10 Mission Impossible? Voluntary and Dignified Repatriation of Nigerian Victims of Trafficking

May-Len Skilbrei and Marianne Tveit

10.1 Introduction

In the wake of increased internationalization of prostitution markets, European authorities are facing new challenges regarding policy choices between the need to protect the rights of persons trafficked for the purpose of sexual exploitation on the one hand, and to control illegal entry on the other. The Norwegian case is no exception: the largest cities have seen a dramatic change in the composition of both street and indoor prostitution arenas in the last ten years. The number of migrant women in this sector has increased dramatically. The last few years saw a new development: prostitution arenas of larger Norwegian cities have seen an influx of Nigerian women, from only two spotted in street prostitution in the capital Oslo in 2003 to 638 in 2008, out of a total 1,230 women in street prostitution.1 One of the most important questions posed by the deliberations in Norway on this emerging phenomenon is whether the Nigerian women are victims of trafficking, and if so, how can Norwegian authorities meet their needs?

This chapter attempts to answer the above question by drawing from the knowledge gained from field research on the situation of Nigerian women who have been identified as possible victims of trafficking in Norway. The focus is on the issue of repatriation given that it is one of the rights of victims of trafficking. We first describe the Norwegian authorities’ obligations towards victims of trafficking, and then we present a background on women’s migration from Nigeria and their current situation in prostitution in Norway. Our central argument is that knowledge about the similarity, complexity and diversity of women’s migration out of Nigeria and their recruitment into prostitution in Europe is essential to understand the dilemmas they face with regard to repatriation. We conclude with some reservations about the return programme being able to meet the terms stated in international conventions, which the Norwegian government has ratified. The causes, process and consequences of trafficking and how its practices crosscut smuggling arrangements should be examined more carefully.

10.2 State Obligations and the Right of Return

Having ratified the 2000 UN Convention on Transnational Crime, both Norway and Nigeria are obliged to take the responsibility for the physical, psychological, social, practical, legal and security needs, and ensure the safety, of victims of trafficking.2 Before ratifying the Palermo Protocol the Norwegian authorities introduced a trafficking Act to meet its standards. The Convention has two supplements: “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” (henceforth the Trafficking Protocol) and “The Protocol against the Smuggling of Migrants by Land, Air, and Sea” (henceforth the Smuggling Protocol). The Trafficking Protocol contains 20 articles outlining the obligations of ratifying parties to prevent trafficking, prosecute traffickers, protect and rehabilitate victims of trafficking. Article 8 states that “State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay” and that return will mean going back to a state “of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence”. Article 8 also mentions that such return shall be voluntary.3 Return involves

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1 The Pro Centre (2009); Året 2008 (Oslo: Oslo Municipality, 2008).
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the transfer of victims from the responsibility of one state to another plus the cooperation between State Parties to ensure their safety.

The Trafficking Protocol is an important document that frames the activities of the Norwegian authorities in this domain. In addition to this, the Norwegian authority has also ratified the European Convention on Action Against Trafficking in Human Beings (hereafter Council of Europe Convention) in 2008. Several articles in this Convention apply to the question of the treatment of victims of trafficking after identification. Article 12, on assistance to victims, requires that signing states must implement measures to “assist victims in their physical, psychological and social recovery” while in the country. The Convention is thus sensitive to the needs of the victims following the period of identification and to the needs of governments to obtain information with the victims’ cooperation. The Convention regulates many of the same issues related to the treatment of victims as the Trafficking Protocol but goes further on some points.

Article 16 of the Council of Europe Convention is particularly relevant for our purposes since it deals with repatriation and return of victims. It states that the country of origin has to accept the return of victims of trafficking “with due regard for his or her rights, safety and dignity”. Moreover, the country to which the victim returns has to ensure treatment “with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim”, and return “shall preferably be voluntary”. The same article states that the signing parties have to cooperate in ensuring that repatriation is possible and establishing repatriation programmes involving relevant national or international institutions and non-governmental organizations. Hindering exploitation and victimization must be a goal in this cooperation, with the aim of eventual reintegration into his or her home society. Both the Trafficking Protocol and the Council of Europe Convention influence Norway’s domestic debates on efforts to prevent and combat trafficking as well as protect and assist victims.

Norway has put in place several instruments to assist victims of trafficking. One is the Re-establishment, Organizing safe places to stay, Security, Assistance (ROSA) through which victims can have access to a safe place, a certain level of security and different forms of assistance. The second instrument is a reflection period for six months for persons who have been identified as a victim. This period can be prolonged for another six months if cooperation with the police and prosecution is established in building a trafficking case. An identified victim has also the right to apply for a temporary residence permit, or asylum. The third instrument to assist victims is the possibility to participate in a return programme.

An additional dimension has entered debates on trafficking policy brought about by the realities endured by Nigerian women in prostitution in Norway. These women rarely arrived in Norway directly. In nearly all cases, their first country of entry is a member state of the Schengen Agreement. Some have acquired a residence permit from a Schengen member-state, for example Italy or Spain, before coming to Norway. Under the Dublin Convention the country of their first entry into Europe (Italy or Spain) must be responsible for them; for Norway they are ‘third-country nationals’. Some have received a resident permit in Italy under Section 18 of “The Comprehensive Immigration Enactment” Law of 6 March 1998 (40/98) and would risk having it withdrawn if they are known to engage in prostitution. Those who entered,


5 However, article 12 states explicitly that the help offered cannot be dependent on victims’ willingness to stand witness against their traffickers.


7 See at: <http://www.rosa-help.no/> (13 April 2010).

8 The Schengen Agreement is a European treaty that effectively removes border control between 25 countries in what is known as the Schengen Area. While loosening border controls between member countries, the agreement also tightens borders with non-member nations.

9 This convention came into force in 1997. It regulates the relationship between asylum seekers and States that signed the convention. The first country of entry has the responsibility to examine the asylum application. The full name of the convention is “Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities”.

10 Section 18 of this Law provides for the issue of a temporary permit to stay for social protection for trafficking victims who decide to quit the streets and enrol in programmes designed to enable them to find employment and a proper place in society. See at: <http://www.unicri.it/wwd/trafficking/nigeria/docs/dr_italy_eng.pdf> (1 April 2010).