“HUMAN TRAFFICKING IN 21ST CENTURY”

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“Human trafficking is an open wound on the body of contemporary society, a scourge upon the body of Christ. It is a crime against humanity.” — Pope Francis

ABSTRACT: Human trafficking is a very severe social phenomena that has serious implications for men's fundamental rights. Human trafficking (infringement regulated and incriminated by the current Penal Code in the Special Part, Title I – Infringements against the person, Chapter VII – The trafficking and exploitation of vulnerable persons, article 210), along with work exploitation and organ trafficking, is one of the modern forms of slavery. Due to the abolition of slavery and the criminalisation of its activities, this form of human denigration has persisted in the face of all sorts of rebuttal. The theories given may help to explain this situation. One of the reasons is slavery has survived to the present day is that it has evolved adjusting to new social and political demands as a result, three types of contemporary slavery have emerged, including human trafficking.

KEYWORDS: Human trafficking, law, slavery, protection, legislation.

INTRODUCTION: The modern Romanian Society must face both the destructive effects of the powerful economic and social seism that have afflicted the entire Central and Eastern European region in recent decades, as well as the challenges associated with the re-launch of the development process, in accordance with the common goal of the European Construction – a modern, competitive society with a high degree of social cohesion, which guarantees and protects the rigour of the market. Human trafficking is a very severe social phenomena that has serious implications for men's fundamental rights. The phenomena have a long history in Africa, Asia, and the America, and it began to expand in Europe in 1990, with the fall of communist regimes and the Balkan crisis.

The countries of Southern, Eastern, and Central Europe are not only source countries, but also transit countries for people trafficking. After the 1990s, this region has started to compete with the traditional ones, such as Latin America, South – East Asia, or Africa, as one of the most major sources of women and children exploited for sexual trafficking or as labour force in Western Europe (US Department of State, Bureau of Public Affairs, 2003, Trafficking in Persons Report – June 2003).

The evolution of Romania's social and economic background in the 1990s fostered the appearance of some social cleavages and, implicitly, some socioeconomic levels vulnerable to trafficking. By the end of the 1990s and the beginning of the 2000s, Romania's geographical proximity to conflict zones in former Yugoslavian countries has also resulted in an increase in the occurrence of the phenomena. It was only logical for Romania to become a destination country for human trafficking after joining the European Union.

Human trafficking is described in numerous legal rules that govern its prevention and control at both the national and international
levels. Despite this, many people still mistake this infraction for prostitution or even proxenetism. That is why we believe it is necessary to define all these concepts in order to reduce confusion. Human trafficking is defined at the international level by the Organization of the United Nations (The Palermo Convention, December 13, 2000): “Human trafficking is defined as the recruitment, transportation, sheltering, and receiving of people through threats and other forms of restraint, kidnapping, racketeering, fraud, or power abuse, exploiting a vulnerable situation, and giving or receiving money or other goods for the purpose of trafficking, possessing the permission of one person over another for the purpose of exploitation. Prostitution or other types of sexual exploitation, labour or forced services, slavery or comparable activities, servitude, or organ prelevation are all examples of exploitation” (An addendum to the United Nations Convention against Transnational Organized Crime addressing the prevention, repression, and punishment of human trafficking, particularly of women and children).

Prior to the adoption of the new Penal Code\(^1\) in February 2014, the former law no. 678/2001 for preventing and controlling human trafficking defined, in Article 12, human trafficking as “the recruitment, transportation, transfer, or sheltering of a person, by threat, violence, or other means of constraint, by kidnapping, fraud or deceit, authority abuse, or taking advantage of a person, because the person is unable to defend himself or express his will, or by offering, giving, or taking money or other things in order to gain the permission of the person who has control over another, with the intent of exploiting that person.” (2001 Law No.678 on the Prevention and Control of Human Trafficking) (art.12). At the same time, the previous Romanian Penal Code defined prostitution as "the deed of a person who earns his life or the principal means of living by practising in this respect sexual intercourse with different persons" (Art. 328). In close relation with this, the term proxenitism was defined in the Penal Code as "Urging or Encouraging the Practise of in The Current Penal Code, Human Trafficking is Regulated and Sanctioned in its Special Part, Title I – Infringements Against the Person, Chapter VII – The Traffic and Exploitation of Vulnerable Persons, Art. 210, and Proxenitism is Regulated and Sanctioned in Art. 213 Penal Code, The Same Title, The Same Chapter.” In exchange, we no longer see the infringement of prostitution, with this act being deemed just a violation when the new Code was enacted. As a result, while these three acts may appear to be identical in some ways, there are significant distinctions between them. To begin, human trafficking necessitates the existence of a so-called ‘Network’, which consists of at least three elements: recruiter, seller, and exploiter. When it comes to prostitution and proxenetism, the exploiter and the recruiter may be the same individual. In other words, people trafficking is integrated into organised crime.

Last but not the least, trafficking differs from prostitution in that there is no victim's permission, at least in the early stages of the exploitation. Initially, the presence of the victim's consent was an important criterion in order to frame the deed, but due to court

\(^1\)https://law.justia.com/cases/texas/court-of-criminal-appeals/1990/1209-87-4.html
obstructions, the current legislation has undergone amendments in which the victim's consent is no longer relevant. The psychology of the victim is primarily responsible for the practical challenges that have arisen, particularly in the realm of criminal prosecution (the attachment of the victim to the felon).

Based on this understanding of human trafficking, we can conclude that the term "Victim of Human Trafficking" applies to any person who has been subjected to trafficking, regardless of age, gender or other factors as a result, victims can include women, children, men, the elderly, and others. The recruiter depicts the individual participating in the first stage of human trafficking, which involves thoroughly studying the victim in order to identify all susceptible spots to exploit, initiating contact with the victim, and winning her trust. The person who commits human trafficking is represented by the trafficker. He is, in reality, the "Linking Person", the person who connects the recruiters and the exploiters. To clarify, the trafficker represents both the recruiters and the exploiters. To clarify, the trafficker represents the seller from an economic standpoint, having been discovered in a constant state of flux between demand and supply, but on an extremely perilous market the victim is exploited by the exploiter, who is the final link in this chain.

We cannot speak of stability among the various roles that offenders may play in the criminal network. In other words, the recruiter can become a trafficker or an exploiter, while the trafficker can become an exploiter or a recruiter.

Human trafficking victims According to the following criteria, “Flesh” trafficking has more variations. We can distinguish the following subjects as victims of human trafficking:

a) Human trafficking of males
b) Human trafficking of women
c) Human trafficking of children
d) Depending on How the Victims will be Expressed: Trafficking in which victims are drawn by expressing their own will; trafficking in which victims are attracted by any form of restraint; trafficking in which victims are attracted by deception.

According to the Territory Within Which Trafficking Takes Place: Human trafficking inside the same state (from one region to another); human trafficking across state borders (from one state to another).

f) According to the Aim:
   - trafficking for the purpose of slavery
   - trafficking for sexual exploitation
   - trafficking for the pornographic industry
   - trafficking for organ prelevation
   - trafficking for use in army conflicts.

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We can differentiate several types of human trafficking around all of these items of criminal activity. We will give you a quick description of each of them.

- **Trafficking in Women and Girls for the Sex Industry are:** One of the most common types of trafficking is the trafficking of women and girls for sexual exploitation. This has seen a remarkable increase in the last decade, to the point where it damages women's mental and physical health and significantly degrades their moral status; not only does it wreak havoc on their social position, but it also shatters society's foundation - the family. Trafficking increased once again with the large outflow of labourers to underdeveloped countries in search of a better life. In this situation, the victims are mostly utilised for prostitution and pornography (videos, pictures, and images depicting live sexual activity). The victims are mostly prostitutes: some of them expect that by changing owners, they would make more money and, as a result, agree to be sold; others may not even be asked; in either event, they will learn about a treatment that does not match to their wishes. Much worse is the condition of women and girls who refuse to be trafficked or to engage in prostitution. There has recently been a rise in human trafficking to Arab countries such as the United Arab Emirates, Kuwait, Syria, and others. The following routes are used by traffickers: Romania, Serbia, Kosovo, Albania, and Italy; Romania, Serbia, Macedonia, and Greece; Romania, Hungary, Austria, and Germany; and Romania, Bulgaria, and Turkey. UNICEF, 2002, p. 9 (Trafficking in Human Beings in South-eastern Europe). The victims are kidnapped or deceived by being promised everything they want (usually to get to prosperous countries where they can earn a good living) and then forced to practise prostitution, being intimidated, maltreated, raped, subjected to sexual perversions, or even murdered, to achieve their hateful goals. Confessions of victims the treatment to which they are subjected can be defined as a perpetual torment, leaving them with untreated marks and wreaking havoc on their mental and physical health. In most situations, these women lose their mental strength in attempting to escape the prison of their traffickers or pimps, and much worse, they develop a mental instability that leads them to become true prostitutes, even attempting to recruit other women. The psychological recovery and social reintegration of victims of human trafficking for the aim of social exploitation is extremely challenging, necessitating the development of a specific psychological, criminal, and medical strategy in stable and suitable conditions.

- **Trafficking in Children for the Aim of Committing Offences:** The trafficking discussed in this paper meets a need from the criminal world seeking to achieve their nefarious objectives. The demand is for children who have been trained for illegal activity. Criminals utilise these minors to perpetrate pickpocketing, car
Theft, and other crimes. They benefit from all of the financial commodities earned by these children, whereas the children receive, at best, a very small amount or nothing at all. The manner in which these actions take place is particularly advantageous for felons because it allows them to evade legal liability: because the youngsters do not know the offenders well and cannot supply too many details about them, determining their identification gets increasingly difficult. Another issue is that if the crooks are discovered and the children are taken to the authorities, they may very likely continue their operations by using other children. The events stated above occur in rich foreign countries where revenues are boosted, and the police have no information about the offenders. As a result, additional relatives of the wrongdoers who train children for these unlawful activities use the situation and sell children to them.

- **Women, Men, and Children are Trafficked for Forced Labour or Slavery:** Even though the Middle Ages are long gone, and men enjoy the rights and liberties of modern societies, some forms of slavery still persist today. The only distinction between modern slavery and historical slavery is that the latter is an illegal practise. This means that the person (slave) is in the control of another person (the owner), who utilises him according to his own whim (exploiting him) or even administers him, such as giving him away at any time (selling – purchasing or giving). Typically, the master subjects the person he owns to different sorts of physical and intellectual abuse. Traffickers reacted quickly to this process, and an increasing number of people have become victims of forced labour. Forcing someone to perform various physical or intellectual activities for the profit of another for a certain amount of time is the most common kind of forced labour. This can be accomplished through a variety of more or less evident ways and means. For example, a person who enters a foreign nation illegally and is provided work as a result of an illicit transaction between traffickers and masters about which the victim is unaware. He works without pay for a length of time because his employer promises to pay him. At some point, the master informs the police about the illegal stay of that person, for which he is ejected without receiving any additional funds. Another way is to offer a person in need the amount of money required to travel to an affluent country on the condition that the person work for as long as it takes to repay the money. As a result of their predetermined agreement, the traffickers receive the money directly from the boss who recruited the person in such circumstances.

- **Trafficking in Organs, Human Tissues, or People for the Purpose of Extracting:** Medical research has made amazing advances in the last century, providing individuals with unexpected optimism for life extension. Among the many triumphs is the ability to replace ill organs with healthy ones, which may come from donors, living benefactors, or persons found in clinical death, with the agreement of their relatives, out of fundamentally human motivations. Obtaining those healthy organs, on the other hand, may be difficult. Due to the
current scarcity, things have grown tough. People are capable of doing many things, even some immoral ones, in their search for and attempt to save their loved ones. As a result, healthy organs and tissues are in high demand. And the criminals take advantage of these dreadful circumstances. They respond to persons in need by sending some enticing but illegal offers. Traffickers employ a wide range of methods to achieve this goal.

For example, they urge people in need to sell their own or their children's organs in order to obtain large sums of money. Alternatively, they may become involved in unlawful adoptions of children whom they may later adopt and who may also die if the evacuation of organs eliminates all possibility of survival. Even grownups can fall victim to this. In this situation, individuals are duped in many ways (that they would be assisted in finding a highly well-paid work in a developed country), and then they are subjected to forced procedures, in many cases losing their lives. There are, however, occasions in which human beings are medically exploited without any rationale or compelling reasoning to do medical research. Thus, trafficking manifests itself in the following ways:

1) the extraction of organs within the country's boundaries and, eventually, their exportation abroad

2) the transnational sale of people for the extraction of their organs. Local hospital doctors undertake these surgeries without the patient or his family's awareness. In the latter situation, victims are taken abroad under various pretexts (typically a well-paid employment), where their organs are extracted, or they are exploited in various ways.

In conclusion, taking everything stated above into account, we can conclude that human trafficking is a very severe societal phenomena that causes serious prejudices to men's fundamental rights. Concerning the extent to which the subject under discussion has progressed, we may say that there are still numerous undiscovered areas in the research of the problem concerning the regulations of criminal liability in penal law.

Laws Against Human Trafficking In India: Human trafficking is a serious crime that violates fundamental human rights. Sexual exploitation of minors is worse than any other crime against children in any country. Article 51A (e) of the Constitution imposes a mandatory obligation on every Indian citizen, stating that "It Shall Be The Duty Of Every Indian To Abandon Behaviours Detrimental To The Dignity Of Women". However, in practice, the position differs from the spirit of the Indian constitution.²

Human trafficking can be profitable:
- Exploitation of women sexually
- Bonded Work
- Servitude in the home
- Begging for Drugs/Smuggling
- Forcible marriage
- Criminality under duress

Factors Influencing Child Soldier Organ Harvesting Resulting In Trafficking:

a) Poverty 
b) a scarcity of job opportunities 
c) Prostitution for Religious/Traditional Purposes 
d) Marriage of a Child 
e) False job/marriage promises 
f) Migration 
g) Tourism for sex 
h) Pornography on the internet 
i) Human trafficking affects not just women and children, but also men. A considerable number of people are trafficked in India, not just for sex trade but also for other forms of slavery.

DIFFERENT TYPES OF CHILD SEXUAL EXPLOITATION: This phrase refers to criminal behaviours that degrade, degrade, and endanger the physical and psychological integrity of minors, namely sexual abuse by an adult and compensation in cash or kind to a child or third person(s).

Aside from sexual crimes against women, commercial sexual exploitation of children includes the following:

- child prostitution
- child pornography in general/on the internet
- trafficking for sexual exploitation
- incestuous sexual exploitation
- child sex tourism
- child marriages

LEGAL STRUCTURE: Apart from the provisions of the Constitution, which is the country's basic legislation, India has a diverse set of laws adopted by the Parliament and several state legislatures.

INDIA’S CONSTITUTION: Article 23 Protects Against Exploitation, forbids trafficking in humans and beggars, and makes this behaviour illegal.

Article 24 Prohibits Child Labour, children under the age of 14 from working in factories, mines, or other hazardous occupations.

PENAL CODE OF INDIA: There are around 25 provisions concerning trafficking, however some of the most important are as follows:

a) Section 366A: It is a serious offence to induce any minor girl under the age of eighteen to travel to any such area with the intent to compel or seduce illegal intercourse with another person.

b) Section 366B: Importation of any It is a serious offence to compel or seduce a girl under the age of twenty-one into illegal intercourse with another person.

c) Section 374: Punishes anyone who improperly forces another individual to work against his will.

INTERNATIONAL INSTRUMENTS: A list of Conventions and contents to eliminate the children’s sexual abuse:

- International Conventions for the Suppression of the Traffic in Persons and

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3 https://blog.ileaders.in/human-trafficking/

of the Exploitation of the Prostitution of others, 1949 (signed by India on May 9’ 1950)

b) The Convention on Consent to Marriage, Minimum Age for Marriage and Registration for Marriages- Convention enforced with effect from 9th December 1964


g) The Declaration on the Elimination of Violence Against Women, 1993


TRAFFICKING PREVENTION: Several methods of intervention can be used to prevent human trafficking. It must concentrate on public sensitization and awareness, as well as susceptible regions that contribute to the creation of a climate conducive to human trafficking.⁵

THE FUNCTIONS OF STATE: A obligatory high-quality education, as well as income creation and job prospects, should be established. Promote high-quality teacher education programmes in public schools. Different nations should share preventive measures in order to assist both countries in preventing trafficking.

NGOS: The community should keep a close eye on the migration of child victims of traffickers. They should educate parents and make them aware of safe migration practices.

MEDIA: The media plays a critical role. Sending the appropriate message to the victim to reassure them that they are not alone.

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⁵https://advocatespedia.com/Legal_Regulations_On_Human_Trafficking_In_India_Major_Issues_And_Future_Propects
CONCLUSION: Human trafficking, particularly of minors, is a type of modern-day slavery that necessitates a holistic, multi-sectoral strategy to address the problem’s complexities. It is a problem that violates the victims’ rights and dignity, and so necessitates a child rights perspective when striving to eradicate it. Governmental entities, non-governmental organisations, civil society, pressure groups, and international authorities must all play a vital role and collaborate in the fight against human trafficking. Law cannot be the only tool for addressing complicated societal problems.