INTERNATIONAL LEGAL FRAMEWORK ON HUMAN TRAFFICKING AND CRIMINAL LIABILITY ON TRAFFICKERS

BY

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ABSTRACT

Human trafficking involves recruitment, harbouring or transporting people into a situation of exploitation through the use of violence, deception or coercion and forced to work against their will. People can be trafficked for many different forms of exploitation such as forced prostitution, forced labour, forced begging, forced criminality, domestic servitude, forced marriage, and forced organ removal. It has become a serious global problem that despite legal efforts so far put in place to combat, it has continued to persist. This paper aimed at examining the concept of human trafficking as a crime and analyzing the criminal liability on traffickers in order to ensure that it is the perpetrators of does not go unpunished.. This paper buttresses that human trafficking is not limited to areas of conflict and for sex exploitation. Human trafficking can occur anywhere there is demand for labour. The limitations of international frameworks that exists towards the fight against Human Trafficking are also analyzed. Human trafficking, as recognised in the Declaration of the High-level Meeting on the Rule of Law Trafficking in Persons, preys on the vulnerability of victims and can be considered as a premeditated crime. The United Nations Office on Drugs and Crime (UNODC), as guardian of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocols thereto, assists States in their efforts to implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons (Trafficking in Persons Protocol). This paper adopted the content analysis research method. Data was gathered and analyzed critically from various sources, including Anti-Trafficking Review Journals and UNODC reports as well as other writers and reportson human trafficking and criminal liability. This study recommends that states should cooperate in fighting the crime of trafficking in persons through the application of international law and ensure that no trafficker goes unpunished. There should be consistency and consensus around the world on the phenomenon of trafficking in persons. In conclusion, domestic legislation on Human Trafficking does not need to follow the language of the Trafficking in Persons Protocol precisely, but should be adapted in accordance with domestic legal systems to give effect to the concepts contained in the Protocol.

Keywords: Criminal Liability, Human Trafficking, International Frameworks.

INTRODUCTION

Human trafficking is the trade of humans for the purpose of forced labour, sexual slavery, or commercial sexual exploitation for the trafficker or others.[1] This may encompass providing a spouse in the context of forced marriage, or the extraction of organs or tissues,[2] including for surrogacy and ova removal. Human trafficking can occur within a country or trans-nationally. Human trafficking is a crime against the person because of the violation of the victim's rights of movement through coercion and because of their commercial exploitation. Human trafficking is the trade in people, especially women and children, and does not necessarily involve the movement of the person from one place to another.[3][4]

The Trafficking Protocol, which had 117 signatories and as of November, 2018 173 parties,[5] defines human trafficking as:

(a) the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal, manipulation or implantation of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in sub-paragraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in sub-paragraph (a) of this article;

(d) "Child" shall mean any person under eighteen years of age.

Trafficked people are held against their will through acts of coercion, and forced to work for or provide services to the trafficker or others. The work or services may include anything from bonded or forced labour to commercial sexual exploitation.[6] The arrangement may be structured as a work contract, but with no or low payment, or on terms which are

[1]"UNODC on human trafficking and migrant smuggling". United Nations Office on Drugs and Crime. 2011.
[2]"Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs" (PDF). United Nations. 2009.
[3]Trafficking In Persons Report June 2019 (PDF) (Report). U.S. State Department.
[4]Global Report on Trafficking in Persons (PDF) (Report). United Nations Office on Drugs and Crime. 2018.
[5] UNTC, 2015
[6]UNODC on human trafficking and migrant smuggling". United Nations Office on Drugs and Crime. 2011.

highly exploitative. Sometimes the arrangement is structured as debt bondage, with the victim not being permitted or able to pay off the debt.

Overall, literature on human trafficking largely reflects the perspectives of those who have lobbied to criminalize and punish human trafficking more than those affected by it. It has led to a literature gap on human trafficking that manifests as significant misconceptions about the extent and the nature of the issue. Misconceptions about human trafficking include that it is primarily a sex trade, that it is a problem exclusively documented in developed countries, and that trafficking is only a problem in areas of conflict. Human trafficking is more likely to be a problem in low and middle-income countries than in developed countries. It is not limited to areas of conflict. Human trafficking can occur anywhere there is demand for labour.

Perpetrators of the crime of human trafficking go into it for several purposes other than sexual exploitation. These include:

1. Labour Exploitation: Boys are trafficked in most cases for labour exploitation, especially to work in plantations, mines or in other hazardous conditions, such as handling of chemicals and pesticides or operation machines. They are in most times isolated within the destination countries and are fearful of reporting the abusive work conditions to authorities.

2. Domestic Work: It is estimated that 80 million or 41% of African children, most being girls and between 5-14 years are engaged in domestic work. These victims are sorely dependent on their exploiters for safety, food and shelter and most endure harsh working conditions. They do not have any form of identification and as such cannot attempt escape.

3. Forced Marriage: Families use the above as a survival strategy by trafficking the girl child as a bride.

4. Illicit Adoption: There is an increase in demand for adoption and this has helped to propel the unlawful trafficking of babies and young children. In the developing countries, sometimes mothers sell their baby or young child and at other times the infant is stolen and mothers are told the baby was stillborn.

5. Organised Crime: This involve a situation whereby those trafficked are being used to commit several forms of crimes in a country especially such as terrorism, banditry and transnational peddling of illicit drugs etc.

CAUSES OF HUMAN TRAFFICKING

Human trafficking is a global, complex, and heartbreaking issue. For approximately 40 million people, it’s not some obscure, disconnected concept that is hard to comprehend; it is a reality they’re forced to live in daily. If we want to effectively contribute to the eradication of modern slavery, we must first understand what causes it and how it affects those involved. Only then can we start making strategic moves to stop human trafficking and truly help those in need.

The root cause of human trafficking is traffickers. Traffickers prey on others' weaknesses, unfortunate circumstances, unfamiliarity, and inexperience. Traffickers are trained to identify vulnerability and use expert manipulation tactics to persuade and control their victims. They identify a void and offer to fill it.

Vulnerability creates opportunity for traffickers. Individuals living in difficult conditions can become desperate, and that desperation makes them vulnerable[7]. While the following categories do not cause human trafficking, they do create a state of vulnerability and ideal opportunities for traffickers to strike. This vulnerability can be caused by poverty, unemployment, displacement, lack of knowledge or experience or even as a result of broken families. Victims who are displaced from homes or faced with poor and low standard of living become targets to perpetrators of human trafficking, who prey on their susceptibility and weakness.

INTERNATIONAL LEGAL FRAMEWORK ON HUMAN TRAFFICKING

Although human trafficking can occur at local, domestic or transnational levels, it has international implications, as recognized by the United Nations in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also referred to as the Trafficking Protocol or the Palermo Protocol), an international agreement under the UN Convention against Transnational Organized Crime (CTOC) which entered into force on 25 December 2003. The protocol is one of three which supplement the CTOC and is the most reputable and recent instruments of international law that have set the course for how to define, prevent, and prosecute human trafficking. The Trafficking Protocol is the first global, legally binding instrument on trafficking in over half a century, and the only one with an agreed-upon definition of trafficking in persons. One of its purposes is to facilitate international cooperation in investigating and prosecuting such trafficking. Another is to protect and assist human trafficking victims with full respect for their rights as established in the Universal Declaration of Human Rights[8].

Instruments that have dealt with human trafficking date back to the abolition of slavery. They include provisions within the Slavery Convention (1926) and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956). Additional tools of international law that include segments against the trafficking of persons include: The Universal Declaration of Human Rights (1948), the International Covenants on Civil and Political Rights (1966), The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), and the Convention on the Elimination of all Forms of Discrimination Against Women (1979). These instruments laid the foundation for the

[7] Hartmann, *Causes of Human Trafficking*, 2001

[8] UNCTOC, 2003

contemporary conventions and efforts to eliminating trafficking.

United Nations Legal Instrument

This Protocol is important as it provides a common definition of trafficking and sets international standards.

Art. 3(a) of the Palermo Protocol defines trafficking as:

The recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs[9].

The definition of the Palermo Protocol has been an issue of major struggle and dispute between those who consider prostitution itself to constitute trafficking (abolitionists) and those who consider prostitution as work labour, acknowledging the sex industry as a sector in which trafficking occurs. The definition of trafficking in the Palermo Protocol represents a compromise between these positions as it allows room for interpretation. However, this has also resulted in widely differing interpretations, for example, as to how exploitative an employment relationship has to be before one can say that a person was recruited and transported "for the purpose of exploitation".

When comparing this definition to that of the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, in which any form of prostitution itself is considered trafficking, the achievement of the Palermo Protocol is that it recognises exploitation as the defining criterion: The core of the crime is abuse, violence and exploitation, rather than the movement across borders or the line of work. It recognises all forms of forced labour and slavery-like practices as trafficking. A shortcoming of the Protocol is that it is developed within a criminal justice framework and therefore does not include any binding provisions for the protection of the human rights of trafficked persons.

United Nations Office on Drugs Crimes (UNODC) Response to Human Trafficking

UNODC offers practical help to States, not only helping to draft laws and create comprehensive national anti-trafficking strategies but also assisting with resources to implement them. States receive specialized assistance including the development of local capacity and expertise, as well as practical tools to encourage cross-border cooperation in investigations and prosecutions.

[9] UN Human Rights, *Protocol on Trafficking Persons*

The adoption in 2000 by the United Nations General Assembly of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children marked a significant milestone in international efforts to stop the trade in people. As the guardian of the Protocol, UNODC addresses human trafficking issues through its Global Programme against Trafficking in Persons. A vast majority of States have now signed and ratified the Protocol but translating it into reality remains problematic. Very few criminals are convicted and most victims are probably never identified or assisted.

Current International Treaties (General)

Supplementary Convention on the Abolition of Slavery, entered into force in 1957 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children Protocol against the Smuggling of Migrants by Land, Sea and Air Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

Other international legal frameworks include:

The United Nations Convention on the Rights of the Child at Article 34, states, "States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse".[10] In the European Union, commercial sexual exploitation of children is subject to a directive – Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography.[11]

The Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (or Hague Adoption Convention) is an international convention dealing with international adoption, that aims at preventing child laundering, child trafficking, and other abuses related to international adoption.[12]

The Optional Protocol on the Involvement of Children in Armed Conflict seeks to prevent forceful recruitment (e.g. by guerrilla forces) of children for use in armed conflicts.[13]

- International LabourOrganisationForced Labour Convention, 1930 (No. 29);
- International LabourOrganisation Abolition of Forced Labour Convention, 1957 (No. 105);
- International LabourOrganisation Minimum Age Convention, 1973 (No. 138);
- International LabourOrganisation Worst Forms of Child Labour Convention, 1999 (No. 182).

CRIMINAL LIABILITIES ON HUMAN TRAFFICKING

There are two types of criminal liability: individual and corporate. Generally, individuals are prosecuted for their role

[10]Convention on the Rights of the Child

[11]Directive 2011/92/EUof The European Parliament Andof The Council

[12]Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption

[13]Optional Protocol to the Convention on the Rights of the Child

in human trafficking, but the state's law-enforcement agencies struggle to punish corporations for a range of reasons, including that criminal procedure to pursue corporations is inadequate, punishments do not punish the most culpable individuals, and inadequate effort is made to calculate the true cost to restore and compensate victims of trafficking because they were victims of crime.[14]

When victims of human trafficking are set free, they often have the opportunity to testify against the perpetrator. Some victims opt out of testifying for fear of retaliation from the traffickers. Vanderberg describes victims of trafficking during trial, stating that "trafficking victims frequently find the criminal prosecutions of their traffickers terrifying. Fearful of the traffickers, a trafficking victim may be concerned for his or her safety, as well as that of family members."[15]The modern form of human trafficking often involves the sex trade and disproportionately impacts vulnerable populations, such as minors and undocumented immigrants.

In the United States of America for instance, a number of acts that can be associated with human trafficking include, with established punishments, include:

- Luring or enticing a person to go onboard a vessel or any other place with the intention that they be made or held as a slave.
- Kidnapping or carrying away a person with the intent to hold or sell them into slavery
- Transporting a person with the knowledge or intent that the person be held or sold as a slave
- Sale of a person into involuntary servitude.
- Destruction, concealment, removal, or confiscation of a person's passport or other documents with the intent to traffic them or for the purpose of restricting or preventing their travel.
- Profiting from peonage, slavery, or trafficking in persons.

The details of the offense determine the punishment those convicted of these offenses may face.

The penalties for human trafficking are severe. A conviction for holding a person in peonage carries potential fines and a maximum prison term of 20 years in a federal prison. If a death results or the violation included kidnapping, sexual abuse, or other aggravating factors, the maximum punishment increases to life imprisonment[16].

Sex trafficking of children, or by fraud, force, or coercion carry enhanced penalties. Prison sentences for these offenses carry a potential life sentence and a minimum of 10 years in prison (or more, depending on the details of the offense and the victim).

[14] Palmer, '*Prosecuting Corporate Crime in Indonesia: Recruitment Agencies that Traffic Migrant Workers*'. 2020

[15]Vanderberg, *Giving Back: Combating Human Trafficking,* 2012

[16] US Bill report, 2003

The law also prohibits and punishes attempts and conspiracies relating to human trafficking. It orders the forfeit of any property used in violation of the law as well as any proceeds from the act. The law includes clauses for the mandatory payment of restitution to the victim for the full amount of their losses, as determined by the court.

Existing state law contains similar criminal prohibitions against human trafficking. Specifically, state law defines human trafficking as violating the liberty of a person with the intent to either (1) commit certain felony crimes (such as prostitution) or (2) obtain forced labor or services. Human trafficking is punishable under state law by a prison sentence of up to five years or, if the victim is under the age of 18, by a state prison sentence of up to eight years. Offenders convicted of human trafficking crimes that result in great bodily injury to the victim can be punished with additional terms of up to six years[17].

The more severe criminal penalties for human trafficking measure increases the prison sentence for labor trafficking crimes to a maximum of 12 years per offense, and for sex trafficking of adults to up to 20 years per offense. Sex trafficking of minors that involved force or fraud would be punishable by up to a life term in prison.

In addition, the measure specifies that offenders convicted of human trafficking with previous convictions for human trafficking receive additional five-year prison terms for each of those prior convictions. Under the measure, offenders convicted of human trafficking that resulted in great bodily injury to the victim could be punished with additional terms of up to ten years. The measure also permits criminal courts to impose fines of up to $1.5 million for human trafficking offenses.

In Italy, a major case in April 2007, the courts sentenced four Italians and three Romanian human traffickers to between three and twelve years' imprisonment after they were convicted for the forced prostitution and exploitation of 200 Roma children between 2004 and 2006. In June 2007, the government prosecuted eight other perpetrators on charges of sexually exploiting children by coercing them into performing sexual acts in exchange for small gifts.

Spain prohibits all forms of trafficking in persons through Article 318 of its Criminal and Penal Code. The prescribed penalties for sex trafficking is five to 15 years' imprisonment, and the penalty for labor trafficking is four to 12 years in prison. These are sufficiently stringent, and the penalties prescribed for sex trafficking are commensurate with the prescribed penalties for rape. The government implemented new legislation in 2007 that increased prescribed penalties for trafficking by two to six years in prison if the offender is found to be part of a criminal organization, and passed additional legislation in 2007 that allows Spanish courts to prosecute cases of trafficking that have occurred outside Spain's borders.

[17] Human Trafficking Penalties, California Proposition 35, 2012

In Nigeria, the 2003 Trafficking in Persons Law Enforcement and Administration Act, amended in 2005 to increase penalties for trafficking offenders, prohibits all forms of human trafficking. The law's prescribed penalties of five years' imprisonment and/or a $670 fine for labor trafficking, 10 years' imprisonment for trafficking of children for forced begging or hawking, and 10 years to life imprisonment for sex trafficking are sufficiently stringent and commensurate with penalties prescribed for other serious crimes, such as rape.

Nigeria's 2003 Child Rights Act also criminalizes child trafficking, though only 23 of the country's 36 states, including the Federal Capital Territory, have enacted it. According to the Nigerian constitution, laws pertaining to children's rights fall under state purview; therefore, the Child Rights Act must be adopted by individual state legislatures to be fully implemented. NAPTIP reported 149 investigations, 26 prosecutions, and 25 convictions of trafficking offences during the reporting period under the 2003 Trafficking in Persons Act. Sentences ranged from two months to 10 years, with an average sentence of 2.66 years' imprisonment; only two convicted offenders were offered the option of paying a fine instead of serving prison time.

CASES OF HUMAN TRAFFICKING

All too often, individual stories of crime victims are buried beneath a multitude of statistics. It is important to remember that for each statistic, each prosecution, and each victim rehabilitation there is a human being who has been tragically affected.

Italy is a destination, transit, and source country for women, children, and men subjected to sex trafficking and forced labor. Victims originate from Nigeria, Romania, Morocco, China, and other countries. Female victims are often subjected to sex trafficking in Italy after accepting promises of employment as dancers, singers, models, restaurant servers, or caregivers. Romanian and Albanian criminal groups force Eastern European women and girls into commercial sex. Nigerians represent 21 percent of victims, with numbers nearly doubling in 2016 to approximately 7,500 victims[18]. Nigerian women and girls are subjected to sex and labor trafficking through debt bondage and coercion through voodoo rituals. Men from Africa, Asia, and Eastern Europe are subjected to forced labor through debt bondage in agriculture in southern Italy and in construction, house cleaning, hotels, and restaurants in the north. Chinese men and women are forced to work in textile factories in Milan, Prato, Rome, and Naples. Children subjected to sex trafficking, forced begging, and forced criminal activities are from Romania, Nigeria, Brazil, Morocco, and Italy, particularly Romani and Sinti boys who may have been born in Italy. Transgender individuals from Brazil and Argentina are subjected to sex trafficking in Italy. Unaccompanied children are at risk of trafficking, particularly boys from Somalia, Eritrea, Bangladesh, Egypt, and Afghanistan, who often work in shops, bars, restaurants, and

[18] US State Department, *Trafficking in Persons Report*, 2008

bakeries to repay smuggling debts. Italian men engage in child sex tourism abroad, including in countries across Africa, Latin America, and East Asia.

The estimated number of trafficking victims in Italy increased significantly due to the continued dramatic flow of migrants and asylum-seekers arriving by boat from sub-Saharan Africa. Italy received 181,436 irregular arrivals by sea in 2016, added to the 154,000 arrivals in 2015. More than one-half requested asylum, demonstrating possible vulnerability to trafficking. One international organization estimated more than 7,500 likely trafficking victims arrived from Nigeria alone in 2016, compared to an estimated 2,800 in 2015. Of total arrivals in 2016, 25,846 were unaccompanied children, mostly boys and a majority from Africa. Many went north to other European countries, while others looked for employment outside protected shelters. Children remaining in Italy were particularly vulnerable to trafficking in the informal agriculture, hospitality, and construction sectors, or were forced by traffickers into begging[19].

Nigeria is a source, transit, and destination country for women and children subjected to trafficking in persons including forced labor and forced prostitution. Trafficked Nigerian women and children are recruited from rural areas within the country's borders – women and girls for involuntary domestic servitude and sexual exploitation, and boys for forced labor in street vending, domestic servitude, mining, and begging. Nigerian women and children are taken from Nigeria to other West and Central African countries, primarily Gabon, Cameroon, Ghana, Chad, Benin, Togo, Niger, Burkina Faso, and the Gambia, for the same purposes. Children from West African states like Benin, Togo, and Ghana – where Economic Community of West African States (ECOWAS) rules allow for easy entry – are also forced to work in Nigeria, and some are subjected to hazardous jobs in Nigeria's granite mines. Nigerian women and girls are taken to Europe, especially to Italy and Russia, and to the Middle East and North Africa, for forced prostitution[20].

The legal liability on Human traffickers is that offenders are usually subjected to criminal trials and if found culpable risks being jailed or even sentenced to life imprisonment depending on the gravity of the trafficked purpose or usage. The crime of human trafficking is highly prohibited by both domestic and international laws, hence criminal liability is imposed on any offender under a criminal justice system.

INTERNATIONAL LEGAL REMEDIES FOR HUMAN TRAFFICKING

The United Nations Global Initiative to Fight Human Trafficking (UNGIFT) was conceived to promote the global fight on human trafficking, on the basis of international agreements reached at the UN. UNGIFT was launched in March 2007 by UNODC with a grant made on behalf of the

[19] US State Department, *Trafficking in Persons Report*, 2017

[20] Ibid.

United Arab Emirates. It is managed in cooperation with the International Labour Organization (ILO); the International Organization for Migration (IOM); the UN Children's Fund (UNICEF); the Office of the High Commissioner for Human Rights (OHCHR); and the Organization for Security and Co-operation in Europe (OSCE).

UNODC efforts to motivate action launched the Blue Heart Campaign Against Human Trafficking on 6 March 2009, which Mexico launched its own national version of in April 2010. The campaign encourages people to show solidarity with human trafficking victims by wearing the blue heart, similar to how wearing the red ribbon promotes transnational HIV/AIDS awareness. On 4 November 2010, the then U.N. Secretary-General, Ban Ki-moon launched the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons to provide humanitarian, legal and financial aid to victims of human trafficking with the aim of increasing the number of those rescued and supported, and broadening the extent of assistance they receive.

In 2002, Derek Ellerman and Katherine Chon founded a non-government organization called Polaris Project to combat human trafficking. In 2007, Polaris instituted the National Human Trafficking Resource Center (NHTRC) where callers can report tips and receive information on human trafficking. Polaris' website and hotline informs the public about where cases of suspected human trafficking have occurred within the United States.

In 2007, the U.S. Senate designated 11 January as a National Day of Human Trafficking Awareness in an effort to raise consciousness about this global, national and local issue. In 2010, 2011, 2012 and 2013, President Barack Obama proclaimed January as National Slavery and Human Trafficking Prevention Month. Along with these initiatives libraries across the United States are beginning to contribute to human trafficking awareness. Slowly, libraries are turning into educational centers for those who are not aware of this issue. They are collaborating with other organizations to train staff members to spot human trafficking victims and find ways to help them[21].

In 2003, the OSCE established an anti-trafficking mechanism aimed at raising public awareness of the problem and building the political will within participating states to tackle it effectively. The OSCE actions against human trafficking are coordinated by the Office of the Special Representative for Combating the Traffic of Human Beings. In January 2010, Maria Grazia Giammarinaro became the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings. Dr. Giammarinaro (Italy) has been a judge at the Criminal Court of Rome since 1991. She served from 2006 until 2009 in the European Commission's Directorate-General for Justice, Freedom and Security in Brussels, where she was responsible for work to combat human trafficking and sexual exploitation of children, as well as for penal aspects of illegal immigration within the unit dealing with the fight against

[21] US State Department, Human Trafficking Prevention Month

organized crime[22]. During this time, she co-ordinated the Group of Experts on Trafficking in Human Beings of the European Commission. From 2001 to 2006 she was a judge for preliminary investigation in the Criminal Court of Rome. Prior to that, from 1996 she was Head of the Legislative Office and Adviser to the Minister for Equal Opportunities. From 2006 to December 2009 the office was headed by Eva Biaudet, a former Member of Parliament and Minister of Health and Social Services in her native Finland.

Enforcement of International Law: The Regional Solution

Enforcement of international law in regards to human trafficking is most effective and efficient when it is incorporated into regional and domestic legislation. Regional and domestic instruments that have played a key role in the prevention and elimination of human trafficking include: The United States Victims of Trafficking and Violence Protection Act (2000), the Council of Europe Convention on Action against Trafficking in Human Beings (2008), and the European Convention for the Protection of Human Right and Fundamental Freedoms (1950). Regions throughout the world are also making cooperative efforts to end trafficking. For example, in 2005, the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), a sub-regional group composed of China, Laos, Thailand, Cambodia, Myanmar, and Vietnam, was established. Its purpose is to create policies for the anti-trafficking measures in the region, allowing each state to create legislation that is in agreement with these provisions. The domestic and regional instruments are aimed to combat human trafficking through provisions that are in line with the international agreements against human trafficking, while tailoring their enforcement and monitoring methods to the needs of the region or state.

Enforcement of International Law: Obstacles

Anti-trafficking laws are problematic to enforce because victims of trafficking are hesitant to identify traffickers for fear of repercussion. Furthermore, trafficking is a crime that transcends borders, and therefore jurisdictions. Applying international law to a person who resides in another state is a costly and complex endeavor. Additionally, human trafficking usually violates several laws, and is not a one-time event. Building a case against traffickers can take a great deal of time, resources, and energy. In countries where resources are limited, these complexities can hinder enforcement of anti-trafficking laws.

Another dilemma of enforcing anti-trafficking laws is the lack of training of the local enforcement officers within the state. Even if the state has implemented anti-trafficking laws, it is not likely that the border patrol officers, federal agents, and local police officers are well-versed in international or domestic laws in regards to human trafficking. Victims of trafficking are often treated as criminals or illegal immigrants, and either arrested or deported. Additionally, since trafficking victims are usually not in their country of origin, there is often a language barrier

[22] OSCE, Combating Trafficking in Human Beings

between enforcement officers and the victims, making information-gathering problematic.

The vast resources needed to ensure that the officers are able to properly enforce anti-trafficking laws are limited or unavailable in most states. However, one of the goals of the UNGIFT is to help build awareness of the issue and provide technical assistance. The assistance would include: draft legislation, manuals for various law enforcement agencies and victims, and fact-sheets for raising awareness. States, such as the United States, have already begun implementing awareness programs for law enforcement officers. Additionally, NGOs throughout the world play a crucial role in raising awareness about and monitoring human trafficking.

In Italy, in October 2016, the government began implementation of the anti-trafficking national action plan through an interagency committee representing multiple government agencies, and which included grants for 18 NGO-run projects to assist victims and promote their social inclusion. The Government of Italy continued its strong law enforcement efforts in 2007. Italy prohibits all forms of trafficking in persons through its Measures Against Trafficking in People law of 2003, which prescribes penalties on conviction of between eight and twenty years'imprisonment. These penalties are considered sufficiently stringent and are comparable with those prescribed for forcible sexual assault. The government's 2006 legislation to expand its labor trafficking law and introduce new penalties for job recruiters remains in draft form[23].

CONCLUSION

Although human trafficking is a complex issue that seriously have adverse effects on a country's national security and development as humans trafficked could be used for organised crimes or be made to suffer gross violation of their fundamental rights. Human trafficking is classified as both national and international crimes. Therefore, international legal instruments have been drafted and implemented to aid trafficking victims in obtaining justice and also to combat this worldwide epidemic. Even states that are not a party to the United Nations Convention against Transnational Organized Crime and its two related protocols are obligated to protect the rights of trafficked persons as contained in the provisions of the United Nations Universal Declaration of Human Rights, which comprises customary international law. The issues of compliance and enforcement of anti-trafficking laws may sometimes be problematic due to the cooperation needed among countries to combat it since it is an international crime, but not impossible to overcome. Regional efforts are promising, because trafficking is a transnational crime, and coordinated efforts are essential to targeting the sources of trafficking and convicting traffickers. States or countries must honestly recognize their role in combating this world-wide epidemic, as trafficking continues to negatively impact millions

[23] EU, *Italy's Action Plan*

of people every year and poses serious threat to security and development. Trafficking, like pollution, should be seen as everyone's problem. As the world collectively objected to slavery, so it will require a collective effort once again to abolish the practice of human trafficking.

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