Human trafficking legislation as a resource: Contradictory interpretations of human trafficking in Zambia

Tim Bunke
University of Konstanz, Germany
Email: tim.bunke@gmail.com

Abstract: Zambia was among the first countries in Southern Africa to adopt extensive domestic legislation on human trafficking. The Zambian Anti-Human Trafficking Act (2008) is closely modeled on the United Nations’ Palermo Protocol (2000) but goes beyond the Protocol’s distinct focus on border controls to include comprehensive standards for victim protection and care that can be categorized in the domain of human rights. The situational application of different elements of the legislation has led to the emergence of two discourses associated with the understanding of human trafficking, namely by law enforcement and human rights organizations. This observation suggests the need for further analytical conceptualization of the globally circulating discourses on human trafficking that moves away from a monolithic acceptance of it as an internationally defined human rights norm. This article proposes to view human trafficking as a normative resource that different actors can mobilize in light of their own agenda. As ethnographic examples collected during seventeen months of fieldwork demonstrate, actors have selectively mobilized the legislation in line with their own respective interests. Thus, the heterogeneity of the legal definition has been mirrored in practice as two distinct interpretations of human trafficking evolve: law enforcement agencies resort to the discourse about human trafficking as a security concern and use this to stress the importance of border controls whereas human rights actors tend to depict a stereotypical image of human trafficking victims in order to raise resources for their work.

Keywords: Human trafficking; Zambia; law; discourses; law enforcement; human rights

Introduction
The year 2015 marked the tenth anniversary of Zambia’s accession to the United Nations (UN) Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (UN Palermo Protocol) (United Nations, 2000). Following this international commitment, the Zambian Parliament was swift to incorporate the UN Palermo Protocol’s (2000) propositions into domestic legislation and passed the Anti-Human Trafficking Act in 2008 (Republic of Zambia, 2008), making Zambia one of the first countries in Southern Africa to do so.

However, contrary to already established perceptions and discourses on human trafficking in Europe and the United States of America (USA), where it is conflated with commercial sexual exploitation (Uy, 2011; Snajdr, 2013; Meriläinen and Vos, 2015), prior to 2008, the terminology of human trafficking was almost unknown in Zambia. Until the enactment of the Zambian Anti-Human Trafficking Act (2008), the term ‘human trafficking’ was not used and there was no vernacular conceptualization of the different practices subsumed under the law. Since 2008, different measures to address human trafficking have been initiated in Zambia. These include an extensive UN program on human trafficking, substantial external funding invested by the USA and the European Union (EU) to combat

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1 In Zambia, as a former British colony that follows a common law system, the relationship between domestic and international law is not clearly demarcated. In the tradition of a common law jurisdiction, Zambian judges look for precedents in domestic rather than in international law. For international law to become part of Zambian law, it is necessary to enact it into national legislation (Hasungule, 2010:71).
human trafficking, training for different branches of law enforcement as well as work by several international and domestic non-governmental organizations (NGOs) dealing with the topic. On the one hand, this increased attention to human trafficking was informed by a growing fear that cases would substantially increase in the wake of the 2010 (FIFA) Football World Cup, which was hosted in South Africa (Kiremire, 2010). On the other hand, the increased global attention to the topic following the adoption of the UN Palermo Protocol (2000) led to the production of a number of reports which indicated that human trafficking was also a problem in Zambia (ILO and IPEC, 2007; Fox, 2008; UNJPHT, 2012). Even though the data on which these reports are based remains anecdotal, they highlight the increased sensitivity towards human trafficking globally and in Zambia.

The aim of my anthropological research project was to examine the ways in which the different actors interpret the new legislative term in practice as well as when and how they apply it. The heterogeneity in the discourses on human trafficking surprised me when I first traveled to Zambia and began to engage with actors on the ground. I was constantly confronted with a wide range of different emphases, uses, mobilizations and implementations of the term by a highly diverse array of actors. This ranged from an open refusal to accept the existence of human trafficking to stories about the existence of transnational criminal networks in Zambia who exploit victims in the most appalling ways. Such a highly heterogeneous interpretation of the term human trafficking has been described by authors globally (Bales, 2000; Parreñas, Hwang and Lee, 2012) and in the sub-Saharan African context (Adepoju, 2005).

Despite this empiric heterogeneity, an analytical conceptualization of human trafficking is still lacking. Based on the work of Jean and John Comaroff (2006), I propose here that the emerging discourses and legislative provisions on human trafficking can be used as a resource that actors can mobilize based on their respective agency and, thereby, appropriate to some extent. With the formal legislation as one among many normative frameworks, actors have some freedom to choose which framework to rely on in any given situation. The adaptability and broad orientation of the Zambian Anti-Human Trafficking Act (2008) renders the new legal document a potent resource in the Zambian context.

I will briefly review the situation concerning trafficking in persons in Zambia and the measures taken against it. I will outline how the Zambian law, in conjunction with accompanying policy documents, directly addresses different actors that ought to mobilize around it. These are predominantly law enforcement agencies and human rights organizations as primary actors. Due to their prominence in the Anti-Human Trafficking Act (2008), these actors shape to a considerable extent certain divergent discourses on human trafficking in Zambia.

The ethnographic data upon which this paper is based was collected over 17 months of fieldwork between 2011 and 2013. During the course of this multi-sited research, I examined the use of the term ‘human trafficking’ by different actors and at different localities (Marcus, 1998). The data presented is, for the most part, derived from participant observation undertaken with the United Nations Joint Programme on Human Trafficking (UNJPHT). This program brought together different NGOs and law enforcement agencies in different Zambian provincial capitals to develop tailored action plans against human trafficking. Co-operation from law enforcement in the Zambian border town of Nakonde, which is an alleged hotspot for human trafficking in the country, as well as narrative interviews conducted in other major Zambian cities, most importantly Lusaka and Livingstone, provided further sources of data.

Anti-human Trafficking in Zambia

Though Zambia does not have a reputation for being a hotspot for human trafficking, a series of factors have given rise to sensitivity towards this human rights violation. Firstly, Zambia has a long history of transnational human movement and migration. The Zambian state was among the first countries in Southern Africa to become independent from British colonial rule in 1964 and, in turn, hosted a number of political activists as well as refugees from other countries in the region. Besides freedom fighters from Zimbabwe, Namibia and South Africa, Zambia also hosted refugees who fled
from civil wars in neighboring Angola and the Democratic Republic of Congo. Secondly, Zambia is a geographically central country in Southern Africa that has not had any major post-Independence conflict and is comparably well equipped in terms of its infrastructure. For these reasons, it is a central transportation hub that links Southern Africa with Eastern and Central Africa for goods that are imported and/or exported using the ports of Dar es Salaam and Durban (Trade mark Southern Africa, 2011). Furthermore, Zambia has been identified as a transportation hub for documented and undocumented migrants, who are bound for South Africa (Horwood, 2009; IOM, 2013). Though Zambia is currently identified as a country with “medium human development” (UNDP, 2015: 213), it has long been classified as a country with “low human development” and continues to face a number of economic and social difficulties. With an economy that is reliant on extractive resources and agriculture, a highly disparate wealth distribution characterizes the country: on the one hand, there are mining areas, most famously the Copperbelt, that enjoy relative prosperity while, on the other hand, many areas experience high levels of poverty, with homesteads solely dependent on subsistence agriculture.

Though these different conditions could be indicators for potential cases of human trafficking in Zambia, the public and legal engagement with the practice remained remarkably sparse until the early 2000s. As already indicated, neither the term nor the practice of human trafficking was discussed before the passing of the Zambian Anti-Human Trafficking Act (2008). The first case of human trafficking was identified in 1999 (USAID, 2007: 1) and the lack of legal instruments to prosecute this case is often seen as the factor that gave rise to the human trafficking legislation in 2008. At the time of my research, five years after the enactment of the law, few cases of human trafficking had been documented in Zambia. Additionally, and though several reports suggest the prevalence of the practice in the country (ILO and IPEC, 2007; Fox, 2008; UNJPHT, 2012), these remain largely anecdotal and are based on limited and sparse data. Despite statistics from the Zambian Police that indicate a rise in the number of human trafficking convictions, which peaked at 32 in 2013 (Zambia Police, n.d.), respondents referred to only one known conviction during the time of the research. Currently, data on human trafficking in Zambia remains sparse and, for the most part, unreliable.

After ratifying the UN Palermo Protocol (2000), the Zambian Government acted swiftly to develop documents and instruments against human trafficking. The growing attention towards human trafficking in Zambia was largely caused by international actors. Following initial meetings with Government officials, the United States Agency for International Development (USAID) sponsored the draft of the National Policy to Combat Human Trafficking in 2007 (National Policy, 2007; Republic of Zambia, 2007). Furthermore, USAID, rather than the Zambian Government, drafted the Zambian human trafficking legislation (USAID, 2007). After the enactment of the legislation in 2008, an EU-funded UN program against human trafficking was inaugurated in the country in 2009 with the aim to speed up the implementation processes. The growing interest shown by Western powers in human trafficking in Zambia can be viewed as an aspect of the attempt by the EU and USA to externalize border controls over the last decade, which is often portrayed as a humanitarian effort. This has been described in detail by Hathaway in his critique of the UN Palermo Protocol (2000) when he argues that the fight against human trafficking has also resulted in significant human rights damage by providing a context for developed states to pursue a border control agenda under the guise of promoting human rights (Hathaway, 2008: 57).

Through conducting and supporting measures to assist possible victims of human trafficking in countries of the Global South, states of the Global North can, as an intended side effect, already categorize, and thereby control, migratory populations (Fassin, 2011; Bunke, 2016).

Consequently, the Zambian legislation reflects this international influence and defines human trafficking cumulatively, following the pattern of the UN Palermo Protocol (2000) (Republic of Zambia, 2008; United Nations, 2000):

‘Traffic’ means to recruit, transport, transfer, harbour, receive or obtain a person, within or across the territorial boundaries of Zambia by means of

- any threat or use of force or other forms of coercion;
abduction;
- fraud or deception;
- false or illegal adoption of a child contrary to the Adoption Act or any other written law;
- the destruction, concealment, removal, confiscation or possession of any passport, immigration document or other official identification document of a person;
- the abuse or threatened abuse of the law or legal process or any other form of abuse of power or of a position of vulnerability; or
- the giving or receiving of payments or benefits to achieve the consent of the person; for the purpose of exploitation (Republic of Zambia, 2008).

Legislation dealing with human trafficking has generally been drafted at the nexus between human rights and criminal law. This is also the case with the Zambian Anti-Human Trafficking Act (2008) and is one of the reasons why different actors are able to mobilize around it. On the one hand, it is clearly criminal law through which law enforcement agencies are tasked with apprehending and prosecuting the perpetrators of offences that are defined by law. On the other hand, the legislative framework is distinctly connected to human rights violations. As a result, the Zambian Department of Social Welfare and/or numerous NGOs are tasked with providing measures to support and protect victims before and after they have fallen prey to human traffickers as stipulated in the law.

To accommodate different areas of concern, the Zambian Anti-Human Trafficking Act (2008) is designed on the basis of the ‘3P approach’ which advocates for prevention, prosecution and protection as the three main pillars of anti-human trafficking work. In the adoption of these three pillars, the international influence on the Zambian legislation once more becomes apparent as this approach is advocated by the United States Department of State (2010). The Zambian National Policy (2007), which preceded the 2008 legislation, comprehensively addresses the role of law enforcement and human rights organizations (Republic of Zambia, 2007), and spells out the ‘3P approach’ in detail. This approach recognizes different elements and focal areas inherent in human trafficking and ensures that none of these are overlooked.

The first pillar, prevention, means “addressing the root causes of both the supply and demand for trafficked persons, raising awareness of the problem, and ensuring effective mechanisms to control abuse of documents, employment recruitment and adoption systems” (Republic of Zambia, 2007: 4). There is an overall assumption here of what needs to be done to prevent cases of human trafficking in Zambia. This pillar cannot clearly be categorized as either in the realm of human rights or law enforcement. It is both. It mentions awareness raising measures, which fall under the category of human rights since their aim is to inform people of their rights as well as the dangers of and vulnerability to human trafficking. However, other themes under the term of prevention include regulation and strict control of employment agencies as well as the implementation of stronger labor standards, which could clearly be categorized as law enforcement (Republic of Zambia, 2007: 4-10).

The second pillar, prosecution, entails the development and enactment of a law on human trafficking and the successful prosecution of perpetrators. The National Policy (2007) calls for the development of specialized police units to co-ordinate efforts between different Governmental departments to this effect. Furthermore, the National Policy (2007) establishes the goal to conduct cross-border investigations since the practice is presented as a predominately transnational crime. By focusing on alleged perpetrators, this paradigm clearly concentrates on the law enforcement aspect of the policy on human trafficking (Republic of Zambia, 2007: 11-16).

The third pillar is protection. The National Policy (2007) outlines a number of measures to protect victims of human trafficking in Zambia including the construction of shelters for victims, a provision to offer international victims the possibility to remain in Zambia legally – contrary to the provision of a repatriation “without […] delay” in the UN Palermo Protocol (United Nations, 2000: Article 8) that prioritizes foreign victims leaving the country (Hathaway, 2008: 3) – and the provision of legal and psychological counseling for victims. The provision of these services falls under the remit of Government departments as well as non-governmental actors. More specifically, the Zambian state is re-
sponsible for the provision, co-ordination and support of structures for NGOs working in this area. The involvement of NGOs and the focus on the concerns for the victim signify a clear human rights perspective (Republic of Zambia, 2007: 16-24).

These provisions are largely discursive positions and need to be put into practice. As such, they attempt to analytically disentangle interconnected phenomena to note, in as much detail as possible, what practical measures are to be introduced in Zambia or, to return to my previous point, what actors should be encouraged to mobilize the resource that is embodied in the human trafficking legislation. Furthermore, the detailed list of provisions serve as a broadly constructed reservoir from which actors draw inspiration for the measures and practices that should be implemented in relation to human trafficking.

Discourses on Human Trafficking

Different actors who deal with human trafficking re-evaluate and re-interpret the various legal propositions. In this way, they enable the law to generate wider discourses and they considerably shape the perception of trafficking in persons in Zambia. These actors signify two distinct hegemonic discourses: one mainly concerned with human trafficking as a security concern and another that concentrates on the practice as a human rights violation. Because of the emphasis placed on the role of various actors these two discourses are essential for our understanding of Zambia’s human trafficking law, the manner in which primary actors initially began to work against trafficking in persons, and the ways in which these discourses serve to mobilize further actors in this area.

In the process of mobilizing around the human trafficking legislation, law enforcement agencies and service providers (for victims) erode the all-encompassing approach of the law by narrowly interpreting its provisions from their own specific and limited points of view rather than the variety of practices it entails. This dichotomous interpretation of human trafficking is also a consequence of the various global discussions that have considerably shaped the perception of human trafficking in Zambia. I will discuss these two main interpretations as presented by the Zambian actors involved as they constitute hegemonic discourses on human trafficking.

Human Trafficking: A Security Concern

The Zambian Anti-Human Trafficking Act (2008) criminalizes human trafficking and allows for the prosecution of those involved. As these regulations are implemented by law enforcement agencies it is important to understand the ways in which these agencies define and interpret the legislation. In other words, how do they mobilize around the law and in what situations do they choose to do so? Though this is but one interpretation of the law, it is especially telling as it is dependent on a primary type of actor.

Law enforcement agencies in Zambia view human trafficking as a predominately transnational phenomenon and a security concern even though cases of transnational human trafficking are fairly rare. The International Organization for Migration (IOM) lists only 14 transnational cases in Zambia in 2011 (IOM, 2012: 9). Contrary to the views of human rights organizations, law enforcement agencies understand human trafficking to be a form of irregular migration and rarely approach it from an individual victim’s perspective. Many law enforcement personnel refer to all forms of irregular migration – undocumented migration, human smuggling, human trafficking, and refugee flows – as human trafficking.

The conflation of human trafficking with all forms of irregular migration is particularly prevalent in the border districts, for example in Nakonde on the Zambian-Tanzanian border. Nakonde lies along one of the main routes used by refugees, migrants and entrepreneurs who are southbound from East Africa. The depiction of human trafficking by law enforcement officials there always followed a similar pattern. First, officials would tell me the legal definition of human trafficking and then explain how some ‘agents’ promised jobs to people from other countries, particularly those from Ethiopia and Somalia. However, when I asked for examples of cases of human trafficking involving Somali and
Ethiopian nationals as victims, I was told about large groups of undocumented migrants found in containers, migrants hiding under the tarpaulin of big trucks or individuals who circumvent border controls by going through the bush. These exemplary cases provided by law enforcement constitute undocumented border crossings and possibly human smuggling, but do not meet the definition of human trafficking. Since human trafficking is strongly associated with irregular and undocumented migration, its prevalence is often attributed to the state of the border. A high ranking Zambian police officer in Nakonde District told me:

Yes, human trafficking exists in Nakonde. We are able to justify this with the piousness of the border. (…) There is no natural boundary such as may be a river or something that can separate the two countries.

Consequently, as law enforcement officials view human trafficking as a transnational crime they focus primarily on migration control as the means through which to prevent it. This focus on irregular migration is highlighted in the National Policy (2007), which encourages the use of technical surveillance at the border (Republic of Zambia, 2007:15), and is encouraged by international organizations. During my research, IOM representatives consulted with the local Department of Immigration in Nakonde where they proposed, and offered to support, the installation of an x-ray machine at the border gate so that Immigration officials could scan containers being transported by trucks across the border. The use of enhanced border control measures as a preventive strategy is also promoted in global discourses on human trafficking (United Nations, 2005, 2006), but the reality of the situation in Zambia ensures that these measures are futile. The Nakonde border post is the only official border crossing between Zambia and Tanzania and lies along a land border of approximately 300 kilometers that has no natural barriers. It was manned by a core group of 15 Immigration officers and, at the time of my research, one functioning car. As a result, migrants can cross the border between Zambia and Tanzania without going through the official border post. Thus, the focus on enhanced security measures through an increasingly technical control of the border was the product of a strong discourse around a felt insecurity in Zambia. The reality that irregular and undocumented migrants could walk around the one single border crossing played almost no role in these considerations. The only practical reason for the installation and use of such an expensive technical device was the need for the Zambian Government to show a commitment to enhanced border security. Moreover, if we accept that human trafficking legislation in Zambia was the product of international pressure in the wake of attempts by the EU and the USA to externalize border controls, the installation of this equipment equally demonstrates a commitment to those international actors.

However, the technical enhancement of the Nakonde border post is only the tip of the iceberg. For the most part, Zambian law enforcement uses the rhetoric around human trafficking as a justification to intensify existing modes of border control. To that effect, the Zambian Department of Immigration re-introduced roadblocks along major highways after they were suspended in 2012. This was explained by the need to “increase the pressure on traffickers”. Again, we must understand the notion of ‘human trafficking’ as meaning all forms of irregular migration in this context. Similar to the public relations effective reference to technical enhancement, these measures publicly display the desire of the Zambian state to protect its security by controlling the undocumented migration that is perceived as a security threat.

Related to this security concern, Zambian law enforcement officials often depict transnational human trafficking as perpetrated by organized crime syndicates even though there is no evidence to support their suspicions. This interpretation portrays Zambia, in line with the language of the United States Department of States’ Trafficking in Persons (TIP) Report (United States Department of State, 2011, 2012, 2013, 2014), as a ‘transit country’ for human trafficking. Zambian law enforcement stress that human trafficking is not primarily a domestic problem that may be fueled by economic inequalities and a high proportion of vulnerable Zambians but rather a phenomenon brought to Zambia from the outside. The term ‘transit country’ as used by law enforcement refers to migratory routes rather than human trafficking exploitation. In adopting these assumptions, law enforcement officials depict
Zambia as one station within a set of continent-wide trafficking networks, which overlap almost exactly with general migration patterns within Eastern and Southern Africa (IOM, 2013). Based on an interpretation of human trafficking being a transnational organized crime, the National Policy (2007) outlines the development of a “specialized umbrella agency tasked with investigating and prosecuting all forms of transnational organized crime” (Republic of Zambia, 2007: 13). As a result, assumptions, which were based on external perceptions of human trafficking in Zambia, were translated into tailored Zambian law enforcement structures.

The Zambian proposal for advanced national co-operation among different law enforcement agencies was supplemented by the call to develop regional forums for the international prosecution of human trafficking. The lack of regional bodies underpins the argument for a regional law enforcement agency as a means for enhanced security:

It is worth noting that TIP [Trafficking in Persons] cases are transnational and currently most of the countries in the region have not enacted legislation to criminalize TIP. This scenario hampered efforts by law enforcement agencies to conduct investigations beyond Zambia’s borders where recruitment and exploitation take place. In this regard, it is envisaged that, in the near future, jurisdictions in the region will enact legislation and probably through regional co-operation bodies such as SADC [Southern African Development Community] and COMESA [Common Market for Eastern and Southern Africa] establish a regional law enforcement agency to fight TIP (Zambia Department of Immigration, 2012: 13).

Finally, the significant level of attention paid by law enforcement to the transnational nature of human trafficking as a form of organized crime, its conflation with all forms of irregular migration and, in turn, its perceived danger for Zambian security has led to feelings of a perceived threat by foreigners among the general population. As law enforcement agencies constantly stress the dangers posed by migrants, it is no surprise that, in times of crisis, some Zambians have begun to blame foreigners and even violently attack them. This depiction of foreigners gave rise (among other things) to the tragic xenophobic attacks against Rwandans in Zambia in April 2016 (BBC, 2016).

A media report on the increase in human trafficking in the period since 2010 epitomizes the interrelation between the depiction of this practice and a perceived threat by foreigners among the general population in Zambia. The media report in question follows the same narrative structure I found to be common among law enforcement personnel. The author begins by citing a definition of human trafficking. In the next paragraph, she states how many foreign nationals were intercepted by Zambian immigration officials, thereby implicitly equating the existence of human trafficking and the presence of undocumented migrants. The article continues with a discussion of the alleged consequences of this ‘human trafficking’ and quotes a Lusaka resident: “Mr. Jack Siatembo (not his real name), (…), is concerned about the increased number of foreigners in his area saying that security was at risk” (Nawa, 2010). The article ends with a call for “strong laws that are enforced”.

Overall, law enforcement officials in Zambia interpret human trafficking as a transnational phenomenon, apply it to all forms of irregular migration and, as a consequence, at times deport suspected victims of human trafficking. An exemplary case described by the Zambian Department of Immigration reads as follows:

On 30th December 2011 a truck was intercepted at a garage along Kafue Road in Lusaka and it contained about fifty Somalia nationals. Suspected trafficker called Abukaar Ibrahim, Somalian, was arrested to help with investigations. However, he was released due to insufficient evidence connecting him to the case. The victims failed to identify him when the identification parade was conducted. To

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2 A platform for international prosecution does not yet exist. The existing multi-national police bodies in Zambia, Interpol and its sub-organization ‘Southern African Regional Police Chiefs Co-operation Organisation’ (SARPCCO), mainly serve as contact desks if Zambian nationals as victims of human trafficking are found in other countries and vice versa. The same is true for the numerous bi-lateral contact agreements with neighboring countries, which are mostly concerned with border regions. International investigations and prosecutions rarely happen, if at all.
this effect he was declared prohibited immigrant to Zambia and subsequently removed from the country. The victims were also sent back to their country of origin (Zambia Department of Immigration, 2012: 6).

Though this case hardly constitutes human trafficking as defined in the Zambian legislation, law enforcement presented it as such and by so doing epitomized the public depiction of their view that human trafficking encompasses all forms of migration. Concurrently, law enforcement presents a host of migration control measures whose target is human trafficking. The term human trafficking can (in this context) be interpreted as a mobilization of the idiom in support of the actor’s agency. In the present case, this constitutes an extension of security measures by Zambian law enforcement bodies.

**Human Trafficking: A Human Rights Concern**

Another central discourse arises from the protection proposals in the Zambian Anti-Human Trafficking Act (2008). It constitutes the second hegemonic discourse on human trafficking and complements the law enforcement discourse. The human rights organizations who work in this area are all small Zambian NGOs, rarely with more than 10 members and usually operating in one confined area. Though most of these organizations have a history of working on human rights issues none of them is solely devoted to work on human trafficking. Rather, these organizations are often in a constant state of financial limbo and are continuously on ‘the lookout’ for donor money, especially from the Global North. Therefore, they tend to work on several issues simultaneously.

While law enforcement agencies concentrate almost exclusively on identifying human traffickers, human trafficking routes and networks, human rights organizations predominately focus on the victims. As such, the focus on human trafficking as a transnational activity which involves organized crime groups is not a concern for these organizations. Rather, they focus on the particularity of the respective victim in an individual micro-perspective. With a focus on the suffering of the victim rather than the practice of human trafficking, human rights organizations conflate many different practices with human trafficking; similar to the manner in which law enforcement officials’ group practices together under the wider scope of migration. Where law enforcement bodies are concerned with migration control, human rights organizations depend on the existence of an (emblematic) victim. Each actor emblematizes the broad issue of trafficking in persons with reference to their own agency. Yet, whereas this is fairly easy to identify among law enforcement agencies, such a categorization is more difficult to recognize within discourses on human trafficking as a human rights violation due to the multi-faceted composition of the human rights actors in Zambia. Law enforcement bodies are, by their mandate, required to deal with crime and thus human trafficking as a crime automatically falls under their jurisdiction. Human rights organizations independently decide the issues they want to deal with – some choosing to include human trafficking concerns in their work. Similar to the mobilization by law enforcement, human rights organizations build their respective depictions and discourses based on their previous experience. This gives rise to multiple understandings of what human trafficking is and what it entails. For example, a workers’ union representative in Lusaka stressed the forced labor aspect, an NGO working with children emphasized the harmful effects of human trafficking on children, while an NGO working with sex workers on the streets of Lusaka portrayed sexual exploitation as the main consequence of human trafficking.

Nonetheless, some commonalities can be identified between these various discourses. The most obvious commonality is the structure of the representation in narratives which falls in line with Mutua’s (2001) three-dimensional metaphor of savages-victims-saviors in relation to global human rights discourses. Mutua (2001) sketches this tripartite metaphor in which each subsequent term is a metaphor in itself. Overall, his account articulates a stark criticism of the global human rights regime, which he argues is “a black-and-white construction that pits good against bad” (Mutua, 2001: 202).

The first discursive figure is that of the ‘victim’. Discursive representation of victims often resembled this story about alleged human trafficking for the purpose of commercial sexual exploitation.
We did not know about human trafficking. (...) And they would tell [us] ‘No, I came with my uncle in Ndola (...) and he left me in Ndola so that is why I had to go into prostitution or selling sex’. (...) And some of the girls (...) came from Zimbabwe. (...) And we believed they could have been trafficked into Zambia, to come and sell sex.

Victims of human trafficking were usually depicted as being without any agency. In this quote, my respondent stresses how a girl came to the Zambian town of Ndola not of her own free will but because she was forced to do so by her uncle. As her uncle then abandoned her, she had no other option but to go into sex work. The victim’s lack of choice highlights her lack of agency and thereby depicts the victim as an object rather than as a person. Human rights organizations tend to depict women and children as victims without agency as they are perceived to be more helpless than men. The portrayal of victims as helpless is often a necessary strategy utilized by human rights organizations as they constantly have to justify their actions and target groups. Similar observations have been made by Srikanthiah (2007) who describes the way USA law enforcement agencies focus on identifying victims with little agency because their lack of agency makes them good witnesses in criminal prosecutions (Malkki, 1996; Wijers, 2015). In their explanations for how human trafficking occurs and why victims lack agency in this context, many human rights bodies highlight the manner in which traditional or customary practices are the root cause of human trafficking.

In one case, a member of a faith-based think-tank in Zambia describes the practice of internal human trafficking. She stated that “cultural practices” make it easy for a “rich person” to go into a village and “get” a child. This is due to the practice of fosterage whereby a child, often from a rural background, is sent to live with relatives in the city to be given an education. However, in this example the child was then allegedly exploited as a domestic worker. My respondent defends the parents for sending their child away and stresses the prestige that comes from having a child who is being educated in the city but notes that ignorance of the possible dangers involved in the use of these practices is the greatest problem. The dangers are then linked to the lack of awareness about human trafficking within the community and the need for greater public sensitization on the topic.

My respondent went further than merely describing a victim without agency. She attempted to explain practices that were categorized as human trafficking in their specific logic. The narrative structure incorporates two main discursive figures that, according to human rights actors, lie at the root of human trafficking. The first reason mentioned is the ‘cultural practices’. The second reason is hinted at with the term ‘rich person’, which speaks of economic inequities. In the practical narration, these discursive figures are presented as inter-related causes of human trafficking.

The second discursive figure is the ‘savage’. Human rights actors present themselves as identifying and fighting against the root causes of human trafficking. In so doing, they often draw on a rural-urban dichotomy. At first this dichotomy seems to be spatial in nature. On further enquiry, it is rather a metaphor that distinguishes between a traditional – ‘rural’ – and a modern – ‘urban’ – Zambia. In this depiction, the term rural summarizes a number of attributes such as a degree of backwardness, the adherence to harmful cultural practices or the ignorance of the danger of a capitalist economy. The depiction involves the implicit assumption that human rights actors need to educate ‘backward’ people away from their cultural beliefs and entails a modernist and to some extent an evolutionist and neo-colonialist form of thinking. Cultural practices are then not defined by people actually conducting them but rather by those who consider themselves modern.

NGOs depicted alleged cases of human trafficking predominately connected to cultural practices as particularly grave and appalling, in order to underline the ‘savage’ nature of the perpetrators. In an NGO in Livingstone, I was told the following story about a case of internal human trafficking:

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3 The motives of the uncle here seem somewhat unclear since there is no gain for him personally. Yet, since labor migration is one of the prime strategies to make a living in Zambia, I can only interpret his move to Ndola as motivated by the prospect of employment. Furthermore, we must also take note of the extended family networks in Zambia. I suspect that this uncle was actually the guardian of the girl and that once he was away from his usual social environment, he left the girl for yet another perceived opportunity to earn money somewhere else in Zambia. His motive may thus have been to rid himself of social and financial responsibility for her.
There was a case where a woman (…) went to the village to get someone to work in the house. She promised them school as payment for her services to which the parents agreed. After a month or so, when the kid was still not sent to school, the woman of the house revealed that the girl was not here as a maid but rather as a mistress to her husband since the wife was infertile. So the plan was that the husband should impregnate this kid to produce a child for the household. To this the girl at some point gave in and started sleeping with the husband while the wife watched. This was supposed to be the only job for the girl. This went so far that the husband at some point was more in love with the girl than with his wife to which the wife grew very jealous and started tormenting the girl physically.

At some point some neighbors realized this and the couple was picked up by the police and brought to court. They were convicted for human trafficking. (…) The girl was (…) held as a sex slave.

This case highlights many of the characteristics of human trafficking often used by human rights organizations. On the one hand, it refers to a ‘cultural practice’, in this case fosterage; it implicitly considers economic inequities – the perpetrators who live in an ‘urban area’ and are able to ‘acquire’ a child from a rural area; and views the victim as being without agency. Crucially, the case is told in as grave a manner as possible to highlight appalling sexually deviant behavior and the exploitation of others. In this case, the young girl was not only used as a “sex slave” but also for her ability to reproduce. The NGOs I worked with often emphasize what they consider not only sexual practices but also ‘barbaric’ traditional practices such as fosterage, child marriage or occult practices as scandalous. Their reclassification of cultural practices helps to underline the immediate necessity to implement measures as well as to satisfy the demand among donors for work against human trafficking (Cornwall, 2007).

The last figure in Mutua’s (2001) tripartite metaphor of human rights is that of the ‘savior’. Human rights organizations in Zambia depict themselves as the people who are most capable to ‘save’ victims from the barbaric practices involved in human trafficking. A member of the UNJPHT stressed this view during a training workshop for NGOs working in this area. He underlined once again that “knowledge is the key” to tackling what he called “cultural issues”. In the fight against human trafficking, it is crucial to learn how to approach these ‘cultural issues’ as “the goal must be to reduce ignorance in a sustainable way”. Through stressing the role human rights actors have played in preventing human trafficking they clearly emphasize their perceived role as saviors. “The simple yet complex promise of the savior is freedom: freedom from tyrannies of the state, tradition and culture” (Mutua, 2001: 204).

In this context, NGOs often favorably compare themselves to Governmental departments in order to underline their superiority. An NGO director in Lusaka recounted to me the ways in which NGOs and his in particular, were “swifter” in their ability to react to new trends in human trafficking processes when compared to Government departments. He did not acknowledge that his organization’s role in helping victims of human trafficking was actually prompted by the introduction of the Zambian Anti-Human Trafficking Act (2008).

The discourse on human trafficking used by NGOs diverges from the definition set out in the law. Human rights organizations portray themselves as saviors of agency-deprived victims who fall prey to ‘savages’. A dependence on external funding highly influences the savage-victim-savior portrayal of themselves and the work they do; and creates the image they need in order to ‘sell’ themselves to possible donors or Governments as the best actors to aid those who require immediate attention. Rather than attempt to understand the structural reasons for the prevalence of many of the cultural practices they believe to be the cause of human trafficking and identify culturally-sensitive ways to deal with them, NGOs portray these practices in extremes. As a consequence, a unilateral perception of human trafficking neglects other victims and practices that ‘do not sell’ as well, such as forms of labor exploitation that are common in Zambia. As labor exploitation is often viewed as too common place, it is not likely to generate as much interest and, therefore, as many funding opportunities (Cornwall, 2007; Walker and Hüncke, 2016). The focus on child victims of sexual violence is largely viewed as more appealing to donors.
Human Trafficking: A Discursive Resource

In this paper I have examined the two major, divergent discourses around human trafficking that have developed since the enactment of human trafficking legislation in Zambia. As the term and practice was generally unknown in Zambia before this legislative framework came into force, discourses around the issue are still in the process of establishing themselves. However, the law on human trafficking entered an arena of overlapping and competing normative frameworks and, I would argue, to establish itself as a resource among them, directly addressed certain actors. Therefore, a tension between the intricate and holistic legal definition of human trafficking and practical mobilizations exists. The law incorporates all forms of exploitative practices currently subsumed under the term of human trafficking. In so doing, the Zambian Anti-Human Trafficking Act (2008) goes beyond the criminal focus found in the UN Palermo Protocol (2000), and introduces far-reaching human rights proposals. In order to consider both of these aspects, the law, as well as the accompanying National Policy (2007), outlines the two groups best able to achieve this: law enforcement bodies and human rights organizations. This has served to produce two distinctly different discourses on human trafficking.

The selective interpretation of the legislation becomes apparent through primary actors as they mobilize human trafficking based on their respective agendas and present only segments of that practice. Law enforcement agencies understand human trafficking to be a transnational phenomenon and conflate all forms of irregular migration under this label. As such, the ‘fight against human trafficking’ is often merely a pretense to intensify cross-border migration controls, be it symbolical or real. The rhetoric used by law enforcement portrays human trafficking as a major security risk for the Zambian nation-state. In comparison, human rights organizations rarely consider regional or global migration patterns. Instead, they focus on the individual victim’s experience and portray human trafficking in a variety of forms. By utilizing a savage-victim-savior rhetoric (Mutua, 2001), they highlight the appalling practices victims may be subjected to as well as their individual suffering. They often portray themselves as the only possible organization that could offer help. Many of these organizations are non-governmental and non-profit in nature and as a result depend on donor funding. In order to secure financial support, organizations have to present the work they do as valuable, necessary and in line with global human rights discourses. They choose to depict the victims of human trafficking as victims without agency who are in need of immediate support. In the Zambian case, the reclassification of cultural practices under the new term of human trafficking epitomizes the use of a global rhetoric around this issue.

The ethnographic analysis of these highly divergent discourses demonstrates that the broad focus of the definition of human trafficking and the law are eroded during its practical mobilization. As law enforcement and human rights organizations are among the most important actors in the fight against human trafficking, the consequences are grave. Selective understandings that arise from their position between the law and the general population are further distorted and, in turn, may well lead to a fairly distorted understanding of human trafficking. At the time of the research, human trafficking was already being understood in Zambia as akin to sexual exploitation and irregular migration. As a result other forms of human trafficking, including labor exploitation, were largely ignored. The focus by law enforcement agencies on human trafficking as a transnational form of irregular migration hinders the development of substantial protective measures in relation to internal human trafficking. Additionally, the almost immediate deportation of transnational victims results in the failure to grant assistance and to develop a more complex understanding of trafficking in persons (Zambia Department of Immigration, 2010, 2012).

These observations on the disparate interpretations of the Zambian Anti-Human Trafficking Act (2008) can help re-conceptualize the globally accepted notion of human trafficking. I propose to consider human trafficking not merely as a legally defined practice. Rather legal, moral, political, discursive and other notions of human trafficking serve as a potent resource for a variety of actors who mo-
bilibize the resource of human trafficking as an instrument for their respective agendas. In the Zambian
case, this includes fundraising by NGOs as well as migration control by law enforcement agencies.

In choosing the terminology of a resource that can be mobilized I mean to imply two characteristics.
Firstly, NGOs as actors can rely on the usefulness of the resource as an asset. The invocation of
the discursive marker of human trafficking reclassifies actors and practices alike, often granting them
more attention, increasing access to financial resources and the support of international actors. This is
especially visible in the way Zambian human rights actors utilize the term. Secondly, the fact that
this normative framework can be mobilized underlines both the variety of frameworks at hand as well as
the power the term entails and echoes the notion of “law fare” put forward by Jean and John Comaroff (Comaroff and Comaroff, 2006). The invocation of specific legal terminologies has the power
to mobilize others and to demand action by Government actors. The use of the term by law enforce-
ment in Zambia falls into this category as the reclassification of migratory practices enables them to
increase different modes of control.

The concept of human trafficking is an especially potent resource as global attention to the issue
has grown substantially over the last decade and because it is so adaptable. It can be adapted as an
umbrella term for different forms of migration and exploitation and, inherent in its historical roots,
usually warrants immediate action. In accepting this conceptualization we need to approach activities
against human trafficking not from a meta-perspective that is, from an international definition of hu-
man trafficking. Rather, we need to approach it in an actor-centered manner in order to analyze in
detail how various actors conceptualize human trafficking and thereby re-shape the legal definition in
a practical, context specific and realistic manner.

Conclusion
This paper demonstrates the multiple ways in which human trafficking legislation is interpreted in
Zambia and proposes a re-conceptualization of human trafficking laws on a global scale. I argue here
that there is a need for a focus on the inherent ambiguity of the term human trafficking. Human traf-
ficking re-conceptualized as a resource that is mobilized by different actors, in specific contexts and
to serve specific ends may appear to negate the existence of the exploitation that is part of the prac-
tice. In reality, a shift in focus away from the normative study of exploitative practices to the implica-
tions of the term, the manner in which it is used, the ways in which it is negotiated and the conse-
quence of multiple uses and segmented interpretations is crucial as it demonstrates the complexities
associated with the term human trafficking.

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