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PERCEPTIONS ON HUMAN TRAFFICKING: A REFLECTION OF FOREIGN POLICY RHETORIC IN POLAND

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ABSTRACT

The violation of human rights and human trafficking are horrifying realities that can be found all over the world. While human trafficking activity in Africa and Asia is given more attention in the international arena, it is still a major concern in Europe. Consequently, human trafficking is a key priority on Europe's human security agenda. As Poland is a source, transit, and destination country for many victims, an analysis of the civil, legislative, judicial, and executive responses to trafficking within Poland may elucidate how to mitigate human trafficking activity in that region. International organisations, such as La Strada International (a European non-governmental organisation), work to combat trafficking. La Strada International developed from an anti-trafficking project that NGOs in Poland, the Netherlands, and the Czech Republic jointly initiated. A unique focus of La Strada International is safeguarding and restoring the rights of trafficked victims. As of the last Trafficking in Persons Report (TIP) published by the US Department of State, Poland is still designated a Tier 2 country because it has not met the conditions set forth by the State Department to eradicate trafficking. Despite Poland's attempts to tackle the problem, there are crucial gaps and challenges to Poland's classification as Tier 1. From the realist perspective, the Polish government's stance on illegal migration and support for asylum seekers can be viewed as correlating to the perpetuation of human trafficking activity. To meet human trafficking abolishment efforts, politicians need to make changes to the way human trafficking cases are handled, both practically and holistically. An analysis of Poland's developing trafficking eradication strategy, within the context of their relationship with foreign nationals, using La Strada International's key points for victim rights and treatment as a standard, is important to guide Poland's policymaking within a liberalist narrative for designation as a Tier 1 country in succeeding US State Department TIP Reports.

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1. INTRODUCTION

Human Trafficking is a worldwide issue characterised by the exploitation of individuals through deception, coercion, or abuse of power.¹ Trafficking is regarded as a human rights violation and is frequently called “modern slavery”. The types of human trafficking include sexual exploitation, slavery, forced labour, and the removal and sale of human organs.² Sexual exploitation victims are most often girls and young women, but men and boys are victims as well. Females have also been sold into slavery and used in the mail-order-bride market, satisfying a demand in certain countries. There are also cases of trafficking of children and babies for international adoption.³ In recent years, with increased concern over organised crime and illegal migration combined with trafficking's violent nature, human trafficking has been a concern for policymakers and ordinary citizens alike.⁴ The case of Poland reflects the significance of human trafficking in the region, as it is both a transit country and a country of origin for victims of human trafficking. Despite commendable efforts to combat this problem, Poland continues to face obstacles.⁵ Trafficking in Poland has increased on a broad scale.

This article explores the deep-rooted complexities of the issue, detailing how it has manifested in Poland over recent years. Its consideration goes beyond a study of the nation's responses. It probes the effect of civil society on trafficking in Poland, considering the legislative structures and judicial powers. It attempts to explain the nexus of human trafficking in Poland and its direct relationship with foreign policy discourse. The aim is to provide information and shed light on the complexities of anti-trafficking work within Polish socio-political life.

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- 1 Genova A & Castelli V (2022) “Human Trafficking in Modern World” in Baikady R et al *The Palgrave Handbook of Global Social Problems* London: Palgrave MacMillan at 3.
 - 2 Morewitz S (2019) *Human Trafficking. Kidnapping and Violence: New Research and Clinical Perspectives* New York: Springer at 88.
 - 3 Wiśniewski M (2010) “The Phenomenon of Trafficking in Human Beings: The Case of Poland” in Wylie G & McRedmond P (eds) *Human Trafficking in Europe* London: Palgrave Macmillan at 71.
 - 4 Friesendorf C (2007) “Pathologies of Security Governance: Efforts against Human Trafficking in Europe” 38(3) *Security Dialogue* 379 – 402 at 386.
 - 5 The Church of the Salvation Army in the Republic of Poland (2016) “Human Trafficking in Poland: General Perspective, Prevention, Prosecution, Protection, Partnership” 6.

2. BACKGROUND

Poland has been classified as Tier 2 by the US Department of State's Trafficking in Persons (TIP) Report. This indicates that the Polish government has taken significant steps to combat human trafficking, but there are still some challenges to meeting the minimum standards for eradicating trafficking. As the gateway between Eastern and Western Europe,⁶ Poland borders countries where trafficking is rampant, and it is often the country of origin for victims of sexual exploitation.⁷ Tensions are also added by the war in Eastern Europe, especially Russia's invasion of Ukraine. In April 2003, the National Police initiated inquiries into whether refugees from Ukraine had been illegally trafficked, and a genuine human trafficking case involving underage victims was revealed. A tide of displaced people searching for shelter, however, complicates this landscape further and forces law enforcers to make adjustments in line with an ever changing environment. It is perhaps due to this proximity with Eastern European nations that Poland has had such vast experiences of human trafficking. Such regional trafficking networks, as well as the migration of victims across borders from origin to destination, make international cooperation and coordination all the more imperative in combating this trans-border crime. While Poland is doing all it can to combat human trafficking, there are many variables in the local and regional situations. It is only by clearly grasping how these two sets of factors interact that we can formulate more detailed plans for upholding the rights of victims of this crime.

The impact of the global effects of the COVID-19 crisis on anti-trafficking work in Poland was far-reaching, and issues were multifaceted. Consequently, during these economic difficulties brought on by the COVID-19 pandemic, people became more vulnerable and easily believed the manipulative tactics of traffickers. The strict public health-oriented lockdowns and restrictions also indirectly caused problems in the early identification of victims of human trafficking, as well as police response times.

Recent statistics indicate that there were 23 investigations of human trafficking in 2023, a drop from 32 in the previous year. Prosecutions initiated by prosecutors also saw a

6 Goździak EM (2021) *Human Trafficking as a New (In)Security Threat* London: Palgrave MacMillan at 45.

7 Gębska M (2020) "Human Trafficking as a Challenge for International Security and Security in Europe" 1(13) *Torun International Studies* 41 – 56 at 47.

significant decline from 57 cases in the previous year to 26 in 2023. In 2022, courts found 25 of those involved in trafficking guilty under article 189a of the Criminal Code; in 2023, they convicted only four people. Realising that human trafficking is a dynamic challenge, Poland has recently amended legislation to strengthen its combat capability. It amended sentences for the violation of article 189a and article 203 of the Criminal Code. These amendments suggest that lawmakers tend to pass legal amendments as randomly as they desire and based on the changing tactics of traffickers. As a result, these legislative amendments are primarily close legal gaps and strengthen a framework for the criminal prosecution of human traffickers.

Born out of joint projects between Poland, the Netherlands, and the Czech Republic, organisations such as La Strada International play a crucial role in dealing with human trafficking of a cross-border nature.⁸ The existence of such organisations highlights the cooperative and international nature of anti-trafficking activities. These organisations' distinctive focus on victim protection serves as a marker against which to appraise Poland's successes in its anti-trafficking efforts, and it reminds us that we must incorporate victim-oriented strategies into the nation's overall counter-human trafficking work.⁹ Though human trafficking is particularly exposed by the international media in Africa and Asia, with Poland as our case study, its existence and central position on Europe's agenda for maintaining human security cannot be called a minor issue.

Asylum seekers are part of the same problem leading to human trafficking. The intricate interaction between migration policies and trafficking networks requires a comprehensive approach to solving the problem. In this context, it is especially vital to follow guidelines by La Strada International to provide victims with rights and treatment. A comprehensive approach that only deals with the symptoms while not addressing the causes cannot be tolerated when discussing human trafficking. Combining the Realist perspective with those set forth by La Strada International, any attempt to understand human trafficking in Poland

8 Fomina T & Cherepakha K (2022) "Response of Anti-trafficking Organisations on the Impact of the La Strada International Risk Assessment and the Challenge of Maintaining Health of Professionals in Ukraine and Neighbouring Countries" 3(2) *Journal of Human Trafficking, Enslavement and Conflict-Related Sexual Violence* 207 – 209.

9 Muraszkiwicz J (2023) "New Discussions on the Complicated Relationship between Poland and Forced Labour" at 9.

must be taken against a geopolitical background. Thus, we need more than one ideology to fight human trafficking; there can only be separate ones cultivated through dialogue and cooperation on an international plane based upon respecting victims' rights.

3. EVOLUTION OF HUMAN TRAFFICKING IN POLAND

Two decades ago, when the problem of human trafficking was first identified in Poland, it was regarded as a minor annoyance, however, this perception has changed considerably in more recent times. In the past, Polish researchers and experts believed that human trafficking only involved the exploitation of young women through prostitution (as sex work was previously referred to). However, forced labour and the exploitation of children for begging are now on the rise in Poland. In addition, researchers previously believed that if the victim was not Polish, then the victim was most likely Ukrainian.¹⁰ Today, it is no surprise if the victim is a citizen of an African or Asian country.¹¹ Unfortunately, though the Polish government is striving to stop human trafficking, it does not fully meet the standards of the USA and EU to do this. This article sheds light on the issue of trafficking in the Eastern European context by examining the role of trafficking in Poland as a transit and source country, as well as forms of exploitation, government policy, and critical gaps and barriers to progress, such as high levels of corruption in the authorities and a decline in complaints due to insufficient investigations.

These are examples of incidents that the Polish government should identify on a case-by-case basis. It is the sad truth that human trafficking is a trade that both criminals and authorities exploit. The Polish government does not currently meet the minimum requirements for eradicating human trafficking. In 2001, the US State Department began issuing an annual report known as the "Trafficking in Persons" Report (TIP Report) that lists states and their perceived efforts to acknowledge and combat trafficking.¹² This report divides human trafficking eradication efforts into three tiers,¹³ namely: (1) Countries and territories that fully meet the minimum standards for combating trafficking in persons; (2) Countries and

10 Lasocik Z & Wiczorek L (2011) "Trafficking for Forced Labour in Poland" in Jokinen A et al (eds). *Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia* Helsinki: HEUNI at 167.

11 European Commission (2023) "General Information: Situation on Trafficking in Human Beings".

12 US Department of State (2023) "Trafficking in Persons Report: Poland".

13 Gehring, B (2022) "What is the Trafficking in Persons Report?" Human Trafficking Institute.

territories that do not meet the minimum standards for eliminating human trafficking but are making significant efforts to stop it; and (3) Countries and territories that do not fully meet the minimum standards for the elimination of trafficking in persons but are making significant efforts to combat it.

4. POLAND'S TIER 2 DESIGNATION

In the TIP Report for 2020, Poland was labeled as a Tier 2 country. The government's efforts to stop human trafficking did not meet the minimum standards as dictated by the US State Department, though they attempted to do so. The 2020 Report explained that a total of 169 potential victims had been helped by the National Intervention – Consultation Center for Victims of Trafficking (KCIK), including those who were coerced into sex work or forced labour and other types of trafficking.¹⁴ Unfortunately, experts cited limited government funding for victim assistance as a constraint on service provision, particularly outside of Warsaw and Katowice.¹⁵ One year later, the 2021 TIP Report still labelled Poland a Tier 2 country,¹⁶ despite government efforts to move forward from 2020. Measures that Poland implemented in 2021 to improve their tier level were harsher penalties for convicted traffickers and the identification of more victims. Two non-governmental organisations were also financed by the government, and this helped more prospective victims of human trafficking. In addition, they implemented several measures to stop the trafficking of people who were fleeing Russia's conflict with Ukraine. Measures included awareness-raising campaigns, the creation of a hotline, the creation and implementation of standard operating procedures for unaccompanied foreign minors crossing Poland's border with Ukraine, and collaboration with international NGOs.

The government, however, failed in a number of crucial areas. Investigations into allegations of human trafficking, charges brought against perpetrators, and convictions for human trafficking declined. Government financing for victim services remained constant over the reporting period, and experts noted that there was still insufficient space for male human trafficking victims to find shelter. During the reporting year, the government reported giving no

14 United Nations High Commissioner for Refugees & Research Directorate, Immigration and Refugee Board, Canada, 2003.

15 US Department of State (2020) "Trafficking in Persons Report: Poland".

16 US Department of State (2021) "Trafficking in Persons Report: Poland".

victims compensation, and victim restitution was still infrequent. Furthermore, while Poland's Ministry of the Interior and law enforcement agencies have established programmes and partnerships to increase the effectiveness of human trafficking investigations, these investigations were frequently carried out ineffectively. For example, approximately 40 per cent of criminal cases involving human trafficking were dismissed, and cases involving foreign victims were repeatedly dropped.¹⁷ Typically, foreign nationals would leave the country immediately, so authorities would report that proceedings needed to be closed due to a lack of evidence. There were also fewer investigations, prosecutions, and convictions due to the government's diminished prosecution efforts. In 2022, the Polish government still did not meet the minimum requirements to move to the Tier 1 status, though they increased their efforts compared to the previous reporting period. These efforts resulted in the arrest of more suspected traffickers. The government's initial procurement strategy and National Action Plan banned forced labour on federal contracts. The administration helped more victims, increased punishments for human trafficking against refugees fleeing Russia's war in Ukraine, and reinforced protections for unaccompanied children.¹⁸

Nonetheless, the government fell short in critical areas. Labour inspectors failed to find any victims of human trafficking, and overall victim identification efforts were still insufficient. Additionally, efforts to provide comprehensive protection were limited because the government did not boost financing for victim services. The lack of a centralised system for cross-referencing and combining law enforcement statistics by the authorities may have made it more difficult for the government to identify trafficking patterns and create effective policy changes.¹⁹ The State Department offered the Polish government several suggestions for improvement. For instance, it was advised that judges and prosecutors should receive training on victim-centered, trauma-informed trials, trafficking offences, and anti-trafficking laws. To prevent victims from being held accountable for the crimes of their traffickers, it was also suggested that law enforcement officers receive more training on compulsion in trafficking offences. Additionally, only prosecutors who have received special training in trafficking

17 Dyk AM (2013) "Combating Human Trafficking in Poland: When Victims are Lost in Translation" 12(4) Washington University Global Studies Law Review 783 – 805.

18 US Department of State (2022) "Trafficking in Persons Report: Poland".

19 Dyk (2013).

should deal with these cases. The Interior Minister approved a multi-step strategy in 2022 to assess whether a new comprehensive law on human trafficking is necessary as part of their ongoing efforts to improve. Crimes involving labour and sex trafficking in Poland were subject to imprisonment for three to 15 years under article 189a of the Criminal Code. In terms of sex trafficking, these penalties are heavy enough and proportionate to those set down for other major crimes, such as rape. Prosecutors could continue to use cases started under Article 253 of the Criminal Code under article 189a. Article 253 of the penal code mandated three-to-15-year sentences. Articles 203 and 204.3 made it unlawful to force, fraud, or coerce an adult or minor into prostitution. Both provisions imposed one to ten year prison sentences. On 1 October 2023, the government raised punishments in articles 189 and 203 of the penal code.²⁰ The changes to Polish legislation are part of the government's efforts to close loopholes. Changes to criminal codes are considered steps aimed at solving human trafficking. This, in turn, strengthens the government's efforts in combating human trafficking. The 2023 TIP Report is not publicly available at the time of writing, hence it is not known if Poland remains a Tier 2 classified country (2023 Trafficking in Persons Report).

The Trafficking in Persons Reports list tangible and quantifiable issues hindering Poland from being labelled as a Tier 1 country. However, several more contextual and non-quantifiable obstacles make it challenging for Poland to move to Tier 1. First and foremost, there is the historical context from which new developments need to arise. To better understand the current situation, we must recall that Poland's internal and external situation has changed drastically over the last few decades. Poland was an Eastern Bloc state from 1945 to 1989. Poland was ruled by a communist party and had a communist economy based on state control, state ownership, and central planning. After the peaceful transformation of the political system from 1981 to 1990, Poland became a democracy, began building a free-market economy, and fought for its sovereignty and complete autonomy in international relations. Poland joined the Council of Europe, a regional international organisation that promotes democracy and human rights, in 1991. In 1999, Poland joined the North Atlantic Treaty Organisation (NATO), signalling its break with the Soviet Union and its satellites. However, Poland's political, economic, and social status changed most in 2004 when it became a member state of the

20 Trafficking in Persons Report: Poland (2023).

European Union (EU), the international organisation that seeks close political and economic integration among European states.

In 2007, Poland joined the so-called Schengen Agreement, which was the most crucial event in its recent history. Poland's existence as a communist state with state control, state ownership, and central planning until 1989, and its subsequent transition to democracy and a free-market economy made the country vulnerable to human trafficking. Poor economic opportunities and poverty in some areas of the country facilitated the exploitation of people by human traffickers. Furthermore, the country's location in Europe and its borders with other countries have made it a more convenient transit point for human traffickers.²¹ Another challenge to effectively eradicating human trafficking in Poland, is the difficulty of fully describing the situation in Poland because of the evolving nature and methods of trafficking. All aspects of the trafficking trade change continuously, from the ways people are sold into slavery to the nature and forms of organised crime groups and to the profiles of the people who are trafficked. The way the economy has been changing, and the fact that Poland is halfway between the East and the West have led to new issues with human trafficking and forced labour. For example, not too long ago, most of the victims of human trafficking in Poland were young women from the former Soviet Union's neighbouring countries. They were primarily used in the sex business, but recently, more and more Asian and African men and women are being used in various forms of forced labour. A cited example is the first court-case outside of the sex business, which was the case of a Vietnamese woman who was used in Poland by other Vietnamese women.²² Many questions arise in such cases. It may be questioned how Poland should deal with non-European citizen victims and perpetrators. The dynamic between Poland and the victim's country of origin should also be determined. Dealing with victims from Asian and African countries poses both legal and social issues. Furthermore, Poland has challenges identifying foreign victims due to its novel immigration policies. After the fall of the Soviet Union, the country began developing its immigration policies in the 1990s to acclimatise to the new situation of several new sovereign states. During this time, it was imperative to sensitise native Polish citizens, particularly state authorities, to the needs of the

21 European Commission (2023).

22 Lasocik Z (2007) "Human Trafficking in Poland—Evolution of the Devil" *Criminal Justice and Law Enforcement* at 37.

immigrants from these newly liberated states. At the time, the majority of identified foreign victims were from Ukraine, Belarus, and Bulgaria. Hence, sensitivity to foreign nationals was important in terms of an ethic conducive to helping these victims. Unfortunately, the Polish government faced many problems in identifying trafficking victims, especially those from foreign countries. Identification of victims in state bodies that play a role in the government's immigration policy includes weak coordination of their information between state bodies. Poor language skills among authorities make working with victims difficult. Practical work with them becomes increasingly difficult, if not impossible.

There was distrust by foreign national victims of Polish government officials and the Polish authorities experienced frustration in working with foreign national victims. These are all obstacles that preclude progress in meeting the US and EU standards of human trafficking mitigation efforts in Poland. Consequently, the research suggests that state and local governments need to help build social institutions that can address the important public responsibilities related to human trafficking and forced labour and address gaps in government anti-trafficking policies.²³ Local authorities will likely lead this process more closely and seriously soon. Though money is a significant obstacle in building civil society infrastructure, helping victims of human trafficking is one of the main goals of the Polish state. As of 2022, Poland does not meet the minimum requirements for eradicating human trafficking, but it is evident and recorded that they are making strides to improve. It will be interesting to review the results of the 2023 TIP Report for Poland once it becomes publicly available.

5. CONCLUSION

Human trafficking is a heinous crime. It started in Poland 20 years ago and is still present despite various efforts to eradicate this phenomenon from public life. This crime has been evolving, adopting newer and newer norms. It is the evolution of evil, progressing with impunity, as we often do. Human trafficking is a problem of civilisation. Research on the issue of human trafficking in Poland may contribute to addressing the more significant problem of

23 Lasocik (2007) at 55.

making progress by bringing to light the patterns of regression and steps forward, keeping in mind the history of Poland and the surrounding area, and the Polish authority's interaction with foreign nationals. In the grand scheme, the research will result in greater awareness and comprehension of the fight against human trafficking. A more in-depth understanding can contribute to making the world a better place.