

## Traffic of Human Beings, a Reality of the World Contemporary - A Phenomenon with Multiple Determinants

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**Abstract:** Human trafficking means recruiting, transporting, transferring, sheltering or receiving people by threat of force or by using force or other forms of coercion, kidnapping, fraud, deceit, abuse of power or vulnerability or by offering or accepting payments, or useful for obtaining the consent of a person who has control over another person for the purpose of exploitation. Exploitation will include, at a minimum, the exploitation of prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or slavery-like practices, servitude or organ removal. In recent years, more and more, the phenomenon of human trafficking has been defined through the perspective of illegal migration. Within the limits of this method, the prevention of human trafficking implies the prevention of the exit / entry, respectively, of the illegal stay of the persons in a country. At the same time, when the trafficking of human beings takes place within the boundaries of the same state, this method exhausts all its justifications, in this context the strategy to combat human trafficking becomes a fight against illegal migration.

**Keywords:** trafficking in human beings; slave trade; states; human rights; prostitution; prevention; combating; organized crime; migration; human rights

### Human Trafficking. Definitions

For a better understanding of the phenomenon of human trafficking and to give it a clear and unequivocal definition, we will make a brief historical foray into the evolution of the concept of trafficking in human beings. The terms slave woman, sold woman, captive woman are not new to us; throughout history these phenomena have been manifested in us during the Turkish yoke, but also in the diplomatic relations of the Moldovan rulers with the sovereigns of the neighboring states.

In the contemporary era, this phenomenon took on a much more concrete formulation, when the term trafficking was first used with reference to the so-called white slave trade phenomenon, in the early 1900s, manifesting itself as a variant of trade, respectively. . The trafficking and voluntary migration of white women from Europe to Arab countries and Western Europe, as concubines or prostitutes, has alerted the governments of several European states.

As a result, in 1904, in Paris, most of the states in Europe signed an International Convention that provided for the fight with the white slave trade.

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At that time, trafficking meant moving or transporting women for immoral purposes, that is, prostitution. Initially, the definition involved crossing borders, but, later, in 1910, another collaboration agreement came with a new definition, which recognized that trafficking in women could also occur within the borders of a country.

Later, this term - white slave trade - also extended to the notion of trafficking in general: the importation of women from one country to another or as “brides by mail”, maids, waitresses, dancers, models, who most often they end with forced “employment”, by deception or threat, in the sex industry. Respectively, a series of agreements and conventions are elaborated and signed, which give new interpretations of this phenomenon and establish new ways of working together to counteract the phenomenon. Thus, the notion acquires an even broader character, including over time the violation of human rights, akin to bondage, becoming defined in a variant as stable.

The Protocol on the Prevention, Combating and Sanctioning of Trafficking in Human Beings, in particular Women and Children, in addition to the United Nations Convention against Cross-Border Organized Crime, approved on December 15, 2000 in Palermo, states that:

- a)** “Human trafficking means recruiting, transporting, transferring, sheltering or receiving people by threat of force or by using force or other forms of coercion, kidnapping, fraud, deception, abuse of power or vulnerability or by offering or accepting payments or benefits to obtain the consent of a person who has control over another person for exploitation. The exploitation will include, at a minimum, the exploitation of prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, easements or organ removal.
- b)** The consent of a victim of the trafficking in persons regarding the deliberate exploit defined in paragraph a), of this article is not relevant if any of the means mentioned in paragraph a have been used;
- c)** The recruitment, transport, transfer, shelter or reception of a child for the purpose of exploitation shall be considered “human trafficking” even if it does not involve any of the means provided in paragraph a of this article;
- d)** “Child” means any person under the age of 18 years.

This definition allows a clear distinction to be made between the phenomenon of trafficking in human beings, on the one hand, and labor migration, smuggling with migrants and prostitution, on the other, with which trafficking in human beings is often associated. The elements that characterize the trafficking of women and which distinguish themselves from the other two mentioned phenomena, are the situations in which a series of human rights violations such as:

1. the dignity of the person;

2. freedom of the person;
3. the security of the person;

Global Alliance Against Trafficking in Women (GAATW), International Human Rights Law Group and Foundation Against Trafficking in Women (STV). Many NGOs around the world have developed a definition, starting from long-term experience in the field of preventing trafficking in women and providing social assistance to victims of trafficking. Standard Principles of Human Rights on Trafficking in Persons (PS) as follows: *“Any action or attempt of recruiting, transporting in or out of borders, buying, selling, transferring, receiving or sheltering a person through the use of misleading, coercion (including using threats or abuse of authority), or due to debt. the purpose of bringing or maintaining this person, with or without payment, in a form of servitude (work in the household, sexual or reproductive service). In a form of forced or forced labor or in conditions similar to slavery, its exploitation occurs in a community other than the one in which the person lived at the time of his misleading, forced or forced compulsion. “*

The definition given by the PS clearly identifies the elements of the crime, in order to distinguish traffic cases from other actions, such as illegal migration. Once considered, the elements of the crime mentioned in the above definition and applying them to the specific cases of trafficking, we can decide when we have to deal with a trafficking case and when not.

Taken together, these two definitions include the most important components of human trafficking crime:

**Actions** (completed or attempted)

- a) recruitment
- b) transportation, transfer
- c) reception, shelter
- d) buying, selling

**Methods**

- a) threatening with force or applying any form of coercion, abduction
- b) fraud, deception, misleading;
- c) abuse of power or vulnerability;

## **Purpose – Exploitation**

### **Ways of defining the phenomenon**

The definition of the concept of human trafficking, as well as the methods of definition applied, has been and remains a topic long discussed by both theorists and practitioners. The variety of strategies applied by the “State” structures and NGOs in order to recover the trafficking of human beings reflects the diversity of notions, but also of the priorities granted by one structure or another in combating this phenomenon. The various solutions, ie the measures to prevent or counteract the trafficking of human beings, are elaborated according to the conceptualization of the problem and to the corresponding analysis of the causes.

Thus, some definitions focus on the injured parties, others - on the generating parts of the problem, so each definition generates its own solutions, and each proposed solution is specific to the way the phenomenon is defined. And if human trafficking is considered as a problem or consequence of poverty, the solutions will be different from those proposed if the same phenomenon is treated as a problem of organized crime.

Researchers from a range of nongovernmental organizations from the Kingdom of the Netherlands (Belgium, the Netherlands), who were actively involved in preventing and counteracting this phenomenon as early as the 1980s, conducted scientific studies in the field and developed scientific-practical publications. , highlighted some methods of defining the phenomenon of human trafficking, depending on the strategies applied.

### **Human Trafficking as a form of Organized Crime**

When dealing with organized crime from the point of view of trafficking, the purpose of the combat strategy is primarily focused on:

- a) harsher persecution of criminals, that is, traffickers;
- b) strengthening the efforts of the law enforcement bodies, as well as strengthening the initiatives of their collaboration at international level, other activities, which allow more efficient prosecution of criminals.

**At the same time, we observe, however, that in fact the counteracting of the phenomenon of trafficking in persons is limited to combating organized crime.**

The practice of the European states attests that several victims have suffered as a result of working with the law enforcement bodies, making depositions as a witness or injured party, and they were not given the necessary protection and assistance.

The prosecution of criminals is primarily focused on criminalizing their actions and rarely includes protecting and respecting the rights of the victim, and in most cases the interests of the victim are entirely subject to the interests of the investigations.

And if the victims, better known as their testimonies, play a decisive role in criminalizing the actions of the traffickers, respectively being encouraged to cooperate with the law enforcement bodies (to testify), they must be provided basic assistance services, including protection (permit). Stationary during investigations, legal assistance and ensuring the right to witness protection, ensuring the right to asylum and social assistance from the state), in this context, the victim's status continues to be vulnerable.

### **Human Trafficking as a Problem of Migration**

In recent years, more and more, the phenomenon of human trafficking has been defined through the perspective of illegal migration. Within the limits of this method, the prevention of human trafficking implies the prevention of the exit / entry, respectively, of the illegal stay of the persons in a country. At the same time, when the trafficking of human beings takes place within the boundaries of the same state, this method exhausts all its justifications, in this context the strategy to combat human trafficking becomes a fight against illegal migration. Thus, several states (both countries of origin and destination) have a restrictive migration policy, which would, inter alia, provide:

- a)** strict and conditional policy for issuing visas and strict border control;
- b)** limitation of the number of residence and work permits;
- c)** expulsion of all persons without a residence permit;
- d)** strict control of foreigners in the territory of the given country;
- e)** closer supervision of marriages between citizens of different states;
- f)** criminalization of illegal immigrants, etc.

Such a strategy denotes, in fact, the state's interest in protecting its national territory of (illegal) immigrants, rather than ensuring the protection of immigrants from exploitation and violence. The promotion of such a strategy has a negative effect on people, when, due to the lack of opportunities in their own country, in combination with the demand for labor in the informal sector in another country (which, in fact, is the most unprotected and unregulated), the lack of opportunities legal immigration, makes human trafficking a profitable business, "encouraging them" to resort to illegal means. Thus, they become even more vulnerable to different forms of abuse, violence and exploitation, lacking access to protection and support.

Most of the countries of destination, including the countries of the European Union, disregarding the international obligations and the provisions of the Palermo Protocol, in the legislative aspect and in the practical activity consider the victims of trafficking in persons and children as illegal immigrants and, as a result, they are immediately deported. from the country. Thus, trafficked persons do not have access to the assistance services and cannot benefit from a subsequent reintegration. Such an attitude by the target states not only violates the rights of trafficked persons, but also demotivates the victims' desire to testify against traffickers, who remain anonymous and continue to carry out criminal activities.

### **Human Trafficking as a Labor Issue**

If human trafficking, forced labor and slavery practices are defined as a labor issue, these practices can be considered as a result of the disadvantaged social and legal position of women on the labor market, including immigrants.

From the point of view of protection, the rights of individuals, the decision to go abroad to work is “motivated by the possibility and the right to work under normal conditions”, receiving a decent income.

Within the limits of this interpretation, trafficking in women is closely linked to the process of feminization of labor migration, which also promotes the development of different forms of exploitation of women's work in the informal sector, where, as mentioned above, women have very limited access to protection against abuse and violence. Thus, strategies to combat and prevent trafficking in human beings, especially women, tend towards:

- a) the recognition of work in informal sectors as legal work;
- b) the recognition by the countries of destination of the demand for labor in these sectors;
- c) elaboration of the respective legislation on labor protection in the case of immigrated workers.

At the same time, the policy of the countries of destination is aimed at protecting their own labor market and providing their citizens with jobs, so the access of immigrants to the workplace in the well-paid formal sector is limited and conditioned, in such a way that the immigrants are “reserved “the poorly paid or the informal sector, where, by committing, the woman becomes much more vulnerable, given the status of illegality.

Thus, human trafficking, forced labor and slavery practices become problems, to be treated by employees and employers through the law on the protection of employees, by trade unions, labor inspectorates, etc.

### **Trafficking in women as a moral issue**

Probably the most traditional way of defining human trafficking, especially women, is that of morality, which condemns prostitution. Respectively, the strategy to combat trafficking in women has as a “landmark” the fight with prostitution.

*At the same time, however, “voluntary” or “forced” conditions are not taken into account, and women are either victims to be recovered or criminals (with deviant behavior) to be punished. Inevitably the impact on the woman is isolation, stigmatization, marginalization, vulnerability to violence, criminalization of the woman, given the illegal status of her or her actions.*

*In this context the question arises: if prostitution is morally condemnable, then any assistance provided by other persons or “facilitation” of prostitution by others must also be treated as condemnable.*

### **Human Trafficking as a Problem of Public Order**

Treating the phenomenon in question as a problem of public order, the strategies developed are focused on the rigorous control of the behavior, the “indecent” and disorderly actions of the people. In the interest of public order, strategies are geared towards banning and eliminating such behavior (or persons with such behavior) from public life. Dominant method when talking about prostitution.

In many countries, prostitution is considered, more or less, inevitable or even a necessary “vice”. At the same time, it is considered a threat to public health or order, being controlled and regulated respectively. However, it is important to distinguish between voluntary and forced prostitution. Thus, in many European countries prostitution is legal and crime is considered forced prostitution.

Such a situation is attested in the Netherlands and Germany, for example, where prostitution is regulated by different forms of registration and records, other forms of state control over the person's activity, respectively, penalties for violating these provisions. The control strategy gives priority to measures related to public health control and less control over working conditions, which would mean penalizing or disqualifying the employer or clients for unfair, unfavorable practices towards the worker. In such circumstances, the woman is more at risk of being a victim of abuse or violence.

Moreover, the right to conduct such activity in some countries of the European Union where prostitution is regulated, belongs only to the citizens of these countries. This means that immigrant women, including from Eastern European states, will be punished and deported.

## **Human Trafficking as a Problem of Human Rights Violations**

This is the landmark of strategies and policies to combat human trafficking, developed and implemented by most non-governmental organizations in the world. The World Conference on Human Rights, held in Vienna in 1993, was an important step in approving such a conception, in which, for the first time, violence against women was defined as “Violation of human rights”. In recent years, from the point of view of the protection of women's rights, a number of international acts on the prevention and combating of trafficking of women and children for the purpose of sexual exploitation have been elaborated.

For example, The Hague Ministerial Declaration, which contains recommendations on effective ways of preventing and combating trafficking in women for the purpose of sexual exploitation and emphasizing that “trafficking in women is a serious violation in which all stakeholders are involved - non-governmental organizations, social assistance organizations, law structures, migration. Such a combat strategy calls for joint efforts at both national, regional and international levels, but the main responsibility lies with the Member States of the European Union. Because non-governmental organizations are widely defined as carriers of change and sources of assistance for women, state organizations must support these non-governmental organizations. “These aspects are important, because the actions to combat and prevent them, as well as the structures responsible for their implementation, will be elaborated or established according to the way in which the phenomenon is defined. And depending on the chosen method, these actions or strategies can be grouped into two categories:

- a) repressive strategies to counteract human trafficking, aimed at combating organized crime, illegal migration and prostitution, actions that are part of the policy and strategy state structures;
- b) strategies based on the idea of consolidating and strengthening the status of the woman and her rights through information, schooling and support actions, actions that belong to non-governmental organizations.

Both strategies can be valuable, but their application requires caution, to avoid an eventual process of repressive character and not to negatively affect the status, and thus unstable, of the persons (limiting the freedom of movement and the use of the person as a witness in the fight against organized crime, without being granted adequate protection).

In all countries facing the problem of human trafficking, an important role in preventing and combating this phenomenon is attributed to women's non-governmental organizations. Recognizing women's right to free choice and choice, non-governmental organizations build their strategies and policies based on women's interests, needs and problems. The purpose of the awareness campaigns lies in ensuring the respect of the rights of the woman, as an immigrant woman, an immigrant working woman, a working woman in the household, a working woman

in the sex-business etc., in this context, repressive strategies are eliminated and, as long as their rights will not be recognized and insured, human trafficking, forced labor and slavery practices will continue to exist.

Pretty active in preventing this phenomenon have proved to be international and non-governmental organizations operating in many countries around the world. As initiators and promoters of several legislative acts in the field, as well as authors of practical actions, they paid attention only to one aspect of human trafficking of stringent importance, namely the trafficking of women.

Thus, the impression was created that the trafficking of women for the purpose of sexual exploitation represents the trafficking of human beings in general. The interpretation of the problem through this prism has been reflected in several international acts and in the national legislation of several states. Such a situation is characteristic of Central and Eastern Europe, because the use of women in the sex industry is more widespread in developed countries.

Such a vision also shares the Foundation against Trafficking in Women (STV), stressing that trafficking in women occurs when the woman is forced to prostitute herself by applying force, deceit or abuse of authority. At the same time, it does not matter whether she, the woman, has practiced prostitution or if she wishes to continue doing such activity of her own volition. The core of the crime is the violation of the woman's freedom.

### **The Complexity of the Problem**

Migration and smuggling with migrants does not constitute human trafficking. There are a number of significant differences between migration phenomena, smuggling with migrants and human trafficking. Migration actually means the movement of a person from one country / region to another. It may be legal or illegal, voluntary (with the consent of the person), or involuntary (without its consent), although most often it seems to be voluntary. Involuntary movement (movement) of people and trafficking are examples of forced migration.

Smuggling with migrants means transporting a person (with his / her consent) to another country by illegal means.

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