



BC RESEARCH PROJECTS

Financial Vulnerability of Victims as a Factor in Human Trafficking in Southeast Europe

Karlo Ressler

Introduction

Human trafficking as a social phenomenon has been discussed from a wide range of perspectives. These have included, inter alia, research focuses on human rights, international law, migration, as well as on gaps in economic development. The main objective of the research project on human trafficking in Southeast Europe, conducted within Research Focus I of the Max Planck Partner Group for Balkan Criminology on Violence, Organized Crime and Illegal Markets, however, is to analyse human trafficking, primarily as a crime and as a criminal offence.

In particular, the study focuses on describing and interpreting how human trafficking looks like in the region and what are the main reasons for this. With this aim, the project adopts dominantly qualitative research methods of data collection and interpretation. This means that research data were collected mainly from court judgments and case files related to human trafficking, as well as from semi-structured interviews with convicted human traffickers on the one hand and related legal professionals on the other (primarily prosecutors, civil servants, judges, and lawyers).

The exact scope of human trafficking in Southeast Europe is largely unknown. This can be explained at least partially by the difficulties in distinguishing between trafficking and other trafficking-like offences, such as procurement for prostitution. Perhaps even more significantly, there are also gaps in the knowledge about the nature of the crime in the region. Little is known about offenders and victims, their relations, ways of recruitment, levels of violence, organisation schemes and manifestations of different exploitation types. Nevertheless, even a superficial look at media portrayals and dominant narratives demonstrate that strong assumptions and assertions about the crime exist, in particular about its violent nature and the powerlessness of its victims.¹

Examples of financial vulnerability in examined cases and preliminary findings

The subjugation of victims is not necessarily caused by physical violence, fraud, or direct coercion by perpetrators. The exploitation can also be achieved, as the UN Trafficking Protocol definition notes, via an ‘abuse of power or of a position of vulnerability’. Previous research has assessed connections between trafficking and the victims’ financial situation, employment, social status, with criminal conduct.² In this context, it is not surprising that poverty, unemployment, and poor housing conditions have been suggested as external criminogenic factors not only of crime in general, but also of human trafficking in Southeast Europe.³ Moreover, the countries of Southeast Europe have undergone a particularly difficult transition over recent decades, even when compared with the other former communist countries in Central and Eastern Europe.⁴ It is thus assumed that the economic and social inequalities between Southeast Europe and more developed countries of Western Europe, in combination with a lack of education and naïve attitudes, as well as the impact of success stories as pull factors in search of a better life, have been among the main human trafficking ‘vulnerability elements’ in the region.⁵

This assumption about the importance of the financial aspect of human trafficking in Southeast Europe has been confirmed in the conducted interviews and

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through the analysis of more than 50 human trafficking cases, studied mostly through court judgements. Prior to exploitation, a large percentage of victims lived in very unfavourable living conditions and were often unemployed. In a telephone conversation intercepted by the police, for instance, a young Montenegrin woman explains to her acquaintance, who was later convicted of recruiting her for human trafficking with the purpose of sexual exploitation, the intensity and consequences of her poverty.⁶ She complains openly that she did not leave home for several days because she did not have any money and that she had been frustrated about having to ask her boyfriend to buy her tobacco on a daily basis. Similarly, a case of human trafficking for sexual exploitation from Ukraine through Serbia, testifies about the extremely poor living conditions and difficult financial situation of the two recruited girls.⁷ They both lived in a rural area with their parents; they were trying to study in a nearby city and were completely financially dependent on their parents' pensions and salaries, as well as the good will of their boyfriends. Because of their financial situation, they had never left their country before they were recruited by false promises of employment in Germany. The joint income of each of their households was between US-\$ 100 and 150.

State prosecutors have often built cases around the abuse of difficult financial circumstances, arguing that instances of apparently consensual prostitution should legally be qualified as human trafficking due to the victims' financial situation. In regard to this issue, court practice in Southeast Europe seems to be

relatively inconsistent. Different courts have established different standards in drawing a line between procurement in prostitution and human trafficking for sexual exploitation. In some instances, although the women who provided sexual services do not consider themselves as victims of human trafficking, courts have established that exactly this criminal offence has happened.

In other cases, however, it is concluded that a special level of abuse and exploitation is required for a crime to be human trafficking. Moreover, in refuting such claims made by the prosecution, one court judgement argued that the abuse should be particularly pronounced to qualify as an element of human trafficking:

*"It is a common knowledge that the job of providing sexual services for monetary exchange – prostitution – is not conducted by girls from favourable material conditions, but rather from social classes whose economic living standards are at low levels and that by that job they ensure themselves their living existence."*⁸

In this research project, it has been confirmed that this 'common knowledge' can be easily extrapolated for human trafficking as well. Poverty, unemployment, and the resulting social exclusion seem to be significant factors of vulnerability. In conducting the study, there was not a single case of human trafficking found, regardless of the exploitation purpose, in which the victim could be considered well-off, affluent, or socially privileged.

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Conclusion

This research project of the MPPG for Balkan Criminology on human trafficking in Southeast Europe attempts to describe the phenomenology of the crime in the region and to analyse its causes. The abuse of the financial vulnerability of victims is an important component of these analyses. In this regard, there are two significant preliminary findings in relation to financial vulnerability of human trafficking victims in Southeast Europe. First, this aspect seems to be a very important factor in recruiting victims for various types of exploitation in the region. Secondly, this consequently means that this factor is of major relevance in understanding the occurrence of the crime.

It is possible that these preliminary findings may not be generalisable to all human trafficking cases: It has often been argued that undetected cases of human trafficking do not only change the scope of the crime, but also that their identification may substantially modify the prevalent characteristics thereof. This may be true to a certain extent. Nevertheless, the

fact that in many instances of human trafficking in Southeast Europe the financial vulnerability of victims plays a role in recruiting may help us to better understand the social dynamics between traffickers and victims. The finding is also highly relevant for choosing the most effective anti-trafficking and law enforcement measures.

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Notes

- 1 For a deeper explanation on construction of victimhood narrative, see *Cojocar* 2015.
- 2 *Apel* 2009; *Costelloe & Michalowski* 2009.
- 3 *Adbyli* 2017, p. 21.-24.
- 4 *Uvalić* 2010.
- 5 Government of Romania (2015).
- 6 Trial Judgement Montenegro 2, 2012.
- 7 Trial Judgement Serbia 1, 2006.
- 8 Trial Judgement Montenegro 2, 2012.

BC RESEARCH NEWS

Balkan Homicide Study Mid-Term Workshop, Freiburg 26-28 November 2017

Petra Šprem

The Balkan Homicide Study

The Balkan Homicide Study is a major empirical research project of the MPPG on lethal violence in the region. The main goal is to provide an insight into the social and legal construction, as well as the phenomenology of homicide in the Balkans. The study includes eight countries of the Balkan Criminology Network: Bosnia and Hercegovina, Croatia, Hungary, Kosovo, Macedonia, Serbia, Slovenia and Romania. Based on the research concept and methodological guidelines developed at a first joint working meeting in Zagreb (see *Balkan Criminology News* 1/2016), the research is still in the stage of data collection in six countries. In Croatia and Macedonia, data sets are already complete. According to the research plan a total of N = 3,500 case files shall be analyzed.

On 27 and 28 November 2017, the mid-term workshop of the project was scheduled and held at the Max Planck Institute for Foreign and International Criminal Law in Freiburg, Germany. The theme of the workshop was: **The Balkan Homicide Study – Project Challenges**. Based on the fieldwork experiences made by the Croatia research team, the workshop aimed at discussing practical problems and challenges as well as all methodological issues concerning the data collection, data management and data analysis. In order to generate a reliable and comparable data set on homicide in the different countries, all items provided in the questionnaires were carefully refined and customized with regard to the various legal and procedural peculiarities of all jurisdictions involved. Differences also include bureaucratic procedures which are important for the setting up of realistic access strategies to the case files of



courts and prosecution offices. In addition, terminological and other language issues were discussed in order to ensure accuracy of the translation of the general questionnaire into the local languages.

The Croatia Sample

During the workshop, the Croatia research team also presented first preliminary findings. In Croatia, the fieldwork started in July 2016 and was completed in June 2017. During this period, a total number of 686 pertinent cases with a final judicial decision covering the period of 2010 until 2014 were identified and explored. The sample of 686 cases comprise 438 attempted and 267 completed homicides, involving 743 offenders and 760 victims. In most of the cases, cold weapons were used as instruments of the crime. Whereas a high percentage of the offenders have plead “not guilty” (71.8 %), 77.5 % were finally convicted at the end of the court proceedings.

Participants

Besides the project leaders – Prof. Dr. Hans-Jörg Albrecht, director at the Max Planck Institute, and Assoc. Prof. Dr. Anna-Maria Getoš Kalac, head of the MPPG – scien-

tists from all participating countries were present: Dr. Orsolya Bolyky and Dr. Eszter Katalin Sárík from the National institute of Criminology (OKRI) in Budapest (Hungary); Mr. Rok Hacin, researcher from the University of Maribor (Slovenia); Dr. Xhevdet Halili from the Faculty of Law in Pristina (Kosovo); Ms. Sandra Kobajica, teaching assistant at Sarajevo University (Bosnia and Hercegovina); Dr. Natalija Lukić from the Faculty of Law in Belgrade (Serbia); Dr. Boban Misoski from the Iustinianus Primus Faculty of Law in Skopje (Macedonia); Assoc. Prof. Dr. Andra-Roxana Trandafir, vice-dean of the Faculty of Law in Bucharest (Romania).

Further attendants were Dr. Volker Grundies, Max Planck Institute, and Ms. Reana Bezić and Ms. Petra Šprem, MPPG, Zagreb Faculty of Law, who are also in charge of the data management. As special guest, Mr. Dražen Jelenić, General State Attorney First Deputy of Croatia, provided valuable practical input from the prosecutorial perspective.

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The MPPG was very pleased to host the General State Attorney First Deputy of the Republic of Croatia, Mr. Dražen Jelenić as a participant at the mid-term workshop of the homicide research project in Freiburg. At the occasion of his visit to Germany, the guest from Croatia was officially welcomed on behalf of the State Attorney General at the Higher State Court of Karlsruhe by the District Chief Prosecutor of Freiburg, Mr. Dieter Inhofer. On the following day, a meeting with the Federal Attorney General of Germany, Dr. Peter Frank, was organised at his office in Karlsruhe. Besides an introduction into the Balkan Homicide Study the officials had an intensive exchange on topics of mutual interest, in particular on current challenges of prosecution, early detection of terrorism and international cooperation. In addition, the high significance of empirical and scientific knowledge for the prosecutorial practice was emphasized. Mr. Jelenić was accompanied by the head of the MPPG, Assoc. Prof. Dr. Anna-Maria Getoš Kalac.



Dražen Jelenić
Anna-Maria Getoš Kalac
Peter Frank

NEWS FROM BC PARTNERS

A New Step Towards Improved Victim Rights in Turkey: The Bill on the Victim Rights Act

Selman Dursun

Since the Turkish Penal Law Reform of 2004 and 2005, many important regulations on victim rights have been carried out. In the Penal Procedure Code of 2004, victim rights during the penal process are regulated collectively in a separate section. Further, the victim's role in various transactions, their inclusion in a public claim as an injured party, and offender-victim mediation are foreseen. The Child Protection Act of 2005 contains several protective and supportive measures for children who have drifted into a life of crime but also for those who are neglected, abused, or victimized. The 2012 Act on the Protection of the Family and the Prevention of Violence Against Women

(which is based on the Council of Europe or Istanbul Convention on preventing and combating violence against women and domestic violence of 2011) regulates protective and preventive measures

for victims of violence and establishes violence prevention and monitoring centers. For more information on victims' rights in Turkey, see *Sokullu-Akinci/Dursun*, *Viktimoloji* (Mağdurbilim), 3. Ed., 2016.

In addition to these regulations, a draft bill on the Victim Rights Act also currently exists. In the draft, the victim is defined as a person who has directly suffered physical, mental, psychological, or economic harm as a result of the commission of a crime. The draft bill sets forth the basic principles and rights of victims and regulates specific services for victims with certain characteristics (named as vulnerable groups), especially victims of sexual crimes. Furthermore, the provisions on state compensation for remedying the plight of victims are regulated for the first time in this context. Moreover, the regulations on the central and provincial organization of the Victim Rights Department established within the Ministry of Justice in 2013 are also very important reforms in terms of the construction of the institutional infrastructure for victim rights, which in turn will serve the protection and development of these rights. The bill is expected to be passed in 2018. See the official website of the Victim Rights Department of Ministry of Justice: <http://www.magdur.adalet.gov.tr>

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The logo of the Victim Rights Department

Challenges of the Independence of Prosecutors in Kosovo

Xhevdet Halili

One of the obstacles that countries in transition such as the Kosovo are faced with is the possibility of interference in the work of the prosecution. Prosecutors should be free to exercise their decisions independently and without fear of political interference. The President of the International Association for Prosecutors, James Hamilton, says: "It is essential that prosecutors have independence or autonomy to take their decisions regardless of any outside

pressure, in particular from the executive power State. Where such pressures can be and brought the prosecutor will not be able to protect the interest of justice, will not be able to respect the rule of law or human rights, and will be powerless to deal effectively with cases of corruption or abuse of state power". But how is Kosovo dealing with protection of the independence of prosecution? The Kosovo Progress Report of European Commission in 2016 described the situation in this regard such as follows: "Kosovo is at an early stage in developing a well-functioning judicial system. Good progress has been achieved over the past year by adopting amendments to the constitution and most second-

ary legislation necessary to implement the 2015 justice package laws.”

In Kosovo, the Kosovo Prosecutorial Council (KPC) is responsible for managing the prosecutorial system. The KPC must ensure that the legal infrastructure of Kosovo operates in accordance with international principles of prosecution. However, based on previous research, public perception and the reports of international and domestic agencies suggest that challenges exist in *implementing the rule of law and creating an advanced legal system*. It is worth noting that over the years many bodies have been established in Kosovo to combat corruption such as

the *Kosovo Anti-Corruption Agency, Kosovo Task Force for Anti-Corruption, National Council for Anti-Corruption, etc.* But creating numerous bodies to fight corruption (often without adequate credibility) has been ineffective and confusing. I suspect this is because each body has tried to ‘pass the ball’ with the intention of release itself from responsibility. Based on the actual situation in Kosovo, the words of Montesquieu ring true: “*The independence of the judiciary has to be real and not merely apparent*”.

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Book Review: Criminology of Corruption, by Darko Datzer, Faculty of Criminal Justice, Criminology and Security Studies, Sarajevo, 2016, 309 pp.

Srđan Vujović

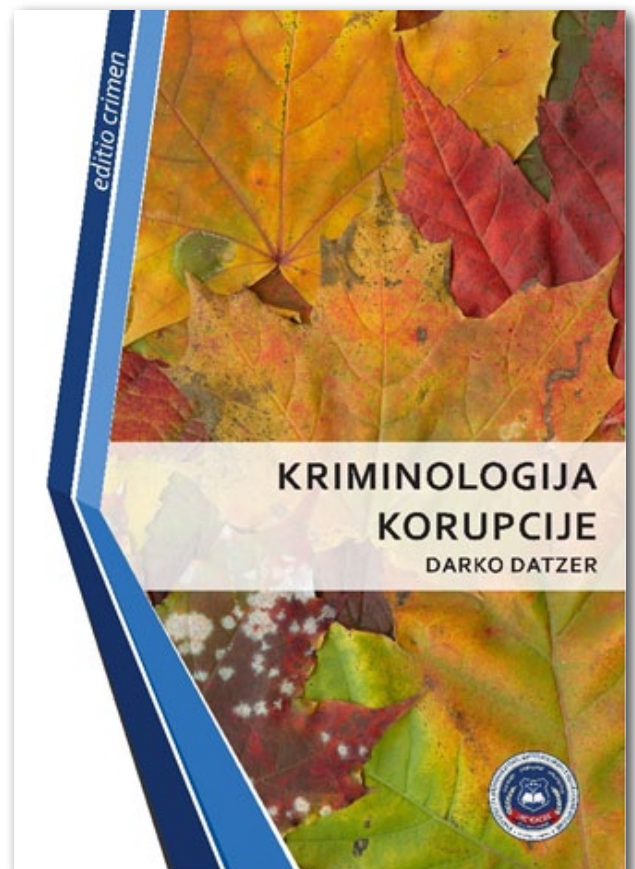
The book *Criminology of Corruption* takes a unique and comprehensive approach to the issue of corruption. Criminological research primarily encompasses the causes and consequences of crime, its manifestation (nature and extent), governmental regulations as well as social and governmental reactions to crime (Froeling 2007; Siegel 2012). Referring to more than 400 sources, Datzer writes about corruption taking into account all the above-mentioned dimensions of criminology. The book systematically offers findings and conclusions based on criminological dimensions and solid evidence.

The book contains five sections: (I) Definition, consequences, and research of corruption, (II) Phenomenology of corruption delinquency, (III) Etiology of corruption delinquency, (IV) Countering corruption delinquency, and (V) Concluding remarks.

Datzer begins the first section with an in-depth discussion on corruption, focusing on both its legal and non-legal definitions (both of which are critical for countering the problem). The author then goes on to assess the consequences of corruption. By explaining the economic, social, and political consequences of corruption, this chapter clearly answers the ques-

tion “Why do we need to fight against corruption?” The author ends the first section of his book with a discussion on the importance of scientific research in this area, highlighting typical methods used by researchers.

In the second section of the book, Datzer presents the phenomenology of corruption in the following three chapters: (1) Extent of corruption delinquency, (2)



Structure of corruption offences, and (3) Characteristics of persons committing corruption offences. The extent of corruption delinquency is shown with reference to (a) Official police statistics and judicial institutions and (b) Scientific and professional research findings. By using this approach, Datzer is able to reach a very good approximation of the real number of corruption offences, which is especially important for this type of crime, because corruption includes a significant “dark field” i.e., unrecorded cases. Thus, the reader is able to notice a substantial difference between the number of cases which have been formally registered and the estimated number of actual corruption offences. Furthermore, the chapter “Structure of corruption offences” includes remarks about (a) Corruption offences in accordance with the Criminal Code, within the national and international legal framework, (b) Various forms of corruption in practice, where the author highlights classical corruption offences (see Datzer & Vujović, 2013), and (c) Links between corruption and other types of crime. The third chapter in this section is dedicated to the characteristics of offenders. The author’s remarks on the subject deal with sociodemographic and psychological factors as well as other factors that motivate offenders.

The third section explains the etiology of corruption by making reference to the most applicable criminological theories, such as rational choice theory, routine activity theory, social learning theory, differential association theory, reintegrative shaming theory, as well as several theories relating to anomie, social pressure, control, and labeling. Furthermore, the author summarizes the findings of previous empirical research carried out on the causes of corruption by classifying the findings according to macro and micro factors. The macro fac-

tors are further analysed according to geographical features, the legal and political system, and demographic and cultural features, while the micro factors are grouped according to categories relating to family, organizational culture, attitudes, tendencies and habits, personality traits, and psychological disturbances.

Having informed the reader of all the basic criminological dimensions of corruption, the fourth section continues with a discussion on how to counter corruption. Firstly, the author describes basic theories to counter corruption together with the role of specialized anti-corruption bodies. Secondly, he describes how a social system should be established to effectively address corruption. Thirdly, he describes how to counter corruption through prevention and other effective measures. By using this approach, the author includes all parts of the global anti-corruption program in his discussion (see UNODC, 2004).

This book is useful not only for scholars and practitioners but also for students. If a reader cannot find a specific piece of information on corruption in the book, sufficient indications are nonetheless provided by the author to enable the reader to make further research. The book, which is written in Croatian, is reader friendly, but unfortunately it is restricted to a criminological audience who can understand the Croatian language. It is thus highly recommended that the book be translated, thereby allowing for this detailed discussion of corruption in the Balkan context to be experienced by a broader audience.

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BC PUBLICATIONS

The forthcoming issue of the international online magazine **F3 – FREEDOM FROM FEAR** will be a themed issue featuring international criminal law and justice. It will include two excellent articles related to

the scope of jurisdiction of international criminal justice, and the enforcement of international sentences. The two pieces are closely linked to research projects of the MPPG for Balkan Criminology.

■ ***Filip Vojta: Enforcement of international sentences in light of the ICC decisions in the Lubanga and Katanga cases***

The activation of the International Tribunal for the Former Yugoslavia in 1993 marked a “rejuvenation” of international criminal justice in the post-WWII era. Besides providing at the time a much-needed momentum for the prosecution and adjudication of international crimes, the ICTY established a system for the enforcement of sentences where, due to the inexistence of an official international prison facility, convicted persons are being transferred to national prisons of states that have concluded special agreements for that purpose with the tribunal, to serve their sentences there. The structure of the system has been later adopted by other international tribunals, namely the ICTR and the ICC, however, with some practical modifications. Today, the ICC seems to follow the dispersion policy of the ICTY.

Besides providing a general introduction into the vertical system for enforcement of international sentences, the article provides a critical analysis of the enforcement practice as developed with regard to the ICTY convicts. It argues that the recent decision of the ICC to return two of its convicts to serve their sentences in their home state might have been influenced by challenges of enforcement faced by the ICTY. As a consequence, the legitimacy of the enforcement system as established by the ICC is at stake.

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■ ***Sunčana Rokсандić Vidlička: A legal response to today's reality: Economic crimes as crimes against humanity***

The jurisdiction of the International Criminal Court is limited to the most serious crimes of concern to the international community that threaten “security, peace, and the well-being of the world” (Preamble of the ICC’s Statute). Since quite some time, controversial discussions are going on as to whether (and in which cases) economic offences could be – or should be – tried as crimes against humanity as well.

The article argues that serious economic crimes, some of which are already listed as war crimes under the ICCSt, should in fact find their place in the Statute as crimes against humanity also when committed in peacetime. Large scale violations of human rights – which include social, cultural and also economic rights – have been identified to belong to the prime root causes of conflicts. In transitional and post-conflict countries economic violence can lead to further cycles of armed conflict and/or physical violence or even perpetuate internal and external insecurity.

The author concludes that, if one wants to respond to today’s realities, serious economic crimes should be placed at the core of international criminal law. Two possible strategies are identified: A strengthening of the inadequate norms and mechanisms that currently exist, and the setting-up of a new legal regime to be enforced by new institutions.

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The new issue no. 14 will be available as of March 2018.

Articles can be downloaded free of charge at the journal’s website: <http://f3magazine.unicri.it/>

BC EVENTS PREVIEW

Crime and Criminology in the Balkans: One-Week International Intensive Course, Dubrovnik/Croatia, 21-26 October 2018

The course, held at the Inter University Centre since 2014, provides participants with in-depth and up-to-date knowledge about the state of crime research in the Balkans. The main focus is on criminological methodology, phenomenology, and etiology. It is part of the overall scientific programme of the Max Planck Partner Group for Balkan Criminology.

The programme offers 4 ECTS credits via the attendance certificate issued by the course director and IUC Dubrovnik, which are recognized by the Zagreb Faculty of Law. Precondition is the regular attendance of the course and the delivery of a participant presentation in oral and written form.

The programme includes key note lectures, students' presentations, academic writing and further soft skills trainings, and extensive exchange and discussion. Special feature: based on participant input and interest in the field, they will have the opportunity to discuss about it one on one with the renowned experts.

The course fee for participants is 150 € which includes enrolment, participation in the lectures and student materials. The participants are expected to make their own travel and accommodation arrangements and cover these costs – formal invitation letters and scholarship application forms may be sent to dedicated participants upon request. The fee must be paid in advance by wire transfer. Further information on the payment of the fee will be sent with the registration confirmation. In addition to the course fee, all participants are required to pay an additional 50 € fee directly to the IUC Dubrovnik after their arrival.

For early registration by 18 June 2018, a reduced **early bird fee of 100 €** is available.

For the program and further practical information please visit www.balkan-criminology.eu or contact the course manager Ms. Reana Bezić at: r.bezic@balkan-criminology.eu.



□ DISCUSSION

Fighting Corruption in the Balkans

John Winterdyk

*"Power does not corrupt. Fear corrupts....
Perhaps the fear of loss of power"
(John Steinbeck)*

In January 2017, Transparency International released its latest annual report on perceived levels of corruption. The Corruption Index Score is based on a 100-point scale. The scores are calculated based on opinion surveys and expert assessments. While not a perfect indicator, they offer a reasonable indicator of the social, economic, and political health of a country.

Given the prevailing stereotype that exists concerning the Balkan region, it should come as no surprise that relative to the rest of Europe (exceptions being Italy and Spain), the corruption scores are notably worse in the region. The European countries with the worst corruption scores include Kosovo, Macedonia, BiH, and Albania. Meanwhile, Croatia and Romania scored the highest (least corrupt in the region – 49 and 48 respectively). However, even the latter two countries are well below such European countries as Denmark (90) and Finland (89).

Corruption can take several different forms ranging from government, to corporate, and even corruption within the elements of the criminal justice system. For example, some recent examples in the Balkans include: the high-profile case of the largest food distribution company Agrokor in Croatia, or the case of Živko Budimir, the President of the Federation of Bosnia & Herzegovina, who allegedly took bribes from convicted offenders to obtain early release from prison. And even though illegal in Albania, there are several reports which found that corruption among

judicial officials and political figures is virtually rampant. In addition, corruption has also been linked to different forms of human trafficking, and even weapons trafficking because of leftover armaments and the associations formed during the Yugoslav Wars.

Just as there are several variations of corruption, so there are a range of factors that contributing to corruption. Explanations of the corruption include such theories as: rational choice theory, bad apple theory, organizational culture theory, clashing moral value perspective, and the modernization theory, among others!

With this in mind, it should be somewhat self-evident that relying on self-regulation, stricter laws, or enforcement/monitoring agencies will yield little success. One only needs to look at Kosovo which despite creating some robust legal protocols designed to facilitate the prosecution of offenders is heavily backlogged and the cost and time for processing such cases make the legal mechanism limited in its effectiveness.

In trying to move forward, it must be acknowledged that simply creating anti-corruption legislation and/or establishing anti-corruption agencies will not work without other key factors being a part of the response mechanism. And, although there are several other pressing justice concerns in the region, in the interest of building public trust in the government and criminal justice system, as well as restoring rule of law, consideration should be given by scholars in the region to not only fully expose the extent of the problem but to explain it within a regional context so that effective measures can be found to combat corruption.

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IMPRINT

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