

**Janina Mitwalli**

SEVERE  
**LABOUR EXPLOITATION**  
AND **TRAFFICKING**  
**IN HUMAN BEINGS**  
FOR THE PURPOSE  
OF **LABOUR EXPLOITATION**  
**IN THE CASE OF WOMEN –**  
AN INVISIBLE  
PHENOMENON?

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Translated excerpt from the study „*Menschenhandel zum Zweck der Arbeitsausbeutung und schwere Arbeitsausbeutung von Frauen – ein nicht-gesehenes Phänomen?*“ published in 2016.

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Trafficking in Human Beings

## **THE AUTHOR**

### **Janina Mitwalli**

Born in 1988, Janina completed an MA in Gender Studies and Oriental Studies at the Ruhr University in Bochum. After working on sustainable economic policy and in employment promotion in Cairo for the German Gesellschaft für Internationale Zusammenarbeit (GIZ), she returned to Germany and is now based in Berlin. Her main areas of focus are human rights, migration issues, and political and social developments in the MENA region.

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# 1. INTRODUCTION

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Severe labour exploitation and trafficking in human beings for the purpose of labour exploitation<sup>1</sup> are multidimensional issues which can affect individuals in very different ways. This is why a detailed discussion of these two extreme forms of labour exploitation requires a nuanced analysis that also takes into account structural categories such as gender. Severe labour exploitation and trafficking in human beings for the purpose of labour exploitation are not gender-neutral phenomena. They must be studied through the lens of gender-based forms of inequality, violence and migration such as labour-market segregation and traditional gender roles. Alongside gender, other categories play a key role, such as nationality, education and social background. This short explanation already shows what a complex undertaking it is to study the different forms of labour exploitation.

Another issue is that it is not always straightforward to distinguish between trafficking in human beings for the purpose of labour exploitation and severe labour exploitation, since they partially overlap and can be different stages of the same process.<sup>2</sup> Moreover, working conditions in many cases are similar, with such common characteristics as comparatively low or inexistent wages, irregular working and holiday times, and no protection against dismissal. Our study will therefore focus on severely exploitative labour conditions verging on trafficking in human beings, but also on employment situations that have clearly crossed this threshold. This will ensure that our perspective remains unrestricted by overly rigid theoretical definitions.

Examination of public discussions, e.g. in the media, shows that there is a lack of nuance. Trafficking in human beings tends only to be associated with sexual exploitation or assimilated to trafficking in women and “forced prostitution”.<sup>3</sup> Media coverage on severe labour exploitation usually focuses on industries in which workers are predominantly male, e.g. construction, the meat-processing

1 The study had already been completed by the time the German Criminal Code reform came into force on 15.10.2016. It therefore refers to the offence of trafficking in human beings as defined by the Criminal Code's previous version from 19.02.2005.

2 See [EU Agency for Fundamental Rights FRA \(2015b\)](#): 3.

3 Jürgs, Michael (2016): Globaler Menschenhandel. Prostitution als „exorbitantes“ Geschäftsmodell [sic] [Global trafficking in human beings: prostitution as an “exorbitant” business model] in: Die WELT, 02.06.2016, (<https://www.welt.de/politik/deutschland/article155810700/Prostitution-als-exorbitantes-Geschaefts-model.html>, retrieved 21.10.2016); Spiegel Online (2016): Verdacht auf Menschenhandel. Großrazzia im Berliner Nobelbordell Artemis [Suspicious of trafficking in human beings: large-scale raid in swish brothel Artemis in Berlin], 14.04.2016, (<http://www.spiegel.de/panorama/justiz/berlin-grossrazzia-im-nobelbordell-artemis-a-1087061.html>, retrieved 21.10.2016); Scheh, Christian (2015): Prostituierte als Opfer. Prostitution: Menschenhandel floriert in Frankfurt [Prostitutes as victims. Prostitution: trafficking in human beings rife in Frankfurt], in: Frankfurter Neue Presse, 04.05.2015, (<http://www.fnp.de/lokales/frankfurt/Prostitution-Menschenhandel-floriert-in-Frankfurt;art675,1382990>, retrieved 21.10.2016)

industry or logistics.<sup>4</sup> The fact that women are also affected is seldom mentioned in this context. However, feedback from specialised counselling centres working with trafficked persons in Germany suggests that such mental connections are too narrow and are based on gender stereotypes. This is why a gender-sensitive approach strikes us as so important. This ensures that we avoid perpetuating and consolidating stereotypes such as women = individuals trafficked for the purpose of sexual exploitation and men = individuals trafficked for the purpose of labour exploitation, while making sure that victims are not ignored if they do not fit into this matrix.

Some papers have already focused on gender in the context of trafficking in human beings. This was the case of the European Commission's "Study on the gender dimension of trafficking in human beings", which stressed the extent to which "gender" is a key social category when studying and dealing with trafficking in human beings.<sup>5</sup> Its title suggests that all forms of trafficking are covered. However, the Commission only analysed sexual exploitation and disregarded all other forms of trafficking. It also only focuses on women and girls. The Commission believes that a gender-sensitive approach is important to emphasise the link between victimisation of women and girls and sexual exploitation, hence its final recommendations concluding the study: "These needs of victims of trafficking are gender-specific since women are, more often than men, the victims of trafficking for purposes of sexual exploitation."<sup>6</sup> The limited scope of this analysis means that the term "gender" is used as a synonym for women and girls and that trafficking in human beings is reduced to sexual exploitation only. This approach perpetuates and cultivates the public's associations with trafficking in human beings.

4 See, for instance, Hansen, Axel (2016): Ausbeutung in Echtzeit? [Real-time exploitation?], in: ZEIT ONLINE, 03.08.2016, (<https://www.zeit.de/wirtschaft/2016-08/amazon-prime-now-lieferdienst-versand-online>, retrieved 21.10.2016); Hassel, Hendrik (2016): Aus deutschen Landen [Made in Germany], in: der Freitag, 01.08.2016, (<https://www.freitag.de/autoren/der-freitag/aus-deutschen-landen>, retrieved 21.10.2016); TAZ (2016): Ausbeutung am laufenden Band [Conveyor-belt exploitation], 24.05.2016, (<http://www.taz.de/!5303659/>, retrieved 21.10.2016); zDF (2016): Die dunkle Seite der Spargelernte [The dark side of asparagus harvesting], 12.06.2016, (<http://www.zdf.de/sonntags/saisongemuese-43843990.html>, retrieved 21.10.2016); Meyer, Carmen (2015): Ausgebeutet – mitten in Europa [Exploited in the heart of Europe], in: Deutsche Welle, 21.08.2015 (<https://www.dw.com/de/arbeitsausbeutung-in-deutschland/a-18669402>, retrieved 21.10.2016); Lorenz, Till H. (2015): Ausbeutung von Pflückern in SH: Tatort Erdbeerfeld? [Exploitation of fruit pickers in Schleswig-Holstein: the strawberry field as a crime scene?], 21.07.2015, in: SHz, (<http://www.shz.de/regionales/schleswig-holstein/wirtschaft/ausbeutung-von-pflueckern-in-sh-tatort-erdbeerfeld-id10270181.html>, retrieved 21.10.2016).

5 European Commission (2016): 22.

6 Ibid: 195.

The aim of our study is to examine whether women<sup>7</sup> in Germany are affected differently to men by severe labour exploitation or trafficking in human beings for the purpose of labour exploitation or whether they are viewed differently by the general public, political spheres and authorities and whether it is known that women can also be affected. To date, there has been little research based on a gender-specific approach. Observations from the ground suggest that women in Germany are exploited in many fields that receive less coverage from the media and politics than the meat-processing industry or agriculture, for example. This study will therefore examine whether affected women are visible enough to the wider public, political spheres and authorities and, if not, why this is the case. The insights will help promote adequate political strategies and create and develop support structures. Since the 1990s, sexual exploitation has received much attention, resulting in the establishment of counselling and support structures. Meanwhile, other forms of trafficking have fallen by the wayside. This focus is also reflected by reported statistics in Germany in the two types of codified trafficking offences.<sup>8</sup> According to the German Federal Crime Police Office, there were 416 cases of trafficking in human beings for the purpose of sexual exploitation<sup>9</sup> and only 54 reported cases of trafficking in human beings for the purpose of labour exploitation (mainly in construction and the hospitality industry)<sup>10</sup> in 2015. However, the statistics only include completed investigations in cases of trafficking in human beings.<sup>11</sup>

Empirical surveys and data are indeed important if we are to reach a general understanding of the structures, processes and extent of severe labour exploitation and trafficking in human beings for the purpose of labour exploitation, and to develop adequate measures. However, they are not enough:<sup>12</sup> in view of the available data, we must assume there are many unreported cases.<sup>13</sup> This is why reports and data from civil society are so important, especially information from special-

7 Due to limited resources, this study cannot examine the impact and working and living conditions of intersex and transgender people. Generally speaking, it is difficult to obtain information regarding how they are affected as they are rarely taken into account in surveys. This study will therefore focus only on the situation of women who have faced or are facing severe exploitation or trafficking in human beings for the purpose of labour exploitation.

8 Trafficking in human beings for the purpose of sexual exploitation (Section 232 of the German Criminal Code) and trafficking in human beings for the purpose of labour exploitation in the 19.02.2005 version of the German Criminal Code (Section 233). Editor's note added in 2018: after a criminal law reform in 2016, all exploitation forms mentioned in EU Directive 2011/36/EU have been implemented in German criminal provisions.

9 [German Federal Criminal Police Office](#) (2016): 6.

10 *Ibid*: 12.

11 *Ibid*: 3.

12 Empirical data on the extent of severe labour exploitation and trafficking in human beings for the purpose of labour exploitation compiled using data by the European Union's statistical office, Eurostat, for the 2010–2012 period: Eurostat (2015): 10, 29, 32. In 2012, the International Labour Organisation (ILO) also published estimated figures on the number of persons affected by trafficking, forced labour, and severe labour exploitation in the world (ILO 2012).

13 See [German Federal Criminal Police Office](#) (2016): 13.

ised counselling centres working with trafficked persons, as well as trade union-based organisations. They help us develop deeper insights into the issue and the working and living conditions of victims in Germany. This study will therefore focus on expert statements from various fields. The outcomes of the study should help us expand our knowledge and gain a new impetus for discussions about trafficked persons' access to rights and the creation and development of support and counselling services.

The next chapter will begin by outlining our methodology. In Chapter 3, we will then define severe labour exploitation and trafficking in human beings for the purpose of labour exploitation to be able to analyse their features and characteristics in Germany and examine whether the visibility of victims varies according to gender. Chapter 4 will present and analyse the outcomes of the expert interviews from four main viewpoints. We will begin by presenting the experts' insights on the public's perception of trafficking in human beings and severe exploitation to draw conclusions on whether and to what extent severe labour exploitation, trafficking for the purpose of labour exploitation and victims are visible. This analysis will be based among other things on media coverage. A second part will discuss whether socially constructed images of gender and associated cases of segregation in the labour market have an impact on the visibility of female victims, the key question being whether trafficked women may not be identified as such by the public, authorities, political spheres and counselling centres in some fields of work or industries due to their gender. The third chapter will turn to the industries in which severe labour exploitation or trafficking in human beings for the purpose of labour exploitation are deemed to be most likely, also discussing how counselling centres and authorities can gain access to some of these industries. The fourth and final chapter will discuss how victims can enforce their rights and make sure their interests are represented. This part will focus on whether female victims have other ways of accessing these as men and whether this has any impact on women's visibility as trafficked individuals. Chapter 5 will include an overview of the outcomes as well as final conclusions.

[...]

## 5. CONCLUSION

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This study has examined whether men and women are perceived differently as victims of severe labour exploitation or of trafficking in human beings for the purpose of labour exploitation by the wider public, political spheres and authorities. Our conclusion is that this is indeed the case. Our research shows that women are less often identified and referred to as victims of extreme forms of labour

exploitation. We were able to identify four factors that play a critical role in this respect and that potentially explain this discrepancy: biased media coverage; gender-stereotypical expectations; differences in access to different industries on the part of authorities and counselling centres; and in access to rights on the part of trafficked persons.

### ***Media coverage***

Our first insight is that – due to media coverage – trafficking in human beings is still perceived as very different from severe labour exploitation by the wider public.

Trafficking in human beings is often associated with the sexual exploitation of women, while trafficking for the purpose of labour exploitation is rarely mentioned. The latter tends to be discussed only among professionals.

Severe labour exploitation, however, has received more and more attention from the media in the past few years, with reports on exploitative practices in the meat-processing industry and in construction. In some cases, other forms of severe labour exploitation in the care sector, which affect primarily women, have been highlighted.

In this respect, the discussion remains dominated by stereotypes, e.g. men = victims of labour exploitation and women = victims of trafficking in human beings for the purpose of sexual exploitation.

The experts we interviewed stressed how important it is to address and deconstruct this distorted image, as it can cause women to be less visible as victims of severe exploitation or of trafficking for the purpose of labour exploitation, or only in certain industries. The experts therefore highlighted the need for a paradigm shift within society and to raise awareness of this issue within the wider public.

In order to achieve this, the media would have to stop reporting in a way that perpetuates such stereotypes. Media representatives from newspapers, radio or elsewhere can contribute to making women more visible to the public as victims of severe labour exploitation by reporting on such cases and, more importantly, by making clear that these are not isolated cases and that many women in Germany are affected.

More nuanced media coverage could also help raise awareness of forms of severe labour exploitation affecting women and of the link between trafficking for the purpose of labour exploitation and severe labour exploitation. The public would then realise that there are many cases of severe labour exploitation and trafficking in human beings for the purpose of labour exploitation within our society and that many people may have encountered this phenomenon, even unconsciously.

### ***Gender-stereotypical expectations***

Secondly, the visibility of women as potential victims of severe labour exploitation or of trafficking in human beings for the purpose of labour exploitation is also influenced by gender stereotypes. Socially constructed gender roles and the attribution of gender-specific features to certain jobs mean that people tend to expect men or women to feature in certain industries or fields.

Because workers in the meat-processing industry are predominantly male and the job has more masculine associations, women are less expected to be found in this field. This can also be the case with men working in care, for example.

Such gender stereotypes are an issue as they can mean that individuals who do not “fit” into the framework are less likely to be identified, such as women in agriculture or meat processing. Gendered divisions of labour also lead to women being assigned to the home and the family, while men are expected to pursue gainful employment and to remain in the public sphere. However, domestic work and looking after a family do not tend to be seen as real jobs in the sense of gainful employment, but rather as something “natural”. This can mean that some forms of severe labour exploitation in domestic settings are less recognised by society and that affected women are therefore less likely to be identified as such.

Gender roles within society and the family have changed very little over the past few decades, due to, among other things, various policies such as a childcare allowance for parents (usually women) remaining at home („Betreuungsgeld”) and income splitting tax measures. Due to such policies, women tend to take on family and domestic responsibilities more than men, and are therefore assigned to the private sphere instead of that of gainful employment. To end this gender division of labour, we need policies that guarantee gender equality both in the private and in the public sphere. This could include regulations ending the gender pay gap or reconciling work and family life.

### ***Access to industries for support structures and authorities***

Thirdly, it must be noted that counselling centres and authorities such as customs or police officers do not have equal access to all industries. Fields in which women predominantly face severe exploitation or trafficking for the purpose of labour exploitation tend to be more difficult to access. This is the case for private households or farms, for example. Because of this challenge, counselling centres sometimes cannot reach out to affected women or the latter do not seek support. This is also true for authorities in charge of inspections – the limited access makes it difficult for them to investigate and carry out controls. Cases in such fields therefore remain invisible and unreported.



## ***Access to justice***

The fourth and final outcome of this study shows that individuals seek access to justice or make use of their human or labour rights in very different ways. These variations depend on each and every person's ability to join or create advocacy groups. However, they are also conditional on male and female tendencies that result from different socialisation processes, gender-specific experiences (of violence), experiences with state structures in the country of origin, and personal relationships at work.

In cases of exploitation, it is often crucial for affected persons to get together with other victims or join an existing trade union or group to draw attention to and address abuse or exploitation. However, this proves extremely difficult in small rural businesses or in private households. Due to their isolated working conditions, care and domestic workers in private households have very few options to enforce their rights. Another point mentioned by experts from specialised and trade-union-based counselling centres is that affected men and women tend to have a different focus: men tend to mention the violence they may have experienced less than women during consultations with counselling centres and do not see themselves as "victimised" but as "cheated". According to the same experts, men concentrate on claiming unpaid wages or on finding another job and enforce their labour rights more than women. Women, however, are more likely to elaborate on the violence they experienced, as well as their worries and fears. Their main concern at the beginning is to secure financial support and accommodation and seek help to organise their return to their home country or to find a new job. The experts report that women, especially those exploited in a private household, are less likely to try and enforce their labour rights, which is why their cases are more likely to remain unidentified as such by the authorities, political spheres and the wider public.

These four aspects provide insights into why female cases of severe labour exploitation and trafficking in human beings for the purpose of labour exploitation are less visible to the wider public, authorities and political spheres. However, another outcome of this study is that the contributing factors in this respect are not a surprise. Counselling centre staff have been stressing for many years that women lack visibility as victims of severe labour exploitation or trafficking for the purpose of labour exploitation. Many of the aspects presented probably overlap and confirm their observations. This highlights how little has changed in the past few years and that we need a wide-ranging debate on this issue to raise awareness of trafficking in women and to improve their access to support structures and to justice. The outcomes of this study are therefore an encouragement to promote discussions in the media and in society, as well as in political, administrative and legal spheres.

The foundation for a stronger debate on this issue has already been laid and various stakeholders have launched joint initiatives. These must now be developed. This is the only way to make sure future policies addressing trafficking in human beings for the purpose of labour exploitation take into account trafficked women more and make them more visible to the wider public, authorities and political spheres.

## 6. KOK'S SUMMARY AND RECOMMENDATIONS

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This study's main aim was to make progress in the discussion and debate on severe labour exploitation and trafficking in human beings for the purpose of labour exploitation, especially in the case of women. Its outcomes already show that a wide-ranging debate is necessary in many respects. KOK wishes to issue a set of recommendations and next steps based on the study's insights:

### ***Recommendations at the national and regional level***

- A gendered division of labour is still visible in Germany. Women are much more likely to work in care and domestic jobs than men. Such jobs are partly not seen as gainful employment, which means that some forms of severe exploitation are less likely to be perceived as such by society and women are at risk of not being identified. To address this issue and achieve social recognition and valorisation of domestic work, a paradigm shift is necessary. We call upon politicians to take the necessary measures to put an end to gendered labour division and change the perception of such less valued jobs.
- To identify cases of trafficking in human beings and severe labour exploitation, the police, customs and prosecuting authorities need sufficient resources. With more staff, they could for example set up specialised departments dedicated to fighting severe labour exploitation and trafficking in human beings for the purpose of labour exploitation. Officers in this field should also be trained to be aware of gender stereotypes when investigating specific industries and to seek out female cases of severe labour exploitation and trafficking in human beings for the purpose of labour exploitation.
- The various stakeholders (including specialised counselling centres and relevant public bodies) need sufficient resources to promote collaboration. Networking is very important for practical collaboration, but also to share

expertise. This also enables planning and implementation of joint procedures and strategies which, in turn, improve the situation of trafficked persons and contribute to more effective prosecution.

- Specialised counselling centres addressing trafficking in human beings and trade union-based counselling centres must receive sufficient funding to be able to offer services tailored to different target groups. It must be noted that this varies widely depending on the field the trafficked persons work in and can require different knowledge and language skills on the part of counselling centre staff as well as different counselling approaches. Counselling centres may have to take into account different needs depending on gender and develop suitable counselling and support services.
- NGOs must also have enough funding and staff to engage in networking and training.
- Many specialised counselling centres working with trafficked persons have already offered advice and support to persons trafficked for the purpose of labour exploitation for several years. However, in many cases, they have neither an explicit mandate to do so nor additional funding to offer adequate services. Counselling centres must therefore urgently be given a mandate upon their request, as without it, they cannot apply for additional funding and expand their services.
- It would be advisable to carry out a comprehensive empirical study in order to gain a more reliable picture of the extent to which women are affected by severe labour exploitation and trafficking in human beings for the purpose of labour exploitation and to make women more visible as a target group. It would be interesting for instance to look into an industry in which both men and women are exploited, and to analyse more precisely the public's perception and how trafficked persons cope with their experience. The question of the different needs of men and women raised in the expert interviews should also be comprehensively studied.

### ***Recommendations to support structures***

- Existing networks and bodies, especially on the ground, should share successful access strategies and best practices to reach out to trafficked persons in industries that are difficult to access. A variety of approaches or projects, such as online forums or working with communities or religious communities have proved useful. Such experiences must be shared and

accessible to other stakeholders. Exchange of practical experience should also focus on gender-specific differences with regard to the support of trafficked persons and on whether advisory approaches need to change to enable equal access to justice.

- Counselling centres addressing trafficking in human beings and exploitation must continuously extend their networking activities to migrant organisations, as various target groups turn to them regarding different topics. They can therefore inform their audience on trafficking in human beings and exploitation and their rights, and refer them to specialised counselling centres. Due to their language skills in particular, such organisations have other ways of reaching out and are key stakeholders in prevention matters and support to trafficked or exploited persons.
- Regular training of relevant stakeholders, such as authorities, police, other counselling centres, are also crucial to teach them to avoid gender stereotypes and gender-specific expectations and raise awareness of society's perception of gender roles. With regard to trafficking in human beings and severe labour exploitation, this could help identify victims in industries that are not typically associated with a particular gender. Such training courses could be carried out by specialised counselling centres working with trafficked persons.
- As forms of exploitation tend to overlap, any creation or development of support structures should ensure as much as possible that there is no strict separation between the different forms of exploitation or that collaboration between stakeholders is effective in the event of divided responsibilities.
- Dividing up responsibility according to the form of exploitation without having any type of overall coordination can mean that such services become duplicated and that there is too little cooperation on such activities. This is true both at the regional and national level. Separating responsibility entails a risk of perpetuating the stereotypes identified by the study and that the stakeholders in charge of sexual exploitation only or mainly focus on women and that support structures addressing labour exploitation and trafficking for the purpose of labour exploitation concentrate mainly or exclusively on men. This bears a risk that both men and women, but also for individuals who do not identify with any of these categories, will not receive adequate support.

- Germany already has efficient mechanisms. However, integrating the existing structures will, in KOK's eyes, be one of the main challenges of the coming years.

### ***Recommendations for the media***

- The media have a considerable impact on society's perception of trafficked persons. To resist the media's common representations<sup>14</sup> and stereotypes such as men = trafficked for the purpose of labour exploitation and women = trafficked for sexual exploitation, it would be advisable for journalists and editors to receive training. One option would be to establish an active collaboration between counselling centres, for instance, and journalism schools. Joint training courses could raise awareness among journalists of the fact that women are not only exploited for sexual purposes, but can also face labour exploitation. Such training courses could also stress that women are not only exploited in typically "feminine" industries, but also in branches in which women tend to be less expected.

<sup>14</sup> In 2013, KOK published a position statement on the media's coverage of trafficking in human beings: [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/stellungnahmen/Umgang\\_Presse\\_mit\\_MH\\_2013\\_final.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/stellungnahmen/Umgang_Presse_mit_MH_2013_final.pdf)

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