

International aspects of human trafficking – Especially trafficking with minors

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Abstract

Liberalization of understanding and relations, the liberation of sexuality from the constraints of primitivism and tradition, leads to rapid growth of prostitution as a socio-pathological phenomenon, which necessarily stimulates the emergence of crime - trafficking with human beings. Particularly worrying is the emergence of a new dimension of human trafficking - trafficking in minors. Children, in addition to women, in international documents, often receive the status of "specially protected persons" which, following the direction in which this crime is developing is more than justified. We can freely say that trafficking in minors is industry in development.

Introduction

Trafficking with humans is a problem with international dimensions. Fight for the suppression of this crime can not be located only within one state. It must reflect, at least in a neighboring states of a country, and beyond. Exactly for these reasons, it is necessary alignment of strategies in terms of prevention and suppression, in terms of laws and, literally, alignment for the whole phenomenon of human trafficking - what it is and how it should be treated. From here is today's interest of the international community, treating it such trafficking as a serious form of organized crime, to be criminally punishable and to establish the only way to prevent, suppress and punish this kind of a crime in all countries. To this end, developed a multitude of documents that form unified legal framework for

efficient and organized fight. "The leading role in preventing this phenomenon has taken the international community, promoting institutions and leaders: in terms of legislation - the United Nations (UN), Council of Europe (CoE), Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM), Agency for International Development (USAID), International Centre for Migration Policy Development (ICMPD) and other; political and security: NATO, the OSCE, the European Union (EU) , Stability Pact, the International Criminal Investigations Program (ICITAP), the Regional Center for combating trans-border crime Initiative for Cooperation in South East Europe (SECI) and other; economic: the EU, the World Trade Organization (WTO) and others."⁵ Alongside them there are regional centers through which are implement strategies and programs to combat human trafficking. However, the enormous role in the fight against trafficking of non-governmental organizations lead to a need for their international networking to achieve better results in the area of social protection and reintegrativnite programs.

1. International documents concerning prevention of human trafficking and trafficking with minors

Internationally, there is great interest in the protection of women, as a specific victim of this crime. Firstly, documents that are brought in terms for fighting human trafficking are shaping the crime like trafficking exclusively with women. In 1904, by countries that later constitutes the League of Nations was concluded International Agreement for the Suppression of the White Slave Traffic ⁶, who (according to Article 1 of the Agreement) applies to women and girls who are transferred abroad for immoral reasons⁷. Six years later, in May 1910, is adopted

⁵ Stojanovski, Trpe, Human trafficking, Macedonian Review of Criminal Law and criminology-seventh regular consultation on subject:10 years of application of the Criminal Code of the Republic of Macedonia, Ohrid, 2006, page 375;

⁶ International Agreement for the Suppression of the White Slave Traffic, League of Nations Treaty Series, vol. I, No. 11, p. 83,Paris, 1904, - <http://www1.umn.edu/humanrts/instree/whiteslavetraffic1904.html>;

⁷ For reasons of distinguish women and girls,we can conclude that this contract is a kind of conception of what later will be a differentiation of human trafficking (adults) and trafficking with minors;

International Convention for the Suppression of the White Slave Traffic⁸. As stated in the Convention itself, it is brought because of desire for taking steps to more effective suppression of trafficking known as the "White Slave Traffic"⁹. These two international acts later fall under the so-called *Treaty Series*, or group of contracts within the League of Nations, relating to this matter. In 1921 the League of Nations adopted the *Convention for the Suppression of Trafficking in Women and Children*¹⁰. Through these international acts can be seen growing need to protect all minors, and giving them special treatment different from the one of adults victims, and the need of special treatment of people who appear as traders with minors. In 1933 the League of Nations brought the *International Convention for the Suppression of the Traffic in Women of Full Age*¹¹, and in 1947 is adopted a Protocol amending the Convention for the Suppression of Trafficking in Women and Children from 1921, and for the Convention for the Suppression of human adult women in 1933, with which the current functions and powers in this area are transferred to the United Nations.

In 1949 was adopted Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others¹² by United Nations, which makes a unification of the previously adopted documents of the League of Nations in this direction. These are the most important documents adopted at the international level to combat trafficking in persons (women and children) performed for sexual exploitation.

From the documents that were adopted in order to prevent trafficking and enslavement of people, in general, more significant are: the *Convention against slavery*, adopted in 1926, which belongs to the group agreements brought in this area from the United Nations, *Supplementary Convention on the abolition of*

⁸ International Convention for the Suppression of the "White Slave Traffic", League of Nations Treaty Series, vol. VIII, p. 278, Paris, 1910, - <http://www1.umn.edu/humanrts/instate/whiteslavetraffic1910.html>;

⁹ In this Convention is already made the above mentioned distinction of adult and minor victims;

¹⁰ International Convention for the Suppression of the Traffic in Women and Children, League of Nations, 1921, - <http://www.vilp.de/Enpdf/e158.pdf>;

¹¹ International Convention for the Suppression of the Traffic in Women of Full Age, League of Nations, 1933, - <http://www1.umn.edu/humanrts/instate/women-traffic.html>;

¹² Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, United Nations, 1949 - <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/051/36/IMG/NR005136.pdf?OpenElement>

slavery, slave trade and institutions and practices similar to slavery from 1956, the *Convention on the abolition of forced labor* from 1957, the *International Pact of Civil and Political Rights* from 1966, and the significant *Convention against Transnational Organized Crime*, from 2000 adopted by United Nations. The creation of a new international legal framework to prevent trafficking begins precisely with the adoption of this Convention, and with very important - *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. "The protocol is actually a way of emphasizing the dangers of trafficking with humans, but also stressing this crime as an extremely dangerous form of organized crime that is surged."¹³

1.1 International documents concerning prevention of trafficking in minors

As the oldest European political organization, the Council of Europe has a duty to protect fundamental human rights, to ensure realization of principles - the rule of law, democracy and freedom. However, the key role that this organization has is in the area of protecting children from trafficking with them and in efforts to combat this crime.

On 6th October 1987, the 15th Session of the Parliamentary Assembly adopted Recommendation on the traffic in children and other forms of child exploitation. Council of Europe takes this recommendation pulled from the fact that society is obliged to follow the best interests of children and to protect, and due to the daunting international trade with them for prostitution, pornography, slavery and illegal adoption. The recommendation states that the Council, as necessary, believes that Member States should sign and ratify the Convention on the prohibition of trafficking and exploitation of prostitution of others, the European Convention for the adoption of children, the Hague Convention on jurisdiction, applicable law and recognition of decrees relating to adoption, the Convention no. 138 of the ILO about the minimum age for employment and European Social Charter with particular reference to Article 7 on the right to protection of children and adolescents. Also, countries are urged to support the

¹³ Stojanovski, Trpe, Human trafficking, Macedonian Review of Criminal Law and criminology-seventh regular consultation on subject, page 375;

proposal - declarations of the General Assembly of the United Nations about social and legal principles concerning the protection and welfare of children, by recommending, or calling for adoption of children on national and international level. It is recommended to improve protective measures and practices regarding international adoption of children in regard that adoption does not result in improper financial gain for those who are involved in it, international adoptions to be conducted by competent agencies and competent authorities, for such purpose to be applied safety measures and standards equivalent to those that exist at the national level, to take internationally aligned movement for unaccompanied minors. It encourages the idea of conducting a campaign to inform the public about the problem of child trafficking and exploitation of child labor, to inform teachers and young people on child rights and to include the study of human rights in curricula at all levels. With the recommendation it is suggested about the need for harmonization of the laws of Member States in the fight against child pornography and the need to enact strict laws to combat it. And politics is encouraged to discover the needs of street children and abandoned children, to condemn any politic of commercial and industrial competition based on exploitation of child labor and to ensure that all activities undertaken, at national and international level, will be of positive significance for all children worldwide. It is recommended to improve public services that are working for children and their protection.

This recommendation is only one part of the activities that, at the plan of child care, has undertaken the Council of Europe as a political organization.

In this way is the *Recommendation concerning sexual exploitation, pornography and prostitution of, and trafficking in, children and young*, by the Committee of Ministers to Member States, adopted on 9th September 1991. This recommendation was made as a result of the realization that well-being of children and young people is fundamental to society, that sexual exploitation of them for profit, in the form of pornography, prostitution and trafficking, has reached new and alarming dimension of national and international level, that there is a real need for Member States of the Council of Europe to harmonize their legislation in this area so that the actions which are taken at national and

international level to be more coordinated and effective, having, at the same time in regard the above mentioned recommendation of the Parliamentary Assembly. The recommendation includes four sets of measures which the Committee believes should be implemented in national legislations of member states: *general measures, measures relating to child pornography, measures relating to prostitution of children and youth and measures relating to trafficking in children and adolescence.*

This last group of measures, related with trafficking in children and adolescence, includes recommendation for supervision of the activities of arts agencies, agencies for marriage and adoption, in order to control the movement of children within countries and between them and disrupting the possibility that they could be fooled into prostitution and other forms of sexual exploitation. It is also recommended to increase supervision by border police and immigration authorities, in order to ensure that children's travel abroad, especially those who are unaccompanied by their parents or guardians, is not related to trafficking. Also, in this direction is recommended that there has to be some institutions establishing (and it has to be a support giving to the already existing ones) for protection and and giving help to the victims of trafficking in children and adolescence.

Among the others, with their recommendation to the Member States it is recommended a better cooperation and to exchange information and data through Interpol in order to easily identify and persecute those who are involved in the trafficking of children and young people, especially the organizers of this trade.

For the protection of trade in children for the purpose of exploitation of child labor, the International Labour Organization in 1999 adopted the *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*, or shortly known as the Convention on the Worst Forms of Child Labour. By ratifying this Convention, States Parties undertake to take immediate action to eliminate the worst forms of child labor exploitation and with the ratification of this Convention by member states, this Convention enjoy the status of the fastest ratified convention in ILO since 1919.

In The Convention, in the part where is listed of what exactly are the worst forms of child labor, among other things, is stated "all forms of slavery and practices similar to slavery, such as sale and trafficking of children."¹⁴ ILO in 1999, in this regard, adopted the Recommendation for the Worst Forms of Child Labour.

However, most important international - legal instrument adopted in order to combat human trafficking, more specifically - trafficking in children is certainly the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children adopted by the United Nations in 2000, as a complement to the Convention against Transnational Organized Crime.

1.2 About the Palermo Protocol for Prevention, Suppression and Punishment Trafficking in Persons, Especially Women and Children

This Protocol was adopted in order to highlight the need for a comprehensive international approach in combating the trafficking in persons, especially women and children in countries of origin, transit and destination, which should include measures to prevent trafficking, punish offenders and helping and protecting the victims, along with protecting the already existing and recognized international human rights. In the introductory part of the Protocol is emphasized the importance of it at the international scene, because, until the moment of its adopting, although there was a full range of international instruments that treated the trafficking with human and which contain measures and rules to combat such trafficking, there is not an universal instrument that covers all aspects of trafficking.

The protocol is consist of four parts: general provisions, protection of victims of trafficking in persons, prevention, cooperation and other measures and finalprovisions.

The general provisions contain 5 articles that are associated with the correlation that this Protocol has with the primary Convention against Transnational Organized Crime, the importance of Protocol for Convention's recharge and interpretation. Article 2 of Protocol explains the purposes for which it is adopted and that needs to be realized with it: preventing and combating

¹⁴ Article 3, point A of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

trafficking in persons, with particular attention to women and children as a special category of victims, protecting and assisting victims of such trafficking, with respect for their basic human rights, promoting cooperation between Member States in order to realize the goals and so on. These goals that are set by the States Parties with the very signing of the Protocol, and all measures that are bound to take for their implementation, clearly indicating the vigilance of the international community to the problem of trafficking in persons in general, and the gradation of the problem when as victims are found women and children. Article 3 refers to the explanation of terms used in the Protocol. Here is a definition of what is actually trafficking with humans. According to Article 3, paragraph A, of the Protocol:” Human trafficking means recruitment, transportation, transfer, harboring or accepting of persons, with threat or use of force and other forms of coercion, or abduction, fraud, deception or the use of power or a state of powerlessness or the giving or receiving money or benefits to achieve the consent of a person having control over another person for purposes of exploitation. Exploitation, at least, as a minimum covers the exploitation for prostitution of others or other forms of sexual exploitation, forced labor or forced services, slavery or practices similar to slavery, servitude or the removal of organs.”

According to the Protocol it is considered that the consent of the victim in any of the above cases is irrelevant. Also the crime, according the Protocol, includes the situations of voluntary prostitution, which, through the application of various measures for establishing the dependence of prostitutes, is turning into forced prostitution or slavery relationship. No impact of voluntary prostitution, but when there are the elements of threat, coercion, abuse, etc. it is transformed into compulsion. About the minor as a victim, according to the Protocol it is recorded under the term "child" and it includes persons under eighteen years old¹⁵. About the children it is considered that any of their recruitment, transportation, transfer, harboring or acceptance for the purpose of exploitation shall be considered as trafficking with them, even in cases when they were not done in some of the

¹⁵ In the Convention for the Suppression of Trafficking in Women and Children from 1921 border line that separates juveniles from adult victims was the age of 21 years old, this border is placed below;

ways mentioned in point A of Article 3 of the Protocol . The Protocol establishes as punishable the attempts to commit this crime and complicity, organization or ordering to another to commit the same. In hhe general provisions are articles about the scope of application of the Protocol and about criminalization.

The second part, the part about protection of the victims of trafficking in persons, contains provisions on assistance and protection of victims, in terms of preserving their privacy and identity, ensuring their physical, medical, social assistance and, for the purpose, achieving cooperation for the countries with NGOs, then the employment of victims, providing them appropriate education and so on. Assistance and protection of victims expressed by providing privacy, physical and psychological care is especially important for children victims of this crime. There are provisions about the status of victims of the signatory - countries, about conditions and manner of their return to their motherland and so on. "The protection of victims involves establishing a legitimate procedure to avoid immediate deportation and their current care in facilities that have the necessary conditions for residence. In them victims can get advice and information about their rights, medical, legal, social, material and other help, in order to be safely repatriated to their country."¹⁶

The third part is about prevention, cooperation and other measures that need to be taken by States Parties. According to the Protocol, prevention should be accomplished by researches that need to be done into the States Parties, public informing, informing the officials and the victims also, mass media activities, cooperation with NGOs (that also undertakes activities in this field), bilateral and multilateral cooperation between states, adoption of strong legislation and so on. In general, the preventive politic includes comprehensive preventive politic and programs, preventing the re-victimization, research, information campaigns, social and economic initiatives and cooperation with civil society. It requires strengthening of border control and cooperation between states when a person crosses the border without travel documents or using passports of someone else (a serious sign that is a trafficker or a victim of trafficking), to control the documents and to check their legitimacy and validity.

¹⁶ Stojanovski, Trpe, Human trafficking, Macedonian Review of Criminal Law and criminology-seventh regular consultation on subject, page 377;

The final provisions contains articles that are regarding the manner of resolving disputes made by interpretation and application of the Protocol among its signatories, about ratification, signature, acceptance, approval and accession to the Protocol, its entry into force, a way of supplement, cancellation of it and articles about the languages and about UN Secretary General.

This Protocol recognizes that trafficking is a complex matter, on which it should be responded with efficient and effective measures. It also provides a new approach to human trafficking issues, defines the concept as complex and multifaceted, it combine traditional methods of crime control, of initiate an investigation and punishment of offenders and of measures to protect trafficked persons .

Conclusion

In order to combat the trafficking of minors and trafficking in adult victims, there is a need for the proper function of the mechanism of target institutions and figures. The amendment of legislation in the states is just the beginning to the formation of the prerequisites for combating trafficking in human's destinies. The harmonization of legislation of each country with international laws, means that the states are closer to more developed countries in terms of willingness to combat trafficking with humans. The connection between the government and NGO sector in this struggle and alignment of their policies is also extremely important factor.

States must act to build a comprehensive framework aimed at preventing victimization and re - victimization, at protecting those who have suffered from the crime and prosecuting the criminals. They must act to combat the contributing factors, striving to provide for their citizens in ways that diminish vulnerability to trafficking and to develop alternatives to the exploitation that is at times inherent in the demand for cheap labour and services. They must be vigilant in enforcing laws and monitoring activities so as to minimize the profits to be made from trafficking in persons. There also needs to be an aligned fight among the countries against this crime, it is the only way to fight this kind of a international organized crime.

In this regard, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children - Anti trafficking Protocol - by 2000, at the international level, was the first one that reached a common definition that applies to this crime. In this protocol, human trafficking is viewed as a contemporary form of slavery which includes many activities such as recruitment, transportation, transfer, harboring and receipt of persons, while they use a variety of means of coercion - threats, force, kidnapping, fraud, deception, use of power or a state of powerlessness and so on., for diverse purposes (prostitution, sexual exploitation, forced labor or services, slavery, servitude, removal of organs etc.). Having the common definition is the first and the crucial step in joint forces of countries all over the world. It is a basic condition for starting and running a serious fight against this crime. On its element of organization it must be responded with even greater and bigger organization and compactness of all participants in this struggle. Only thus could rise above the criminal minds.

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