there is no right to prostitute' (Barry 1995: 89). This freshly formulated radical feminist theoretical framework of patriarchal male domination directed attention to the behaviour of men.

Women are in prostitution because men buy them for sex (...). Prostitution is a male consumer market. The intense public focus on women's will, her choice or her 'right to prostitute' deflects attention from the primary fact that prostitution exists first because of male customer demand. Sex industries are in place – from trafficking to brothels – to provide female bodies to satisfy that market demand. What matters in

terms of the prostitution market and male demand is that there are female bodies provided for sex exchange. How or why they get there is irrelevant for the market (Barry 1995: 39).

In this view, the selling and buying of commercial sexual services is not a trade between women selling services and men buying them, but between sex industries selling and ordinary men buying sexual services, with women being the commodity of this male trade that is incompatible with the dignity of human beings. As understood by radical feminists, male demand is identified as the root cause of trafficking in the field of prostitution (Lederer 2012).

In 1991 a group of radical feminists, organised as the Coalition Against Trafficking in Women (CATW), proposed the introduction of a new UN Convention Against Sexual Exploitation (UNESCO/CATW 1992). The proposal

...called upon states to penalize the customers, recognizing them as perpetrators to be criminalized while rejecting any form of penalization of the prostitute. Therefore State Parties would be required to agree to reject any policy or law that legitimizes prostitution of any person, male or female, adult or child, so-called first or third world; that distinguishes between free and forced prostitution; or that in any way legalizes or regulates prostitution as profession or occupation (Barry 1995: 306).

The proposal was presented to the responsible body of the United Nations but rejected. Subsequently, supporters of CATW launched the 'Ending Demand' campaign at international and national levels, calling for the criminalisation of male purchasers of commercial sexual services (see Lederer 2012).

The 'Ending Demand' initiative evoked a response by another strand of feminist organisations, especially those providing assistance, in particular, in health issues for women engaged in prostitution. The Network of Sex Work Projects (NSWP), established in 1990, developed a contrasting 'sex-work frame' of interpretation (Roth 2012: 24f) that gained national and international visibility. Selling commercial sexual services was viewed as work and involved persons – mostly but not necessarily women – as sex workers. These latter can work independently as self-employed persons or dependently as employees, so that brothel-owners or procurers become the employers in this terminology. Migrants are considered as particularly vulnerable workers who are easily betrayed and exploited. Politically, the aim is to end the criminalisation and stigmatisation of sex workers and to guarantee the general legal protection that enables them to work in a safe environment and to defend themselves against violence, fraud and abuse. 'From a sex workers' rights perspective, the idea that women's consent can be ignored perpetuates gender inequality. The idea that it is okay to ignore a woman's consent because she is in sex work is also puzzling when women have rights based on multiple identities' (Ham 2011: 22). In this view, it is of paramount importance to distinguish between forced prostitution as a form of sexual violence and voluntary prostitution as a form of work. Therefore, activists engage against trafficking as 'recruitment into forced prostitution'.

In 1994, the Global Alliance Against Trafficking in Women (GAATW) was established as a global network, and included the NSWP as a member-organisation. From the outset, GAATW did not restrict activities to sexual exploitation but focused on measures to



improve the situation of women and children – and today also men – whose human rights have been violated by the recruitment into labour exploitation by criminal means. GAATW, which does not reject the ‘sex-work frame’ but emphasises a ‘vulnerability frame’, advertises for a more comprehensive legal protection – particularly of migrant workers – against exploitation, and the assistance of persons who have been trafficked into such exploitation. GAATW activists do not consider the criminalisation of prostitution as an effective policy to protect women; on the contrary, they argue that it increases the vulnerability of migrants and workers – which is identified as a root cause of trafficking (GAATW 2007).

Thus, in the early 1990s, distinct and competing feminist international networks concerned with trafficking and prostitution established and began to make use of the political opportunity structure provided by the human-rights framework of the United Nations.

### **4.3 Demand in the UN Trafficking Protocol and European politics**

Both CATW and GAATW attended the negotiations on the 2000 UN Trafficking Protocol that took place under the auspices of the UNODC in Vienna, 1998–2000. The issue of demand gained only little relevance (Ditmore and Wijers 2003; Gallagher 2001; Sullivan 2003; Vlassis 2002). A proposal – submitted by the US delegation and introduced for the sixth session (December 1999) – on preventing prostitution and the need to address the ‘demand for prostitutes’ was abandoned when states that regulated or tolerated voluntary prostitution opposed it (Doezema 2010: 129f, 162). The issue of demand reappeared only at the final session, two months before the scheduled adoption of the Convention by the UN General Assembly, again submitted by the US delegation. In the context of ‘prevention of trafficking in persons’, an obligation for states to discourage demand was proposed that left a lot of room for interpretation. This proposal was accepted with only one minor change in the last negotiation session and inserted in Article 9, paragraph 5 of the UN Trafficking Protocol:

States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

This provision obliges states to adopt preventative measures but leaves it to the states to decide whether or not they prefer to implement educational, cultural, social *or* legislative measures. The term ‘demand’ is not defined. Moreover, the phrase does not immediately link ‘demand’ with trafficking. The inclusion of a reference to demand, however vague, was celebrated as a victory by ‘Ending Demand’ activists (Raymond and Marcovich 2000), and was subsequently used to lobby for the criminalisation of male purchasers of commercial sexual services, in connection with the introduction of this legal change in Sweden.

The demand phrase from the UN Trafficking Protocol was subsequently taken up in other international policy documents addressing trafficking in human beings, notably, at the European level, by the ‘Council of Europe Convention on Action against Trafficking in Human Beings’ from 2005 and EU Directive 2011/36/EU. In 2012, the European

Commission adopted the 'EU Strategy towards the Eradication of Trafficking in Human Beings (2012–2016)'. The EU Anti-Trafficking coordinator monitors this strategy, including issues concerning 'demand'. The research project for which this report is prepared is part of the EU strategy to obtain a clearer view on the issue of 'demand'.

In February 2014, Member of the European Parliament, Mary Honeyball, delivered a report on 'sexual exploitation and prostitution and its impact on gender equality' for the Parliament's Committee on Women's Rights and Gender Equality. The report stated, *inter alia*, that

...prostitution and trafficking in women and under-age females are linked because the demand for women in prostitution, whether trafficked or not, is the same [and that] trafficking acts as a mean to bring a supply of women and under-age females to the prostitution markets (Honeyball 2014: 7).

Thus she alleges that it is the *demand* for commercial sex that causes human trafficking. The report indicates that demand reduction should be an integral part of member-states' policies and that it can be achieved 'through legislation that shifts the criminal burden onto those who purchase sexual services rather than onto those who sell it' (Honeyball 2014: 31). Clients of prostitutes should be criminalised, as they are in Sweden. On 26 February 2014, the European Parliament adopted, in a single reading, Motion 2013/2103(INI), which contained 56 points (particularly Points 12, 22 and 31–34) based on this report, thus encouraging the criminalisation of clients in the European Union.

#### **4.4 Considering demand in the debates on trafficking for forced labour**

The 2000 UN Trafficking Protocol includes forced labour as one of the purposes of trafficking in persons. This reference makes a direct link to the International Labour Organization (ILO), responsible for the struggle against forced labour (Maul 2007: 477). The forced labour concept underwent a transformation in the debates around three ILO declarations.

The first debate concerned forced labour in colonial territories in the 1920s. As the head of a wider international alliance, the ILO tackled the various forms of forced labour imposed by colonial powers. This struggle was basically a continuation and discursive extension of the international struggle against slavery that should have long been abolished following the Final Act of the Vienna Conference in 1815. Finally, the ILO Forced Labour Convention (1930) was adopted, which obliged signatory parties to 'abolish forced labour in all its forms'. The document defined the term 'forced or compulsory labour' to 'mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily' (Article 2.1). However, the convention still offered loopholes for some forms of state-imposed forced labour. Therefore, the main success of the supporters of the Convention was mainly to have pushed through at least 'a complete and immediately effective abolition of forced labour for private purposes' (Maul 2007: 482).

The second ILO debate on forced labour started after 1945. Triggered by its awareness of the forced-labour atrocities committed by Nazi Germany and the Stalinist Soviet Union, the ILO encouraged the updating of the forced-labour convention in order to promote the

complete abolition of forced labour. The ILO Convention Abolition of Forced Labour, finally adopted in 1957, obliged each ‘member of the International Labour Organisation which ratifies this Convention to suppress and not to make use of any form of forced or compulsory labour’. The convention explicates the definition of forced or compulsory labour as

- (a) a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) a method of mobilising and using labour for the purposes of economic development;
- (c) a means of labour discipline;
- (d) a punishment for having participated in strikes; and
- (e) a means of racial, social, national or religious discrimination.

Because the ILO only considered forced labour imposed by states in these debates, the issue of demand remained omitted.

The understanding changed when the ILO adopted, in 1998, the ‘Fundamental Principles and Rights at Work’, which included the requirement to abolish all forms of forced and compulsory labour (Plant 2002: 63). When the 1930 Convention basically outlawed states’ active support of forced labour for private commercial purposes in the colonies and the 1957 Convention outlawed forced labour for the states themselves, the new understanding made states responsible for the lack of enforcement against coercive practices in labour markets, in which employers are the demand-side and workers the supply-side: ‘Yet whether as a direct actor or by acquiescing to behaviour of individuals subject to its jurisdiction, the State remains responsible if forced labour is not prevented or punished’ (ILO 2001: 13f).

The International Labour Organization, adhering to a ‘labour rights frame’, participated in the negotiations on the Palermo Protocol and ensured that forced labour was explicitly mentioned as one of the exploitative purposes of trafficking. Consequently, the ILO became an important new actor in the field of anti-trafficking policies and performed, in this context, its established functions as a body for standard-setting, technical assistance and knowledge-generation.

The ILO Special Programme of Action to Combat Forced Labour (SAP-FL) initiated research in order to clarify the relation between forced labour and trafficking, provided technical assistance for ILO member-parties – i.e. national governments, employer associations and trade unions – to formulate and implement legislation on trafficking and forced labour, and prepared the updating of ILO standards concerning forced labour that took place in 2014. Within these activities, the SAP-FL also dealt with the demand-reduction phrase in the UN Trafficking Protocol, searching for a meaningful interpretation of what type of demand could be reduced in a labour-market context.

The first global report, *Stopping Forced Labour* (ILO 2001) placed trafficking in a migratory context, like the debate on combatting international crime:

How does trafficking in persons operate? At its simplest it involves movement of persons for the purpose of performing labour, most probably to engage in illicit

activities or employment to be carried out under working conditions that are below the statutory standards. It involves an agent, recruiter or transporter who will most likely derive profit from this intervention (ILO 2001: 48).

The second global report, *A Global Alliance against Forced Labour* (ILO 2005), avoided the shortened phrase 'demand for forced labour', which had meanwhile appeared in debates, and referred instead to a 'demand for cheap labour' or 'demand for certain kinds of labour'. Nor was the market factor 'demand' introduced as a causal factor for trafficking but as the failure of markets and market-establishing institutions. The ILO report expressed serious scepticism against any simplified use of demand-side arguments: 'Rigorous work on the demand aspects of human trafficking, including the economic sectors and the profits involved, is still badly lacking' (2005: 52). Subsequent research commissioned by the ILO (Andrees and Belser 2009; Danailova-Trainor and Belser 2006) did not come up with a convincing concept of 'demand' as a factor related to or causing trafficking for forced labour. When the Annual Labour Conference – the general assembly of the ILO – adopted the 2014 Protocol on the Forced Labour Convention and a Recommendation to the Forced Labour Convention, the term 'demand' was included in the preparatory documents but not in the final version. The version finally approved included merely a general and open reference to 'root causes', which may still be interpreted as a semantic placeholder for demand arguments.

## **5 Exploring the conceptualisation of the demand-sides of THB in social research**

While stakeholders in the political arena may consider the use of vague terms as sufficiently functional for their purposes, social researchers need to clarify what they seek to observe. We have therefore analysed the operationalisation in selected documents. As already mentioned, the high-ranked working group, ICAT, suggested recently that good applied research about measures to reduce demand can be realised without clarifying what should be reduced (ICAT 2014: 9).

In the remainder of this paper, we consider the reference to demand arguments in topical debates. For the purpose of this analysis, selected texts were analysed with a variation of qualitative content analysis following a summative approach (Hsieh and Shannon 2007). The texts were checked for explicit definitions. Afterwards, a keyword search guided us to instances of the usage of words. They were first interpreted in the immediate textual context and then additionally related to wider debates (Vogel forthcoming).

Firstly, influential texts from different strands of the debate were analysed, revealing a variety of usages not only between research contexts but also within the same study.

Texts from the 'sexual domination' frame explicitly refer to economic terminology (Raymond 2004: 1158) and principally distinguish between markets for commercial sex acts and markets in which traffickers sell women to the sex industry. However, the distinction is not made consistently. The two markets are conflated when both the demands of the sex industry on the market for persons *and* the demands of clients on a market for sexual services are referred to as a 'demand for victims' (Hughes 2005).

Texts guided by the ‘labour-rights frame’ often struggle with the term ‘demand’ without offering an alternative definition. The frequently quoted text by Anderson and O’Connell Davidson (2003) acknowledges that demand arguments are raised in markets for consumer goods and services, but mostly address demands by employers. This ‘demand’ is often used in the sense of an authoritative claim to someone’s work and not in the economic sense of a willingness and capacity to pay for work. The interest in buying cheaply is constructed as a key problem (Anderson and O’Connell Davidson 2003: 10).

In addition, trafficking is often only introduced with overall reference to the legal definition, without discussing the implications of the particular empirical observation focus. As a consequence, empirical studies that explore a particular form of trafficking use the same terms to name differing social realities, as has been exemplified in three different quantitative economic studies (Cho *et al.* 2013; ILO 2014; Omar Mahmoud and Trebesch 2010). They were chosen, among recent publications in peer-reviewed journals, to represent the different approaches.

Table 1 summarises the markets to which they mainly refer in their theoretical explanations. The three historically relevant policy contexts still seem to influence the understanding when the same terms are used to name different issues. Omar Mahmoud and Trebesch (2010) discuss the occurrence of trafficking in a market for smuggling and labour broker service in which migrants are the demand-side, without labelling determinants according to this approach. Cho *et al.* (2013) discuss the occurrence of trafficking in a market for prostitution in which clients are the demand-side whereas, in ILO (2014), trafficking is discussed in a labour market setting in which employers are the demand-side.

Table 1. Comparative focus of three empirical studies on THB

Study	Context	Data used for empirical analysis	Reference market		
			Commodity	Demand side	Supply side
Omar Mahmoud & Trebesch (2010)	Migration	Household survey in high emigration countries in Eastern Europe	International smuggling and labour broker services*	Migrants	Smugglers/traffickers
Cho <i>et al.</i> (2013)	Prostitution	World-wide reports on human trafficking	Commercial sex acts	Clients	Sex industry
ILO (2014)	Labour	Household surveys in areas or groups with high exploitation in developing countries	Labour	Employers	Workers

Source: Authors’ analysis.

Note: \* reference market according to theoretical reasoning, not to presentation of factors for empirical analysis.

The three studies on THB build on observations of different segments of the social world. Household survey data in high-emigration countries are better suited to capture the effects of abuse in international migration, household survey data in areas and groups with expected incidences of forced labour are likely to find labour abuses, and a study building on traffic- reporting data delivered by law enforcement and victim-assistance providers replicates what reporting is about – and, indeed, reporting is, thus far, mainly about prostitution. While the reporting data ignore or, at least, underrepresent abuse in labour relations, household survey data are likely to underestimate abuse in the sex sector, even when questions are asked in such a way as to avoid stigmatisation. None of the

studies considers that trafficking in human beings might – according to the legal definition – occur in a principally unlimited number of fields, including, for example, that of organ removal.

In the study with reporting data, it is assumed that the vast majority of all human trafficking occurs through prostitution and concerns females, while the study with data on high-emigration areas finds that about 80 per cent of human trafficking occurs for the purpose of labour exploitation and concerns males. As a general statement about trafficking, the two cannot be true at the same time, if the same issue is addressed (see also Jordan 2011b).

The survey studies operationalise trafficking and forced labour by asking questions on concrete abuse before lumping examples together so that the results can be presented as referring to trafficking and/or forced labour. These results show striking differences which can only be properly understood through separate analysis and more-nuanced interpretation.

## 6 Demand as an economic concept and its implications

This section explores how demand is understood in elementary economics and discusses some of the implications of using the term in this sense for the discussion of measures against THB.

In contrast to debates on THB, in economics, ‘demand’ is used in a well-specified sense, and is explained similarly in elementary textbooks. Markets, supply and demand can be considered as linked concepts of which economists all over the world are aware, even if they have different opinions on their usefulness and applicability in specific contexts.<sup>4</sup>

The ‘quantity demanded’ is the amount of a commodity that buyers are willing and able to purchase (Mankiw 2009: 67) under the influence of range of factors. The price of the traded good or service is of specific importance, because it is the very factor that makes markets work. A ‘demand schedule’ is a table that shows the relation between the price of a good and the quantity demanded. Market demand is the sum of individual demands. The correlative supply is the willingness and ability to provide a good or service at a specific price.

Thus, the terms ‘supply’ and ‘demand’ refer to the behaviour of buyers and sellers who exchange a particular good or service for a price. Together, buyers and sellers constitute the market. The notions demand and supply, market and price mutually refer to and presuppose each other. The basic idea of the concept has entered into colloquial language.

We suggest that agreement should be reached upon the *willingness and ability of potential buyers to purchase a particular good or service* as a relatively simple definition with the advantage of meaning the same thing virtually all over the world. We argue that it can be used fruitfully, even if we concede that economic argumentations are often ‘simplistic’ and

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<sup>4</sup> Also in economics, demand is sometimes used in non-standard meanings, for example to address specific questions such as the provision of public goods.

do not promote adequate solutions (Ham 2011: 16). A few implications of using this concept of demand are now explored.

## 6.1 Identifying markets

All markets ultimately relate to those for final commodities – i.e. those goods or services that directly satisfy the needs and wants of individuals. Markets for raw materials and intermediate goods, as well as labour markets, are related to final goods markets in supply chains of varying length and complexity. The demand on markets delivering inputs in the production process or supply chain is sometimes called ‘derived demand’ because it would not exist without the demand for final goods; however, correlations between markets are rarely simple, as labour and intermediate goods can usually be devoted to multiple purposes.

Using a market terminology requires *identifying what is bought or sold and which market is addressed in a supply chain*. This will be explained using the example of a cook. Let us assume that the cook is deceptively recruited to work in a restaurant in a foreign country where, on arrival, he finds himself isolated and obliged to work in poor conditions. Several legal reference markets could be potentially relevant when we discuss this case: the market in which the cook demands a recruitment service, that in which the employer demands a recruitment service, the market in which the employer demands labour and the market in which the consumer demands a restaurant meal.

A few texts have sought to develop a general economic theory for a market for THB victims. Danailova-Trainor and Belser (2006: 2) present a simplified model, with a recruiter selling the victim at a certain price to an unscrupulous brothel-owner in the place of destination. However, when considering the empirical basis of the theoretical assumptions, they introduce the ‘complication’ that ‘in reality, there is often no direct and observable transaction that involves the “buying” and the “selling” of a victim’ (Danailova-Trainor and Belser 2006: 4). In other words, the authors see no evidence for the allegation that a market exists where the good traded is a victim.

Even if a person has become the victim of abuse in several markets, lumping together these separate markets into a single ‘market for victims’ does not improve our understanding of the mechanisms that lead to this abuse. This is particularly important in the field of prostitution.

## 6.2 Factors influencing demand for final goods and services

A range of factors influences the demand for commodities without being ‘the demand’. Using the proposed definition requires a differentiation between demand and the factors influencing demand.

The individual *ability* to purchase final goods and services depends on several factors, most importantly the price of the commodity and the income of the potential purchaser. The individual *willingness* to purchase something depends on the valuation of the commodity which, in turn, depends on a number of factors such as needs, wants, tastes, norms and the fear of sanctions in the case of illegitimate or illegal goods and services. Suppliers seek to influence demand by presenting their product or service as desirable

and worth the price. The total demand on a market depends on the distribution of the population's willingness and ability to buy.

### 6.3 The absence of coercion

The economic concept of demand implies, by definition, an absence of coercion. Someone who is willing and able to purchase a good or service from another market party for the market price is not forcing the other side to give anything away. This voluntariness does not imply the absence of pressure on an individual to earn a living, but the absence of coercion through other people. As economist Jack Hirshleifer has put it:

There are two ways of getting rich: you can produce goods for mutually beneficial exchange or grab goods that someone else has produced. Analysis has to address the interaction of the two great life-strategy options: on the one hand production and exchange, on the other hand appropriation and defence against appropriation (Hirshleifer 1994: 2).

The fact that the English term 'demand' has several colloquial meanings becomes particularly misleading in labour relations. If an employer 'demands' (claims authoritatively) that an employee carry out a specific type of work *without* being paid the agreed reward, this is obviously not the same as demanding it in the economic sense of being willing and able to pay. In German, for example, two different translations would be used ('fordern' for the authoritative claim and 'nachfragen' in the economic sense). We invite readers to test whether the same is true for other languages.

A market framework of supply and demand seems less useful for analysing the dynamics of close social relations (for example, between a cook and a restaurant owner, or a young woman engaged in prostitution and her boyfriend), while being more useful for analysing the relation between those who buy final goods (meals or sexual services) and those who supply them for a price. Another example: as with illegal adoption, a couple interested in adopting a foreign child is usually not demanding a child but the services of an adoption agency that promise to organise the adoption. However, the relation between the adoption agency and the child is not a market one. The relation between an adoption agency and an orphanage transferring the child for a donation may be analysed as a market relation. Relations of force are not those of demand in the sense of a willingness and ability to pay for something.

Using market terminology in the field of labour relations has its advantages and disadvantages. It is advantageous when the focus is on the entry into and exit from employment relations, and disadvantageous when the focus is on developments within a labour relation, characterised by power and information asymmetries. However, *if* market terminology is used, employers are the demand-side and workers are the supply-side, and *not vice versa*.

### 6.4 The role of prices

In the economic analysis of competitive markets, the price serves as a coordinator of supply and demand. Because suppliers gain from high prices and buyers from low ones,



functioning markets tend towards an equilibrium. The search for low prices is not a problem but an essential element of functioning markets.

In debates on trafficking, it has been suggested that 'the demand for cheap goods, services, labour, and sex' opens opportunities for the exploitation of vulnerable populations (U.S Department of State 2011: 19). This argumentation implies that consumers could reduce the trafficking in human beings by paying higher prices.

When concrete cases are discussed, the argument of cheapness is mostly introduced in connection with international supply chains and government subcontracting. They refer to situations in which consumers or governments buy for the lowest price offered without asking about the circumstances of production. In such a situation, competition can drive companies to save on wages or expenditure related to good working conditions through employing illicit means, including trafficking into labour exploitation.

However, the idea that higher prices as such would diminish or prevent this dynamic is not convincing. If 'trafficking is driven by profits', low prices for final goods and services should generate fewer opportunities to make a profit and, thus, fewer incentives to traffick in human beings. Indeed some authors argue that high prices make prostitution more profitable for organised exploitation than, for example, domestic work (van Liemt 2004: 19). Buyers being prepared to pay higher prices does not automatically decrease exploitation and human trafficking. Without better monitoring and enforcement, higher prices can even increase the profits of companies further up the supply chain and thus create incentives for traffickers.

## **6.5 The role of states**

States have a key role to play in establishing the conditions under which labour, goods and services are traded. The legal framework provides blueprints of how transactions are supposed to take place and defines the rights and obligations of contracting parties. States ideally provide a legal framework by setting and enforcing standards for specific markets, offering opportunities for the peaceful settlement of disputes and preventing companies or individual actors from having the power to draw undue profit from their trading partners. All economic transactions take place in the shadow of the law (Mnookin and Kornhauser 1979) – in the knowledge that the other market side might turn to the judicial system as a last resort and that the state may punish some particularly destructive activities deemed as criminal. The legal systems of real states have the ability to implement this orientation function more or less well; in contrast, they may be biased or corrupt, supporting stronger market participants in oppressing the weaker side. Laws can have a strong impact if they are known, applicable and socially accepted; however, the opposite can also be the case.

However, markets also appear spontaneously without a state's approval, provided there are people willing and able to buy, others willing and able to sell and opportunities for transactions to take place. In the communist economies in Eastern Europe, for example, private trading was strictly limited, but large markets informally complemented the official allocation of goods. In Western market economies, most goods and services are tradable and most transactions taxable, with a few exceptions such as the selling and buying of slaves, illicit commodities like heroine and commercial sexual services

purchased from minors. Prohibiting markets does not necessarily make them disappear, if prohibition is not accompanied by effective enforcement.

The UN Trafficking Protocol obliges state parties to introduce the criminalisation of acts defined as trafficking, to cooperate internationally, to take preventive measures – including demand reduction – and to consider measures for the protection of the victims of trafficking. Subsequent international and European documents made victim protection more obligatory. With the extension of victim protection, the crime prevention approach against THB is supplemented by human-rights approaches. Further amendments proposed refer to the protective effects of the consistent inclusion of vulnerable workers in labour rights (Shamir 2012). Even though ‘demand reduction’ is introduced as a preventive measure in the United Nations Trafficking Protocol without specification of a market, all these measures have impacts on the conditions under which trading takes place in the various markets. Therefore, for successful implementation it has to be concretely specified which markets should be addressed under the heading ‘demand reduction’.

## 7 Recommendation for the project context

Drawing on the research results and considerations in the previous sections, the following is recommended for further research carried out in the context of the **DemandAT** project.

### 7.1 Definition of demand and implications

As demand is commonly referred to in a market setting, we suggest that reference to demand be made in an economic sense: **demand is the willingness and ability of potential buyers to purchase a particular commodity**. This is also one of the different colloquial meanings of demand and does not imply any need to subscribe to the assumptions and methods of the discipline of ‘economics’.

Where there is a setting with buyers and sellers, products and prices, it makes sense to call the buyers’ side the ‘demand-side’ and the sellers’ the ‘supply side’. Speaking of demand requires identification of the commodity – a good or service – that is bought and sold. The following question should be answered:

Who wants to buy what?

If it is not possible to identify a traded good or service, a group of actors selling the identified commodity or a group of actors buying it, it is reasonable to avoid the market terminology of supply and demand. As a consequence, expressions like the often-introduced ‘demand for trafficking’ or ‘demand for forced labour’ should be avoided. Neither trafficking, nor forced labour or exploitation can be bought and sold.

For empirical analysis, it is important to always clearly identify the markets in which observations are made. The following types of market are suggested to enable this differentiation in the analysis.

- In the **market for transfer services**, potential **migrants demand** services like transport and accommodation from travel agencies and smugglers.
- In the **procurement or recruitment market**, **employers demand** a service from certified or illicit agents which may include only finding interested workers or also transporting them to the workplace. Procurement services may also relate to the facilitation of international child adoption or organ transplantation.
- In the **labour market**, demand refers to an employer's willingness and ability to pay a price (wage) to a person who supplies his or her time to carry out a specified amount of work under the direction of the employers. **Employers demand** work.
- In the **goods market**, **consumers demand** tangible goods from suppliers such as shops or restaurants.
- In the **personal services market**, **clients demand** specific valued activities either from the self-employed person conducting the activities or from the employer of the person.

## 7.2 Definition of demand-side efforts

We suggest that '*demand-side*' measures or policies be understood as activities that seek to influence the demand for final commodities (consumer goods and services). Demand-side measures usually seek to influence demand by addressing one or several factors considered to influence a specific type of demand for final commodities which, in turn, are considered to lead to trafficking in labour or procurement markets. For example, criminalisation seeks to impact on demand by changing the legal status of the demand for specific services, enforcement may be directed at consumers of illegalised activities, campaigns who have monitored labour conditions in supply chains seek to make consumers pay higher prices for imported goods, or they may call on clients in sex-service markets to report the suspicion of abuse to women to the police.

Measures in the context of border controls or labour markets are no less important and should also be discussed in the framework of the project, but as *alternatives to* rather than as demand-side measures. Demand-side efforts can be directly linked to supply-side efforts, for example if fair-trade campaigns for final goods in one country are combined with measures empowering workers in another country.

## 7.3 The need for specification of trafficking and exploitation

Trafficking in the sense of the UN Trafficking Protocol is not an observable phenomenon, but a complex legal construction referring to a range of phenomena. Neither is exploitation defined as a legal term in international documents. Without further and clear specification, trafficking and exploitation are not useful as analytical categories. For all empirical statements, it is necessary to specify what is concretely addressed in the respective context. When the market specified and the demand in this market are identified, the first step towards explicating the context of trafficking and exploitation is already taken.

## 8 Glossary: Demand and related terms

The glossary provides definitions of demand and related terms in a market context. This does not imply that only market contexts are relevant for understanding measures against trafficking in human beings. It only suggests reserving the terminology of demand (and supply) for market contexts and using alternative terms for the alternative approaches. The last column contains recommendations how to avoid ambiguities that may arise from the multiple other meanings of the term 'demand'.

Term	Definition	Recommendations how to avoid ambiguities
Demand	Willingness and ability of potential buyers to purchase a particular commodity	<i>Prefer 'calls for' changes in policy or similar formulations instead of 'demands for policy changes' in this particular context.</i>
Supply	Willingness and ability of potential sellers to provide a particular commodity	
Market	The virtual or real place where buyers and sellers of a particular commodity come together and exchange it at a price	<i>Avoid 'demand for trafficking' or 'demand for labour exploitation', as neither term, in any meaning of the words, can be bought or sold.</i>
Factors influencing demand	Factors influencing the willingness or ability to purchase a particular commodity	<i>Recognise, for example, 'tastes' or 'needs' as factors influencing individual demand and 'cultures' or 'state regulation' as factors influencing market demand on the macro level, but refrain from calling these factors 'demand'.</i>
Demand for consumer goods or services	Willingness and ability to buy goods or services that directly satisfy needs and wants (final goods)	<i>If 'donating to beggars' is analysed as demand, this implies that donators want to buy an experience that satisfies their needs and wants.</i>
Demand for labour	Willingness and ability to pay a wage in exchange for a person's willingness to deliver directed work for a specific time	<i>Avoid speaking of 'employer demand' if an entrepreneur forces someone to work.</i>
Derived demand	A demand for a commodity, service, etc. which is a consequence of the demand for something else	<i>Be careful with the term as it invites a simplified view of supply chains.</i>
Demand-side measures/policies	All measures/policies that seek to influence the demand for final consumer goods and services	<i>Identify the markets which demand-side measures seek to influence. Do not discuss measures to influence labour demand as demand-side measures, but as alternative ways to reduce THB and related offences.</i>

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**Addressing demand in anti-trafficking efforts and policies (DemandAT)**

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# Demand AT

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