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How the Global Economy Fosters Human Trafficking

Stefano Zamagni

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1. Introduction

The topic of human trafficking has evolved from sensational interest in the early 1990s to maturity as a recognized global problem at the present moment. Fortunately, a wide range of state and NGO programs are being implemented to address some of the most immediate issues of human rights violations and to aid those most victimized by the promise of a false dream. But this is no more than a remedial answer to a heinous crime. As suggested in D. Kyle and R. Koslowki (eds.) *Global Human Smuggling,* The JHU Press, Baltimore, 2001, much of the initial governmental and academic analysis on human trafficking has been concerned with narrowly descriptive questions, which, unfortunately, often results in highly speculative numbers in an attempt to procure more funding and lend it an air of scientific objectivity. This is to be expected, but we need to keep in mind that there is still much we do not understand about this phenomenon and its potential to transform civil societies.

Following Naim, three great myths still persist in the way global human trafficking is usually addressed. (M. Naim, *Illicit,* London, Arrow Books, 2007). The first is the opinion that there is nothing new; it is often said that trafficking is age-old. Therefore, skeptics would argue that since trafficking has always been more of a nuisance than a scourge, it is a threat we can learn to live with as we have always done in the past. But this attitude ignores the important transformations that have occurred since the 1980s. These transformations are strictly connected to the emergence of a global economic order that has come to represent the most characteristic feature of our age. Today, capital appears to have acquired a new freedom: no longer does it have to account to the people in the countries where its profits are made. It is as if economic power had acquired an extra-territorial status. It follows that big corporations are able to react to profit opportunities quite independently of their national authorities and in so doing they play a key role not only in the organization of the economy – which is obvious – but also in that of the whole society – which is much less acceptable. Thus globalization is modifying the foundations of both the economy and polity, reducing the degrees of freedom of nation-states and giving rise to a new form of sub-politicization: the familiar of nation-state's policy instruments are tied to a well defined territory, which is not the case with big companies.

The second myth is that trafficking is just about crime. It is true that criminal activities surged and became global in the 1990s. But thinking about trafficking as just another manifestation of criminal behavior misses an important point: the role played by demanders of the services of trafficked people. Networks of stateless traders are changing the world. In a recent paper, P. Buonanno, L. Ferguson, J. Vargas ("The crime Kuznetz Curve", CEDE, Bogotá, April 2014) document for the first time the existence of an inverted U-shaped relationship between income within US states and crime for the 1970-2011 period. Crime – in particular human trafficking – increases with per-capita income until it reaches a maximum and then decreases as income keeps rising. As expected, this relationship has attracted the attention of social scientists. The basic version of the economic model of crime due to Gary Becker (1968) suggests that rational agents engage in illegal behavior as long as the expected benefits offset the expected costs. However, this opportunity-cost theory of crime is unable to account for the "Crime Kuznets Curve" and the main reason is that such a theory works almost exclusively on the suppliers of trafficked persons and forgets the demanders of the services of these people.

The third myth is the idea that human trafficking is an "underground" phenomenon. Even accepting that it has grown in volume and complexity, many people seek to relegate it to a different world than that of ordinary, "honest citizens". This is the most dangerous of all illusions, since it treads on moral grounds and lulls citizens and public opinion into a sense of heightened righteousness. On the contrary, the phenomenon under scrutiny is contagious across society, in the sense that it can spread rapidly even among "honest citizens". While human trafficking has made it even more pressing to make the public aware of the issue of moral complicity, it has also made it far more difficult to tackle the problem in practice, since it has made the chain of causation much more intricate. The consequence is that it has become increasingly difficult to individuate culpability for communal faults. That is why we need to consider – as suggested by M. Archer (2015) – the normative attitudes that sustain the demand side. It is urgent to intervene on social norms so that clients of brothels and companies using forced labor also become socially stigmatized.

Human trafficking could be approached in multiple ways: as a moral issue, a public order problem, a labor question, a human rights problem, a migration issue or a matter of organized crime. So far, most of the focus has been on the migration and organized crime component of trafficking. The emphasis on trafficking as a migration problem has also led to the criminalization of victims who generally violate prostitution and immigration laws of the hosting countries. Despite their traumatic victimization, these persons tend to receive only very limited assistance from the authorities in the countries in which they were forced to work. Neither regular admonitions by UN agencies, nor accusation by civil society organizations have changed this approach. Today, it has become clear that the immediate repatriation of trafficked people because they are undocumented migrants generally prevents the successful prosecution of the traffickers (N. Demleitner, "The law at a crossroad", in D. Kyle and R. Koslowski (eds.), *Global Human Smuggling,* JHU Press, Baltimore, 2001).

The data on human trafficking we can read in the *Global Report on Trafficking in Persons* (November, Vienna 2014) produced by UNODC signal that this phenomenon is not only on the rise, but its interplay with social crises – conflict, corruption, injustices – is more complex than it has been since the abolition of the Atlantic slave trade. Those who benefit from human trafficking operations are not always careful to hide in the shadows. Many exercise their trade in the open, daring authorities to crack down on them or inviting them to collude. Let's have a quick look at the major key findings of the *Report* 2014: 49% of detected victims are adult women; 33% are children (21% girls and 12% boys); the remaining 18% are adult men. If one sums up the two figures referring to the female component of society, one obtains that 70% of all trafficked persons belong to the feminine gender. On the other hand, 72% of traffickers are men, and 28% are women. No comment is needed about these figures: they are self-explanatory.

Human trafficking happens everywhere, but most victims are trafficked close to home, within the region. Statistics show a correlation – not a causal relation – between the affluence measured in term of GDP of the destination country and the share of victims trafficked there from other regions. Richer countries attract victims from abroad, whereas less affluent countries are mainly affected by domestic or sub-regional trafficking flows. It follows that responses need to be tailored to national and regional specificities if they are to be effective at all. Another data set of great interest refers to the fact that while the majority of trafficked victims are subjected to sexual exploitation, other forms are increasingly detected. Trafficking for forced labor – manufacturing, cleaning, construction, catering, domestic work, textile production – has increased steadily in recent years. Trafficking that is neither for sex nor for forced labor is also increasing: children for armed combat, for petty crime, forced begging and also organ trafficking. To this regard, it should be noted that organ trafficking is not classified as human trafficking since it is not possible, from a legal point of view, to ascertain whether the act of organ removal was committed against a living person or from a corpse. Yet organ transplants (kidneys, livers, hearts, corneas) are commonplace today in many countries. The shortage of donor organs has given rise to an international organ trade in view of the fact that customers of organs are increasing year after year.

More than 90% of countries criminalize trafficking in persons since the Palermo Protocol came into force more than twelve years ago. However, impunity prevails, with all too few consequences for the perpetrators. This reflects the fact that legislation does not always comply with the Protocol and even when legislation is enacted, implementation often falls short. The result is that the number of convictions globally has remained extremely low, while the number of detected child victims, particularly girls, has scandalously increased. I will suggest later some measures of how to cope with this specific problem. For the moment, I would like to draw attention to the difficulties of the criminal justice systems to respond to trafficking in persons, in spite of the adoption in July 2010 by the UN General Assembly of the "Global Plan of Action to Combat Trafficking in Persons".

What is striking in the by now vast literature dealing with human trafficking is the nearly total neglect of the demand side for trafficking flows. This is a point appropriately underlined by M. Archer (2015) where she writes: "If trafficked are recognized to be victims of modern slavery, we have to acknowledge that this has to be attributed to national and multinational demands for exploited labor or sexual exploitation". This is a real paradox, to say the least. If one considers that trafficking is driven by high profits or – to be more precise – by rent-seeking attitudes, it is obvious that the engine sustaining this trade is the demand side. It is the demand for cheap labor, for organ transplants etc. that explains how traffickers and their networks have continually adopted and refined their activities, even at the cost of temporary setbacks, such as jail sentences. Until traffickers face diminished incentives to trade, i.e. less demand and lower margins, it is futile to talk about increasing criminal justice measures.

The celebrated Say's Law – which states that supply generates its own demand – does not apply to human trafficking, where it is rather demand that determines the direction and the intensity of the trade. It is true that the characters involved in trafficking are abominable criminals. But what drives them is rent-seeking. It is certainly true that the bands trafficking women for sexual exploitation deserve the harshest possible punishment. But what about those who purchase these services? Or the families that rely on illegal aliens for domestic help? We will never make progress in the struggle against trafficking if all our attention is placed on the suppliers of most morally repugnant trades and not the upright citizens where appetite for them creates the incentives that make it all possible.

2. The migratory question in the era of globalization

Much more than a subcategory of international migrations, human trafficking is a topic that intersects contemporary anxieties concerning the global political economy, ethnic and gender stratification, political corruption, human rights abuses and the (in)ability of states and global agencies to control any of these effectively. This is certainly true. However a brief consideration of the *res novae* of present-day migratory flows may help to better contextualize the human trafficking plague. Indeed, the trade in people is deeply entrenched and interwoven with the world's ever more complex migration flows. In his influential book, *The political economy of slavery* (1965), Eugene Genovese, one of slavery's greatest historians, emphasizes the role of torture in the increase of slavery's productivity. As he put it, "we don't usually see torture as a factor of production. Economics teachers don't put it on the chalkboard as a variable in a graph". If he had to rewrite this book today he would certainly consider the form of slavery represented by trafficked people as the most relevant and problematic.

It has been common knowledge for some time that the migratory phenomenon is a theme with a high potential for conflict, which often tends to divide public opinion in a radical way, and consequently the political powers. In particular, we all know that today, in Western societies, immigrants represent the only category of subjects that are both wanted and unwanted. For example, for at least four to five years, the Eurobarometer has been pointing out this contradictory attitude of Europeans towards immigration. On the one hand, there are segments of people who ask to expand the flows of arriving migrant workers because they are aware of the benefits that would derive from the flexibility of the European labor market and the management of public finances. Indeed, the aging of the advanced countries' populations has made the existing structure of debits and credits of the social security systems no longer sustainable. On the other hand, there are other segments of the population that harbor various fears, three in particular: a) immigrants cause unemployment at the expense of the workers of the host country; b) immigrants take advantage of our welfare systems (in fact, the available evidence confirms that immigrants do receive welfare services to a proportionally greater extent than the native populations. As J.S. Mill already wrote in the mid-nineteenth century: "It is useless to think that all the mouths which the increase in population brings into existence will also bring manpower with them. The new mouths require just as much food as the old ones, but their hands do not produce the same amounts as the old ones"); c) immigrants have already exceeded the saturation point to the extent that they jeopardize the host countries' social cohesion because of the impossibility to implement balanced cultural integration policies. The electoral outcomes in not a few European countries and the public discussions on the theme, which are more animated than ever today, seem to indicate that the second type of citizens is in the numeric majority today.

It has been widely demonstrated by now that in the countries of the North of the world a real and proper vicious circle has been established. The people show a hostile attitude towards immigrants. This leads governors, who are always in search of political consensus, to restrict their entrances or make them uselessly difficult. In turn, policies of this kind end up increasing illegal immigration. It is estimated that there is a stock of 11 million irregular migrants in the world, many of whom entrust themselves to traffickers whose turnover has now surpassed that of drugs. Illegal immigration ends up creating a powerful incentive for criminal behaviors by those immigrants who cannot pay the high costs demanded by the criminal organizations to get them to the immigration countries and see themselves forced to find alternative sources of income other than work. Lastly, the sense of insecurity which illegality spreads ends up confirming the perceptions of hostility, which thus tend to be self-fomenting.

A few statistics are enough to make us understand the scope of the migratory phenomenon. In 2005, the United Nations estimated that there were 200 million international migrants in the world, including approximately 9 million refugees. Around the world today, one person in 35 is an international migrant (according to the UN definition, an international migrant is someone who resides outside his/her own country for a minimum period of one year). Even more striking than the stock of migrants is the migratory flow which in the five-year period from 2000-2005 amounted to 13 million people (an average of 2.6 million a year). Moreover, while before 1990 most migrants lived in developing countries, today the opposite is true. Since that date, the presence of immigrants in the developed countries has gone from 48 to 100 million and from 52 to 65 million in the developing countries. Regarding the direction of the flows, it should be noted that the flow from the South of the world to the North has generated 62 million people present in the North; the flow from North to North, 53 million; from the South to the South, 61 million, and from the North to the South, 14 million. Therefore, the migratory current from the North to the South is the only one that experienced a reduction in relative terms. (Cf. K. Koser, *The international migrations*, London, 2009).

While it is relatively easy to estimate the bulk of immigrants in the countries of arrival (60 million in Europe; 44 million in Asia; 41 million in North America; 16 million in Africa; 6 million in Latin America and in Australia), it is much more difficult to know what countries the immigrants come from. This is due to the fact that the statistics of the countries of origin do not take into account their citizens residing abroad. In any case, it is estimated that there are 35 million Chinese abroad; 20 million Indians; 9 million Pakistanis and 8 million Filipinos. Finally, it is not possible to ignore the great moves on the intra-regional level. For example, there are approximately 5 million Asian workers in the countries of the Persian Gulf, 8 million irregular immigrants living in South Africa, almost all from Black Africa, and so on.

A major element of profound differentiation between today's migrations and those of the past is that the thesis in vogue since the 80s of the last century does not seem to be supported by the facts. According to the thesis the most effective instrument for reducing the migratory pressure would be to increase the employment potentialities in the developing countries. That is, the only credible way to stop the *increase* in the migratory flows would be to intervene on the process of economic growth of the countries that generate the flows. How solid is this conviction? It is often stated that economic development, by increasing pro capita income, reduces the incentive to emigrate. This belief is fallacious for two reasons: on the one hand, as the well-known "Kuznets curve" teaches, in the first phases of the development process the increase in income is always accompanied by an increase in the inequalities between social groups. That is, the increase in income *never* takes place in an equi-proportional way among all the segments of the society. And as we all know, an increase in inequalities is a powerful factor that encourages emigration. On the other hand, empirical evidence confirms that in the initial phases of the development process an increase is always recorded in the propensity to emigrate as a result both of the structural change (development expels workers from agriculture in order to channel them towards the industrial sector, but this takes time and so a part of the ones expelled takes off and goes abroad), and the change in life expectations (once the old equilibrium of stagnation is broken, not everyone feels like waiting for the definitive takeoff and so they take off and go abroad).

My conclusion is that it would be irresponsible to make people think that the migratory problem could be solved by aiming at restrictive and/or discriminatory policies of one kind or another (the USA's ten-year experience with regard to Mexico offers us eloquent confirmation of this). Instead, what is urgent is to take note once and for all that the strongest encouragement today to the magnification of the migratory flows comes from globalization. While globalization has created and continues to create a global market of capitals and goods, it still has not succeeded in laying the bases for a global labor market. It is not possible to want one thing and not the other from globalization. The only certain result that derives from this pragmatic contradiction is plain for all to see: a worrying, inhuman increase in illegal immigration sustained by the new industry of organized crime, the trafficking of human beings. We should not forget, in fact, that legal and illegal immigration can replace one another. The whole body of empirical research agrees on this: the more the conditions of access to regular entry permits are restricted, the more the offer of illegal migrations increases.

I do believe that a consensus could be found to give a foundation to a sustainable policy *of* immigration (and not merely a policy *for* immigration) based on two reasonable and surely applicable lines of intervention. First, migrations must turn to be in the interests both of the countries of origin and the countries of arrival. Second, in the case of migrations, labor services that cross the national confines *incorporated* in people are the object of exchange. Adam Smith already understood this fact very clearly when he wrote in *The Wealth of Nations* (1776): "Of all the kinds of baggage, the human being is the most difficult to transport". To presume to regulate the flows of labor services without "seeing" the human being who conveys them would be real economic shortsightedness and grave political irresponsibility.

3. Human smuggling versus human trafficking

It is commonly asserted that, in spite of some overlaps, human trafficking is not to be confused with human smuggling. The argument runs as follows. Human smuggling involves consent and quite often the person involved pays the smuggler for passage. On the other hand, trafficking victims either never consented or, if they initially did, that consent has been rendered meaningless by the coercive or deceptive action of the traffickers. Moreover, migrant smuggling ends with the migrant's arrival at their destination; trafficking involves the ongoing exploitation of the victim (UNODC, 2013). Now, apart from practical considerations such as "voluntary" smuggled migrants are left with exorbitant debts that lead them into sweatshops or other exploitative working conditions, I do believe that, even at the conceptual level, the presumption of voluntary action as a prerequisite to differentiate smuggling and trafficking is not as robust as it might appear (M. Archer, 2014). In substance, the reason is the following.

The market is the place where the coordination of economic decisions is carried out through voluntary cooperation. And this is fundamentally because "both parties in an economic transaction benefit from it, provided that the transaction is bilaterally voluntary and informed" (M. Friedman, *Capitalism and Freedom*, Chicago, Chicago University Press, 1962, p. 13). As a consequence, when two (or more) parties, with no trick or coercion, and therefore free to make their own choices, originate an economic transaction, they also agree to any consequences. This is the ethical justification, in economics, of consequentialism. The concept of consent based on freedom of choice is well explained by R. Posner when he writes: "I personally believe that he who buys a lottery ticket and loses, agrees to the loss if there was no fraud or coercion" (*The Economics of Justice*, Cambridge, Mass., Harvard University Press, 1981, p. 94).

Therefore, apart from these last cases, choosing freely means giving one's consent and agreeing means legitimizing. As is pointed out by F. Peter ("Choice, consent and the legitimacy of market transactions", *Economics and Philosophy,* 20, 2004), the market does not need to ask for a certificate of ethical legitimacy, because it is capable of legitimizing itself on its own. This is not the case of the State which, on the contrary, in order to be able to use coercion – which is the main tool for attaining its goals – needs the approval of the electorate, for the State can only be legitimized from them. Where is the mistake in this reasoning? Basically, freedom of choice almost never postulates consent. It would be so if the subject of the choice took part in the determination of the choice menu – which is never the case in real life. The parent voluntarily offering, under no obligation of any kind, to sell one of his organs to alleviate the poverty of his family, certainly does not agree to the consequences of his act. Free choice of an option has the power to legitimize only if the set of alternatives is somehow part of the subject's choice problem. If this set is *given*, this prerequisite is by no means fulfilled.

Everybody knows that the key role of the category of consent is typical of the tradition of social contract theory starting with Hobbes. The idea is that if I signed a contract with you to do something I now no longer want to do, your answer could be "but you agreed to do it at the time, now you have to abide to the terms of the contract". That is, consent generates obligation. Among those who embrace the social contract theory, no one better than J. Rawls was able to show that in order for consent to produce obligation the constraints under which the parties to the contract take their decisions must be shared by everyone. Only if it can be proved that the parties to the social contract agreed (or intended to agree) to the rules of the game they are in, can it be legitimately claimed that the agreement reached through consent implies obligation.

Of course, it is evident that in our market economies this condition is never fulfilled, in practice. Indeed, freedom of choice describes the absence of coercion by others. It has to do with the *possibility* of choice, that is to say with the existence of a domain or space within which the subject can exercise his/her sovereignty. But this still says nothing about the *ability* to choose, in other words the real exercise of the choice. Having a large number of possible choices is not enough if you don't know how to choose or if you don't have the resources to translate the means into the capability of promoting your own goals. This is the great lesson taught by Pope Benedict XVI and Pope Francis when they remind us that the use of freedom is somehow essential to its definition. Someone who is free to put into practice his/her action plan, but who does not possess the capacity to do it, cannot really be said to agree to the consequences of his/her actions. Therefore, if the market is not capable of finding within itself the reasons upon which to construct its justification, the reference to ethics becomes fundamental.

In May 2007 humanity witnessed a true turning point in world history. For the first time ever, just over half of the global population was confirmed as living in urban environments. No less than 95% of the current urban growth is accounted for in developing countries, all of which are having to absorb five million people each and every month in cities, compared to a growth rate of half a million in developed countries. Unlike the first wave of urbanization, today's process has been radically decoupled from industrialization, sometimes even from development *per se*. The present urbanization process is driven by nothing else than poverty. It is no longer true that "all roads lead to the towns" (F. Braudel); they lead to the slums.

Human development has in large part been a story of mobility. People move to seek a better job or a better life and when they succeed they move up the socioeconomic ladder, whether as assessed by income or by capabilities. People's aspirations fuel these efforts; yet aspirations can be quashed by poverty, or social exclusion. Upward mobility is a dynamic counterpart of equality, offering the possibility that those born in poverty might escape it. Support for basic capabilities, especially in the areas of health and education, is essential to enable such upward mobility. That is why the Catholic Church insists so much, in its many documents, on the attention to give to those forced to flee epidemics, economic crises, natural disasters, human conflicts, and human trafficking. Importantly, the Church insists on the point that people aspire to agency as well as to well-being. People seek democracy and liberty. Aspirations deserve to be studied because they represent a deeper layer of human psychology than is ordinarily captured by preference-based models.

In the light of the above, one can understand the fundamental role that in present-day market economies is being played by socially responsible consumers (see *Caritas in Veritate*, n. 66, where for the first time in an official document of CST it is stated that the consumer, as such, has a specific social responsibility). It is by now a fact that the figure of the consumer as a passive receiver of offers coming from producers is transforming ever more into a subject who wants still to consume, but in a critical way. This means that through his/her purchasing decisions, and in general, his/her "voice", the consumer seeks to "create" the offer of the goods and services he/she wants to see in the market. The relationship between price and quality no longer suffices, he/she wants to know *how* that good was produced and *if* in the course of production the company has violated, let's say, the fundamental rights of the people working for them or has polluted the environment in an unacceptable way and so forth.

Let's take the by now classic example of the multinational company, Nike. After a few consumer associations sued Nike for using child labor and enforcing unfair labor policies that gave way to below minimum wages in India and Pakistan, Nike's stocks sank from 66 USD in August 1997 to 39 USD in January 1998, following a well-orchestrated boycott. Similar experiences happened to Reebok and Nestlé. And how can we forget what happened to the companies that produced napalm during the Vietnam War or to those who supported apartheid in South Africa during the 60s and the 70s? And yet, there's more. Recent market studies have shown that 80% of European consumers declare themselves ready to support the development of companies involved, in some way or measure, in social responsibility activities. They would pay a higher price for goods if they could be guarantee that the companies were certified socially (e.g. Social Accountability, SA 8000) or if they committed themselves to relevant social causes.

Corporate boycotts, which first surfaced in the 70s to protest against napalm producers, spread all over advanced, Western countries, following technological advances in telecommunication infrastructure and the rapid diffusion of social networks. Success cases, other than the Nike example, are found in movements that targeted the company behavior of ExxonMobil, Shell, and Starbucks. Now, if it's true that the successes registered thus far shouldn't be overestimated – as the road is still long until the various consumer associations unite to create a power strong enough to instill a full affirmation of Corporate Social Responsibility – it's also true that one can't deny being confronted with a true novelty. So much so that it's logical to think that in the near future, the various associations will be able to enact new strategies of protest and advocacy based on alliances between groups of critical shareholders and responsible managers, a phenomenon which is actually already happening.

This trend seems to confirm the intuition of the great economist, John Stuart Mill, who in the mid-1800s had formulated for the first time the principle of the sovereignty of the consumer (the principle states that the consumer is sovereign when, given his/her purchasing power, he/she is able to direct the supply side according to his/her own values). If the times weren't yet mature for this sovereignty to be enforced, now it is clearly evident that the transformation of the client-consumer to the citizen-consumer is concretely possible. The citizen-consumers act as agents who don't limit themselves to the services that they prefer, but instead "demand" to co-create with the supply what they need. The citizen-consumer hence takes advantage of available opportunities given by new technologies, particularly communication networks, to create forms of aggregated demand capable of reaching a satisfying economic scale by which to interact from a strong point with the powers of the supply. This means that companies must recognize the capacity of consumers, organized in NGOs, foundations, or associations to become active partners in the planning process and production of goods and services. At the same time, companies who have captured the profound meaning of today's consumption have every advantage to renounce the risk of going without the input of its consumers and to include them as advisors, consultants and collaborators.

Today's companies in fact are learning – slowly – that respecting the autonomy of citizen-consumers doesn't mean "surrendering" the supply, and hence it's not worth hindering or ignoring the positive aspects of the transition occurring from freedom of choice as a means of self-determination (freedom is evaluated by what it consents to do and obtain) to the freedom of choice as a means of self-realization, or in other words, as a "having in order to be", so to give meaning to one's consumption. This is why today it would be counterproductive for a company to think of consumption as merely a transmission belt of production, and not as an important opportunity to seize to civilize the market. This is the virtue behind the phenomenon of "voting with one's wallet": the tool with which consumers express their social responsibility. The citizen-consumer, through his/her consumption choices and savings, is today able to reward the companies that can combine economic value with dignified work, respect for the environment, human rights, etc.

Another significant novelty that has been occurring in the last 30 years is the diffusion of Sustainable and Responsible Investment (SRI). The history of SRI starts in the second half of the 19th century when the Quaker Reverend John Wesley started his battle against those companies that harmed the territory and exploited their workers by prohibiting his religious community from investing their savings, however big or small, in them. The innovative idea that Wesley had was that the principle of responsibility doesn't concern solely what one does, but also that which you allow others to do with the resources that s/he has at hand. So if I invest my savings in a company that works against my moral values, and I'm aware of this, I'm indirectly responsible for the consequences that come from the operations of that company.

How can we account for the extraordinary evolution and fast acceleration of SRI practices in last quarter of the century? We should remember that in 1971 the Baptist Reverend Leon Sullivan entered – not without difficulty – into the Board of Directors of General Motors to start a strategy of pressure (through counter-arguments) on the multinational companies that contributed to keeping apartheid alive in South Africa. His work was so successful that in 1977 he was able to publish the *Sullivan Principles*, seven principles that now form a sort of *Magna Carta* for the active shareholder. The important point to highlight is that a society that offers concrete opportunities that facilitate virtuous behavior is a society that prioritizes the diffusion of SRI practices. This is why the work of civil society organizations is simply crucial, NGOs in particular. Consider, as a laudable example, the work carried on in the last decades by ICMC (the International Catholic Migration Commission, based in Geneva and created after the war by Msgr. Montini, the late Pope Paul VI). Its anti-trafficking strategy includes initiatives such as supporting local structures in assisting victims to be protected from further abuse, legally disengaging them from abusive signed contracts and offering assistance to return to their country of origin where possible. Or developing specific programming including prevention through awareness-raising on the human trafficking risks related to migration as well as cross-border initiatives to curb trafficking and debt bondage of women and girls. And, above all, advocacy and policy work with governments and civil society.

SRI can be compared with the hornet. According to Newton's laws of physics, the hornet shouldn't be able to fly because its small wingspan isn't sufficient to hold the weight of its body. And yet, the hornet flies. Likewise, according to official economic theory (specifically the celebrated portfolio theory by Nobel Prize winner, Harry Markowitz), SRI can't function well or for long because the meta-economic objectives would hinder in the long run the achievement of the economic objectives (every obstacle to the diversification of the portfolio of products reduces in fact the profitability of the investment). On the other hand, if SRI can last over time – it's upheld – it's due to public intervention of exogenous factors that compensate: fiscal advantages, legislative favors or political collateralism. That this doesn't reflect how things actually are is well known, even if it's true that in some cases – very limited ones – those factors can play an important role.

4. The role of transnational corporations in human trafficking activities

Human trafficking has been conspicuously neglected by economics. There is instead a huge literature on organized crime and illegal markets, such as black markets dealing with prostitution, gambling, stolen goods, contraband, tax evasion. How can such a state of affairs be explained? The main reason is that economics, since its constitution as a scientific discipline during the 19th century, has always devoted much more attention to the supply side of the economic problem than to the demand side. It is a fact that the theory of production is much more developed and sophisticated than the theory of consumption in economics. A secondary reason is that there are much fewer people operating on the supply side than those positioned on the demand side, which implies that it is simpler to pass legislation to penalize traffickers than customers. Yet the potential contribution of multinational enterprises (MNE) to the creation of more and better jobs is large, mostly in their supply chains but also through foreign direct investments. Despite this enormous potential, MNEs are not sufficiently living up to expectations. Many have come increasingly under pressure to demonstrate that they operate in a socially responsible manner. But we are still at the beginning.

Consider, for instance, the role that can be played by MNEs to overcome the problems stemming from the lack of international legal personality and the limited liability of enterprises, as well as the consequences arising when their activity is performed within the territory of those states that are not willing or not able to protect human rights. The UN *Protect, Respect and Remedy Framework on TNCs and Human Rights* is articulated into three pillars: the State's responsibility to *protect*; the corporation's responsibility to *respect*; the construction of *effective remedies* mechanisms. However, it is a fact that, so far, the three pillars have not produced the expected results. Indeed, by trying to overcome the difficulties that arose with regard to the *UN Norms on the Responsibilities of TNCs and Other Business Enterprises with Regard to Human Rights* and by trying to distance itself somewhat from the criticisms made to that approach, the *UN Framework* has opened the door to some disquieting consequences. These difficulties stem from what can be called the "reductionist" move, which the *Framework* rests on, i.e. the reduction of business responsibilities towards human rights to mere generic responsibilities.

It’s a fact that over the last few decades the systemic violation of human rights, of this special category of moral rights (known as *iura hominum*), has been associated with the action of multinational companies. The UN estimates that today there are over 70,000 multinational companies worldwide and roughly 700.000 subsidiaries (Doc. N.E/CN.4/2006/97, p. 5). Globalization has highlighted a novel aspect, unknown to the ages preceding it: that while multinational companies work globally, governments regulate nationally. The consequence is that the legal tools that best fit into the process of economic transformation are not the authoritative ones, but those forged by those who work in the market, like the contracts that have by now become the top regulating source. The international circulation of atypical contractual models is ever more intense. Legal offices of big multinational companies and international entrepreneurial associations create them. This is how the business community – a clear example of soft law – created a communal law that surpasses the juridical discontinuities of national legislatures.

For (almost) all of the 20th century, problems like those now highlighted have been conceptualized as political problems, whose solution should be entrusted to public actors whose job it is to fix the laws (and enforce them), while the companies should follow the laws. What is happening today is the result of the disappearance of adequate mechanisms of enforcement whenever the norms are broken. If, on the one hand, the global outsourcing of production boosted production levels and profit margins enormously, on the other hand, it brought to light the problems of human rights and gave birth to a new interpretation of the principle of responsibility, i.e. multinational companies have to be held responsible not only for what they do directly but also for what happens along the entire supply chain, in application of the ethical principle of the capacity to choose – which shouldn’t be confused with the possibility of choosing. The capacity to choose implies the capacity on the part of the agent to consent to the consequences that come from the choices made.

As an example, consider the Nike case, a multinational company that doesn’t have its own factories but buys from a myriad of manufacturers around the world all of what it needs to package sport shoes. When NGO awareness campaigns shed light on the human rights violations done by Nike and encouraged a boycott, the multinational company changed its production strategy giving itself a code of conduct in which it clearly states, among other things: “We conduct business with all of our partners on the basis of trust, teamwork, honesty and mutual respect and we expect that our partners in turn operate on the basis of the same principles”. Philip Knight, the founder of Nike, not only acknowledged the various situations of exploitation that Nike was the cause of but also admitted their moral responsibility on the basis of the ethical principle cited above (G. Knight “Activism, Risk and Communicational Politics”, in S. May *et al.* eds., *The Debate over Corporate Social Responsibility,* Oxford, OUP, 2007). There are many other cases that could be elaborated upon, coming from many different industries, for example from companies held to be accountable for the actions of their primary resource suppliers (Ford and Firestone; Starbucks and Fair Trade coffee; StarKist and tuna fishermen; Walmart and cleaning companies; McDonald’s and farmers, etc.) or even from companies accountable for the way in which their clients use their products or services (weapons, gambling, cell phones, etc.).

In recent years, public discourse on the relationship between companies and human rights has been based on two distinct yet convergent processes: on the one hand, the philosophical critiques of the principles of the UN’s *Global Compact* on human rights launched in 1989; on the other, the discussion that accompanied the conclusion of the work of the Special Committee of the UN Commission for Human Rights. The Committee, which should have brought an end to the work done from 1997-2002 by Mary Robinson, the then-Head Commissioner of the UN for Human Rights, actually ended with no results to speak of. In other words, it is not possible to find the necessary convergence of the notion of human rights. Hence, on April 20, 2005 the Commission adopted a resolution on “Human Rights and Transnational Companies and Other Companies”, in which the UN Secretary General was asked to nominate a “special representative” to define a set of non-negotiable principles regarding the inalienable rights, precisely because human rights cannot be given by the State but only protected, given that the rights exist even if a government doesn’t welcome or protect them (a notable example comes from the US laws of racial segregation that were considered Constitutional by the Supreme Court until 1954).

On July 28, 2005, UN Secretary General, Kofi Annan nominated John G. Ruggie from Harvard University as the “special representative” to whom he entrusted to identify the most clamorous cases of human rights violations by companies and to compile a compendium of good practices. In April 2008, Ruggie published the report, *Promotion and Protection of All Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development*. The report presented guidelines for companies to follow and be judged by public opinion. As illustrated by K.M. Leisinger (“On corporate responsibility for human rights”, in H. Spitzeck *et al*. (eds.), *Humanism in Business,* Cambridge, CUP, 2009), the Ruggie Report states that companies are held to respect human rights no matter what the national laws are. Whenever the national laws where the companies operate conflict with the international standard, the multinational company must go by the latter, naturally taking the local context into account. The report also specifies what it means to be complicit in human rights violations committed by others. The fact that the subsidiary company has to follow orders or follow contractual obligations according to the laws of the country is not enough to justify the violation of human rights. Lastly, companies are encouraged to apply *values management*, defined as the systemic use of “specific tools aimed at defining the moral constitution of the organization and its guiding principles”.

In summer 2011, Ruggie finished his term by publishing the “Guiding Principles” – those in 2008 were termed Guidelines – also known as *Guiding Principles on Business and Human Rights. Implementing the United Nations “Protect, Respect and Remedy” Framework*. Which problems were brought up in the report? Firstly, the approach followed was traditional, according to which national governments were held responsible for human rights; the responsibility of companies came after, in a secondary position. The rationale of this principle is that these phenomena, the incredible increase in delocalization processes and outsourcing and the diffusion of responsibility among all the members of the organization along the supply chain, have increased the places and centers of responsibility that the company is not able to know or control (one should remember that bureaucracy is often denominated the “rule of no one” exactly for this reason). Secondly – and this aspect is immensely intriguing – the ultimate reason for which human rights should be respected, wherever and in any case, is economic and not moral in nature: companies respect human rights – this is the message – because otherwise they would lose reputational capital accumulated over time after the sentence of the “tribunal of public opinion”.

This misleading (and reductive) conception of responsibility generates difficulties overall, but these difficulties become even more serious when applied to human rights. Moreover, Ruggie’s “Guiding Principles” suffer from a grave aporia, as postulated by F. Wettstein “Human rights as a critique of instrumental CSR”, *Politeia*, 106, 2012. In fact, to induce responsible behavior in companies, the *business case* has to entrust moral reproach. If the clients didn’t find the irresponsibility of companies reproachable, they wouldn’t have any reason to boycott the products placed on the market. Likewise, if the investors didn’t find morally reprehensible the behavior of companies, why would they have to abstain from investing in them? And if public opinion wasn’t right to reproach the company, the company wouldn’t see their reputational capital harmed. It’s hence obvious that referencing moral judgment is inevitable in any case, even if we welcome the thesis of the *business case*. Bernard Williams wrote that reproach “is the characteristic reaction of the moral system every time we miss complying to our obligations” (B. Williams, *Making sense of humanity,* Cambridge, CUP 1995, 177). It should be noted that the thesis of the *business case,* that appeals to be applauded as a tool to acquire economic advantages, is symmetrical to the one based on reproach. In fact, you praise that which you repute an expression of the moral discretion of the agent.

On another note, we find that the 1977 *Sullivan Principles* which – as remarked above – were specifically elaborated for multinational companies operating in South Africa. These companies were asked to sign a clause that held them responsible for operating to “eliminate laws and habits that impeded social, economic and political justice”. The idea behind these principles is that the company has to hold itself responsible not only for what it does, but also for what it doesn’t do; in other words, when facing a human rights violation that it could have prevented, the company cannot remain indifferent or put itself to the side. The contrast of this point to Ruggie’s “Guiding Principles” couldn’t be more clear-cut. The principle 13b holds companies responsible for all direct and indirect human rights violations. Ruggie himself illustrated the rationale behind such a position with the argument that we must avoid fundamentalism when managing values from both those who refuse to consider human rights and those who consider them non-negotiable. Yet as history teaches *ad abundantiam*, moderatism in the moral sphere generates perverse consequences more often than not.

How to choose then between the Sullivan Principles and the Ruggie Principles? The theoretical proposal of M.A. Santoro, (*Profits and principles,* Ithaca, NY, Cornell Univ. Press, 2000; and “Sullivan principles or Ruggie principles?”, *Politeia*, 106, 2012), based on the fair share theory of company responsibility on human rights, seems to me a simple and suitable way. The criteria by which to understand when a multinational (or any other) company commits a human rights violation has three distinct but related elements. The first is the relationship between the moral agent and the victim. The principle of benevolence, as enunciated by David Hume, states that the closer the relationship is, the stronger the obligation to help. The second element concerns the potential effectiveness of the moral agent to promote human rights. This is a particular application of the Kantian principle according to which “duty implies power”: if the agent is able to do something, then it must. Finally, the capacity to contribute: those who are more able to sustain the costs for the tutelage and affirmation of human rights are obliged to intervene. In other terms, the rich have, *coeteris paribus*, more responsibility than the poor.

It is up to the moral caliber of management to establish a system of points to attribute to the three judging elements and hence to determine whether to apply the Ruggie Principles or the Sullivan Principle to the situations at hand. For example, in the specific case of South Africa, the Ruggie Principles wouldn’t have required the multinational companies operating in that country to intervene against apartheid, which is instead what actually happened. Some of these companies stayed in the country practicing civil disobedience and eliminated all internal discrimination; others instead chose to leave South Africa to testify their aversion to apartheid, even refusing highly profitable investments. This is an important case in which the "prophecy" of Peter F. Drucker – "Successful companies concentrate on responsibility instead of power, on the long run and on the reputation of society, instead of accumulating one short-term result on top of the other" (Drucker 1993, 57) – found a way to come true. We can't however say the same thing about the celebrated case of Shell. Towards the end of the 90s, this multinational oil company started to extract oil from the Ogoni territory in Nigeria, a country that was governed at the time by a military council offering adequate protection for its plants. When the opposing leader, Ken Saro-Wiwa, together with other human rights activists, started to criticize the oil extraction policies, the dictatorship didn't hesitate to take up weapons. On that occasion, Shell remained silent even if its voice and intervention would have avoided the executions. In the name of defending the interests of its stakeholders (shareholders, employees, clients), Shell accepted that human rights be glaringly violated (cfr. W.E. Newburry e T.N. Gladwin, "Shell and Nigerian Oil", in P.H. Donald and P.H. Werhone, eds., *Ethical issues in business,* Upper Saddle River, NJ, Prentice Hall, 2002).

Ruggie's Principles demonstrate their scarce effectiveness in facing the authentic novelty presented today, represented by the disintegration of the supply chain following the rise of delocalization (direct investment; partial or total tenders; creation of special economic zones): from acquisition of primary material to manufacturing; from final assembling to its transportation to the final user. At every link of the chain, a multiplicity of suppliers from different countries is associated. If the benefits of reorganizing the production process are evident, in terms of cost and time reduction, equally evident are the costs in terms of human rights violations (unjust salaries; inhumane working conditions; failing to respect human dignity; gender inequality; and more). What is the greatest risk that the global market is facing today? Giving birth to a *moral divide* between different countries and different areas within the same country. The plurality of ethical standards, associated with different cultural matrices present in the various countries is a strong incentive for multinational companies and others to practice *moral shopping*: you choose to delocalize in countries where the moral canons are looser and the control systems are less strict. This is the great risk of the *race to the bottom* of moral integrity in the area of human rights.

The new economic order has brought to the forefront the principle actor of globalized capitalism: the transnational company as the real and true social institution, on which rests a new responsibility: to defend a democratic market economy. It's exactly because of their role as a social institution that companies, especially the big ones, cannot exempt themselves from contributing to and carrying out the public agenda, and particularly, cannot fail in contributing to resolve the moral divide. A divide due to the absence of a global, polyarchical governance – as one reads in *Caritas in Veritate* by Pope Benedict XVI – capable of formulating standards that could be rendered enforceable universally. In the presence of the declining normative power of nations, the company cannot exempt itself from the duty to contribute to forging a global market law that incorporates those values that are considered non-negotiable. The urgency of such a task is increased by the consideration that those who benefit from human trafficking operations are not always careful to hide in the shadows. Many exercise their trade in the open, daring national authorities to crack down on them – or inviting them to conclude.

5. Ways ahead

The reality of trafficking is exacerbated by multiple sets of interlocking problems such as widening social inequalities, state corruption, ethnic and gender discrimination. Further, all of these are compounded by the contradictions of a contemporary world connected economically and technologically, but in no fundamental way integrated politically or culturally. In this sense, human trafficking, in all its guises, is not so much a disease but a symptom of the enormous contemporary disparities, ironically during the historical apex of mutual global awareness and interconnectedness (D. Kyle and R. Koslowski, "Introduction" to Id., eds., *Global Human Smuggling,* Baltimore, The Johns Hopkins University Press, 2001). As indicated by S. Sassen ("Beyond inequality: expulsions", Columbia Univ., Sep. 2011), in the last two decades there has been a sharp growth in the number of people that have been "expelled" from the economy in much of the world. The term "expelled" describes a diversity of conditions characterizing what is being termed "surplus" population: the abjectly poor, the displaced in countries who are warehoused in formal and informal refugee camps, the trafficked people and people reduced to mere body organs. This massive expulsion is signaling a deeper systemic transformation that is taking us into a new phase of global capitalism.

An effective action against trafficking presupposes a thorough knowledge of the mechanisms and incentive schemes underneath this domain of human perversion. A partial list of some of the broad issues worthy of further research and action is the following. First, in 2016, ILO – the UN International Labor Office – will tackle, as its main topic, the "Decent work in global supply chains" project. The idea is to consider the implications of global supply chains on trafficking. This will be an important step towards the implementation of the celebrated *Declaration of Philadelphia* (1944) – ILO's constitution – where one reads that: "Labor should not be regarded as a commodity"! In 1998 ILO adopted the "Declaration on fundamental principles and rights at work", that comprises "the elimination of all forms of forced or compulsory labor". Ten years later, in 2008, ILO took another step by adopting the *Declaration on social justice for a fair globalization*. It states that ILO needs to reach out to new economic actors, including enterprises. This is a real novelty, since it implies a direct engagement with enterprises – beyond State's intervention – to incorporate the values of decent work. It is easy to understand why the 2016 meeting will prove to be of extreme relevance.

Secondly, the current state system based on territorial sovereignty but characterized by uneven state capacity is wholly inadequate to the task of fighting against trafficking. This fact suggests why it is urgent to take decisive steps toward the creation of a World Anti-Trafficking Agency (WATA). Indeed, in the absence of an Agency or transnational Authority that can enforce the rules laid down in the various Conventions and Treaties, an adequate solution to the trafficking problem will never be found. It is true that there are highly meritorious UN Agencies such as UNHCR and UNODC, but they are not proper multilateral institutions supported and co-managed by a broad spectrum of countries. E.g. the funds continue to come on a voluntary basis from a coalition of a few countries. On the other hand, financial support from private donors seems to have diminished drastically since the end of the Cold War because of the phenomenon known as "donor weariness". Just as there was a need for a transnational institution to ensure that the markets' accelerated integration would produce real benefits for all – this was the reason that led to GATT's transformation into the WTO (World Trade Organization) – in the same way, there is a need today for a WATA to prevent or combat what is occurring.

Thirdly, the economic machinery continues to operate in an unacceptable, unfair way. Inequality has become endogenous to the system and generates not only economic costs (e.g. speculative bubbles; decreasing rates of investment; consumption distortions), but also social and human costs. The case of human trafficking is the most eloquent confirmation. Such a consideration raises a fundamental question: the proper role of ethics in economic affairs. For many people, moral responsibility has a sense in so far as it serves the economic logic of business. The limitation of this line of instrumental rationality is well described by Lynn Paine: "Ethics has gained legitimacy among corporate executives principally by proving its economic value. However, embedded in the confident assertion that 'ethics pays' is a nagging question: 'What if it didn't?'" ("Does ethics pay?", *Business Ethics Quarterly,* 1, 2000; 327). The point here is that if we limit moral responsibility to fit the economic logic of individual or corporate self-interest, we deprive ourselves of any possibility to question the ethical legitimacy of human trafficking practices.

Fourth, because we are dealing with a multifaceted social and political phenomenon, the unintended consequences of particular measures in stopping human trafficking are always counterproductive without an integrated approach. Just to give an example, a militarized border without effective employer sanctions is ineffective and dangerous to the migrants and sends a message opposite to the one intended. The reason is simple to grasp. The presence of trafficking in a country creates a demand for non-productive skills that are associated with violence. As clarified by Laura Ralston ("Trafficking and fragility in West Africa", World Bank, WP 7079, Oct. 2014), joining trafficking operations has detrimental long-term impacts on an individual's economic trajectory. By encouraging individuals to develop skills adapted to the illegal economy rather than the formal sector, trafficking may lock them into the former, limiting their future economic prospects. At the social level, having individuals work in a violent and lucrative industry has destructive effects. It disrupts social relations by decumulating social capital, and lowers social support for democracy and the law. In fact, traffickers can have complex relations with the State. They may effectively provide an alternate system of governance based on coercion and corruption. Over time, these alternate governance systems can become entrenched and even legitimized by local populations who benefit from the provision of social services that the State is not capable of providing.

Finally, an intriguing issue deserving further, serious research is the one dealing with the phenomenon of economic complicity. It is known that our decisions can have far-reaching effects by either ennobling or debasing human lives. In his important contribution, *Market Complicity and Christian Ethics*, CUP, 2011, Albino Barrera raises a fundamental question: "Are we morally responsible for the distant harms spawned by our market transaction? If so, what are the grounds for these non-contractual obligations?" (p. 1). The Author identifies how the market's division of labor and specialization, makes us unwitting collaborators in others' wrongdoing and in collective ills. There is little scholarship on economic complicity and even less on moral complicity. To what extent – asks Barrera – are we culpable for the unintended consequences of our actions? Commonsense tells us that we cannot be held to account for everything. But where do we draw the limits of our moral obligations? To compound the dilemma is the fact that we often have to deal with accumulative harms in which acts that seen benign at the individual level become very injurious at an aggregated level.

An important case for market complicity is the strengthening of wrong-door economic viability in the field of human trafficking. This occurs by increasing the demand for wrongful activity. The incremental demand furnished by customers willing to buy the services provided by trafficked victims directly assists the many criminal organizations by pushing them beyond their shutdown point. This occurs whenever increased consumer demand helps these organizations to achieve economies of scale in production. So individual buying decision can potentially be the tipping point in bringing the organization over the top to its optimum scale of production. The power of consumer agency is confirmed by hard empirical evidence. N. Kristof (*The New York Times,* Jan. 11, 2009) describes the economies of prostitution and trafficking in Cambodia. In turn, in his letter to the International Conference on “21st Century Slavery” on May 15, 2002, Pope John Paul II wrote: “Attention needs to be paid to the deeper causes of the increased demand which fuels the market for human slavery and tolerates the human cost which result”.

I would like to conclude with a thought by Hannah Arendt, when in her famous work, *The origins of totalitarianism* (San Diego, Harcourt Inc., 1968), she wrote that to be a human being signifies to have the right to have rights. “This new situation in which humanity has in effect assumed the role formerly ascribed to nature or history, would mean... that the right to have rights... should be guaranteed by humanity itself. It is by no means certain whether this is possible... for the time being; a sphere that is above nations does not exist” (p. 298). Here lies the paradox of human rights: that those who, like the trafficked people, would need them the most are also those who are unable to obtain them. Contrary to Arendt’s pessimism, I do believe that we have reached a time when it is feasible to solve such an intolerable paradox. Indeed, those with no hope in the future have only the present and those who have only the present have no compelling reason to be interested in innovative endeavors. But, fortunately, people who continue to entertain a hope in the future have not disappeared altogether.