Combating Trafficking in Human Beings (THB)

Concepts, Interoperability and Capability Branch
2021

INTRODUCTION

Trafficking in Human Beings (hereafter THB) is a grave human rights violation, particularly impacting women and children.[1] Areas of armed conflict, characterized by dysfunctional legal systems and poverty, often become the setting of this crime.[2] Forced labour, sex trafficking, child soldiers and organ harvesting are only a few examples among various forms of THB.[3] Therefore, THB is often referred to as the 'modern-day slave trade'.[4] It provides a significant financial source to criminal networks or terrorist groups, contributes to corruption, and consequently strengthens instability.[5] THB can lead to a systematic undermining of governments and NATO endeavours, therefore threatening the success of a military mission (see 'Implications for NATO-led Activities').[6] Even though the Alliance does not perceive itself as the primary organization to counter THB,[7] NATO's engagement in countering THB is reflected in the NATO Policy on Combating Trafficking in Humans Beings (2004)[8] and the NATO Policy on Preventing and Responding to Sexual Exploitation and Abuse (2020)[9]. Sexual exploitation and abuse, in particular, have been condemned as contradicting '[…] the principles and core values […]' of the Alliance.[10] Furthermore, NATO is promoting a strict 'zero-tolerance policy' regarding the demand of services of THB by its personnel.[11] The topic has been addressed as one of five main lines of effort during NATO's Human Security Conference 2021. An updated NATO policy on countering THB is in progress.[12]

LEGAL DEFINITION

The crime of THB has been internationally defined in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000)[13] (often referred to as 'Palermo Protocol'). According to Art. 3 of the Protocol' Trafficking in persons shall mean the

1. Recruitment, transportation, transfer, harbouring or receipt of persons [**Act**]
2. by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person [**Means**]
3. for the purpose of exploitation [**Purpose**].'

This definition has been incorporated in the NATO Policy on Combating Trafficking in Humans Beings (2004).

THB AND SMUGGLING: WHAT IS WHAT?

THB is often used interchangeably with migrant smuggling,[14] which can be confusing in military operations. In contrast to migrant smuggling, THB can also occur within one country without crossing borders and requires coercion[15], a clear feature of distinction in theory.[16] However, it will be difficult to differentiate between coercion and one's own free will in a context of severe crisis and lack of basic needs in practice.[17] Often, a distinction will not be possible due to limited insights.

Though being separate crimes, THB and migrant smuggling are often interlinked with each other.[18] Individuals might agree to be smuggled at the beginning of their journey while ending up in exploitative situations.[19] Additionally, the perpetrators frequently use the same routes or means of transport for both THB and smuggling, making differentiation even more difficult.[20] This is why suspicious cases should be further monitored and reported to responsible authorities either way.

CHALLENGE: THE ISSUE OF IDENTIFICATION

THB is often invisible and difficult to trace.[21] Organized crime networks are hard to tackle since they mostly consist of chains of different contact points which are 'highly fluid and adaptable'.[22] Therefore, one of the main challenges of THB in missions is identifying both victims and perpetrators.[23] The latter do not necessarily fulfil the stereotypical criteria of gang lords but can be anyone from neighbours to friends to even family members of the victim.[24] At the same time, victims threatened by their abusers are too scared of approaching authorities.[25] They usually try to stay unnoticed.[26] THB is typically lacking data and evidence and is, therefore, often perceived as being non-existent.[27] However, even without reported cases, it should be kept in mind that the crime might be taking place. As a result, THB needs to be addressed through prevention measures at any time.[28]

Common Characteristics of Victims

- Members of vulnerable groups in the area of operations (AO).
- Members of ethnic groups not common to AO.
- Primarily younger women and children.
- Poorly educated people.
- Generally coming from economically disadvantaged areas.

Caution: Be aware that the presence of one or more of these characteristics does not allow the conclusion that the individual is a victim of THB but that further monitoring is required.[30]

IMPLICATIONS

THB can pose multiple, overlapping threats to the goals of NATO-led efforts, as explained below:

Credibility and legitimacy:
The local population could lose their trust in NATO troops if military forces or civilian personnel (hereafter 'NATO staff') are involved in cases of THB. With the loss of reputation as a reliable actor, locals (witnesses or victims of THB) could be less likely to confide in the integrity of NATO staff members on-site. This will further complicate the identification process; it can also affect a mission's success as a whole, considering that the credibility of a military operation is an essential step in building a secure environment.[31]

Stability and long-term peace:
Furthermore, THB entails other risks for military operations, which might be less evident at first sight. Victims can be used as a workforce for opposing groups by, for example, labour exploitation and fighter recruitment.[32] This means that THB enables the financing of opposing forces and can directly affect their troop strength in armed combat.[33]

Integrity and safety of soldiers:
The contribution to or the involvement in THB, for example, making use of the services of victims of THB, is not only a severe crime; it can be used against soldiers to blackmail them.[34] Furthermore, the involvement in THB can facilitate or lead to corruption.[35] Corrupted or blackmailed NATO staff members may endanger the integrity of the operation and enable the disclosure of classified information.[36] By that, the risk of armed attacks on military forces such as terrorist acts could be increased.[37]

ASSESSMENT IMPLICATIONS

Assessment implications for CIMIC staff are two-fold: On one hand, it must be prevented that staff members engage in or facilitate THB (**internal task**). On the other hand, responsible authorities on the ground have to be supported in their counter-THB measures within the mission's mandate (**external task**).[38] These tasks cannot be fulfilled as solo activities by CIMIC-ers but rely on effective cooperation inside and outside military structures.

Internal Task
Combating THB is a common effort and depends strongly on the engagement of all relevant entities and every staff member. Therefore, the implementation of a zero-tolerance policy is a cross-functional duty. All staff functions have to collaborate in combating THB. Main contributors will be LEGAD, GENAD, the Provost Marshall Office, J1, J2, J4, J8, J9 and JMed. Joint, coordinated action enables the utilization of subject matter expertise to address THB. Stability policing units, for example, might be specifically trained to deal with situations of THB. This kind of competence is valuable for the internal prevention of THB. Less specifically trained ground troops for whom it can be more challenging being confronted with THB might benefit from this know-how. Furthermore, the NATO Guidelines on THB[39] are providing direction in combating THB, including training, education and prevention.[40]

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External Task

Combating THB is not a primary responsibility of the military. However, CIMIC staff has an enabling and facilitating role in establishing cooperation and exchanging information with civilian agencies and entities in charge of combating THB. This collaboration can be a catalyst to establish or improve reporting mechanisms in the context of THB.[41] Partners might reach from specialized governmental (e.g., police and immigration authorities) to international organizations[42] to (local) non-governmental actors. The kind and extent of cooperation depend on the mandate and the operational environment.

Interagency Cooperation

The creation of interagency cooperation for combating THB, including specialized agents acting in the field, such as immigration authorities, police or local civil organizations, can be essential in supporting local authorities and prosecutors in ongoing investigations against THB.[43] The accumulated expertise in interagency collaboration enables a better risk assessment and contributes to a better understanding of the civil environment.

Many international organizations, such as the International Organization for Migration (IOM), acting in the field of THB, use a victim-centred approach.[44] This is particularly valuable when it comes to the identification of victims. Therefore, further cooperation with specialized, international organizations working in the relevant region is vital for NATO. It has to be recognized that NATO currently lacks the specialized expertise and personnel to address victim needs.

Local Population

CIMIC-ers are trained for establishing contact with the local population during their line of work. They are also specialized in including their observations about cultural norms and social dynamics in their risk assessment about the respective area of operations. Often these observations and facts allow conclusions regarding the existence of discriminated or marginalized groups, a crucial factor in the identification of victims of THB.[45]

Therefore, close collaboration and established personal contacts with key leaders of the local population and on an ad-hoc basis with individuals are essential factors for trust-building, awareness-rising, understanding of THB and victim identification.

RELATED TOPICS

THB is strongly related to other NATO identified Cross-Cutting Topics (CCT)[46].

- **Building Integrity (BI):** Looking at the implications for NATO-led activities, it becomes clear that combating corruption, hence BI, and THB are interconnected. Applying Transparency, Accountability, and Counter Corruption (TACC) measures consistently can prevent THB in the long run by discouraging criminal structures from the beginning.
- **Women, Peace and Security (WPS):** Participation of women and girls in social life can be significantly hampered if they become victims of THB. Often victims of THB are not able to move freely[47], which excludes them from public life. This is why it is important to emphasize that combating THB is also contributing to the participation of women and girls in peacebuilding efforts and domestic societies.

- **Sexual and Gender-Based Violence (SGBV):** Sexual exploitation is one of the most common forms of THB,[48] which demonstrates the strong interconnection between the two topics. Monitoring and reporting mechanisms always have to consider large overlaps when working in the subject area. Therefore, prevention of THB means prevention of SGBV and vice versa.
- **Children and Armed Conflict (CAAC):** Children are particularly vulnerable to becoming victims of THB. Trafficking in children can fulfil almost all six grave violations against children,[49] for example, their abduction and forced migration from home, their recruitment as child soldiers or their sexual exploitation.
- **Protection of Civilians (POC):** Effective POC means that '[…] all feasible measures must be taken to avoid, minimize and mitigate harm to civilians'.[50] Combating and preventing THB is a specific form of keeping harm from civilians and, therefore, directly related to POC.

MOST IMPORTANT NATO DOCUMENTS ON THB

- **NATO Policy on Combating Trafficking in Human Beings (2004):** The policy is the main source of NATO's counter THB approach. It is binding member states and '[…] troop-contributing nations […] to prevent and combat […]' involvement in THB.[51] The implementation of the policy shall be facilitated by three guiding documents, each addressing a different area or group:
    - **Training and Education:** NATO Guidance for the Development of Training and Educational Programmes to Support the Policy on Combating the Trafficking in Human Beings (2004).[52]
    - **NATO Staff:** Guidelines for NATO Staff on Preventing the Promotion and Facilitation of Trafficking in Human Beings (2004).[53]
    - **NATO-led operations:** NATO Guidelines on Combating THB for Military and Civilian Personnel Deployed in NATO-led Operations (2004).[54]

- **NATO Policy on Preventing and Responding to Sexual Exploitation and Abuse (2020):**[55] As mentioned before, the interconnection between THB and sexual exploitation and abuse is beyond dispute. This is why the NATO Policy on Sexual Exploitation and Abuse cannot only give further guidance on the adequate response to THB but is an essential part of preventing THB effectively.

- **NATO/EAPC Women, Peace and Security Policy and Action Plan (2018):**[56] While the first NATO WPS policy was adopted in 2007, it was updated multiple times, latest in 2018, guided by a policy action plan.[57] The policy acknowledges women's role in conflict prevention and implements the UN Security Council Resolution 1325 on WPS (2000)[58] throughout civilian and military structures.

- **NATO Policy for the Protection of Civilians (POC) (2016):**[59] The policy, adopted at the Warsaw Summit in 2016, aims to '[…] set out a coherent, consistent and integrated approach to the protection of civilians […]'.[60] Complementing other Cross-Cutting topics of NATO, the document is just as important in the context of THB.

- **Protection of Civilians Allied Command Operations (ACO) Handbook (2021):**[61] The ACO handbook is giving guidance on how to implement POC in NATO operations and missions. It has the '[…] overall aim of building a strong Protection of Civilian mind-set […]'.[62]

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LEADING ORGANIZATIONS

- **International Labour Organization (ILO):** ILO is a UN agency that is, among other tasks, tackling THB together with forced labour and other forms of modern slavery (https://www.ilo.org/global/lang--en/index.htm).[63]

- **International Organization for Migration (IOM):** IOM is the leading inter-governmental organization in the field of migration and is a Related Organization of the UN.[64] It is countering THB within the overall context of managing migration (https://www.iom.int/).[65]

- **United Nations Department for Peacekeeping Operations (UNDPKO):** UNDPKO takes a key role in combating THB in UN Peacekeeping Operations (https://peacekeeping.un.org/en/department-of-peace-operations).[66]

- **United Nations Interregional Crime and Justice Research Institute (UNICRI):** UNICRI is, among other tasks, tackling organized crime, illicit financial flows and illegal trafficking, including THB (http://www.unicri.it/).[67]

- **United Nations Office of the High Commissioner for Human Rights (UNOHCHR):** UNOHCHR is fighting THB from an international human rights perspective (https://www.ohchr.org/EN/pages/home.aspx).[68]

- **United Nations Office on Drugs and Crime (UNODC):** Within its mandate of combating organized crime, UNODC is conducting research on trafficking in persons (https://www.unodc.org/).[69]

- **The International Criminal Police Organization (Interpol):** Interpol is educating police forces to ensure that they are specifically '[…] trained and equipped to identify and investigate cases of human trafficking in all its forms […]' (https://www.interpol.int/).[70]

THE "DOs" AND "DON'Ts":

DOs

- Start THB countermeasures before cases have been reported (prevention is key!).
- Respect codes of conduct and principles of integrity.
- (Internal) Report cases of involvement of staff into THB to your supervisor.
- (External) Report suspicious observations related to THB to supervisors, or depending on the mandate and on-site arrangements, in your chain of command and to external stakeholders as authorized.
- Establish a climate of a zero-tolerance policy regarding the use of services of victims of THB.
- Be aware of typical settings for THB and common features of victims. Observe your environment carefully.
- Raise awareness and sensitize the local population regarding the existence of THB and its risks.
- Always be aware that punishment or imprisonment can have re-traumatizing effects on victims of THB.

DON'Ts

- Do not make use of the services of victims of THB.
- Do not share confidential information on victims of THB or ongoing investigations with others than the entities in charge as authorized and within your chain of command.
- Do not advertise services of victims of THB towards others
- Do neither accept nor support discrimination against soldiers who reported the usage of services of victims of THB internally.

ADDITIONAL RECOMMENDATIONS FOR LEADERSHIP

- Cooperate or initiate cooperation with specialized (local) actors such as governmental, non-governmental or international organizations (immigration, police or others) regarding data exchange for a better risk assessment
- Set up a high moral standard by your behaviour regarding THB. A strong role model function is essential for prevention.

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32. Addressing Human Trafficking, supra note 22, at 17.

33. See NSO Course, *supra* note 23.

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35. Id.

36. Id.

37. Id.

38. See Policy on THB, *supra* note 1.

39. See p. 7 for further information on NATO Guidelines.

40. See p. 9 for 'Do's and Don'ts'.

41. See Smith, *supra* note 14, at 290.

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