

International Efforts in Combating Women Trafficking Within Human Rights Protection Framework International and National Measures to Combat Trafficking in Women

Abdul-Salam Housain Al- Anzi¹

Abstract

The phenomenon of trafficking in women and the resulting multiple human rights violations has been one of the most complex challenges facing the international community, as this complexity is linked to different perspectives in finding a comprehensive definition of the phenomenon. Therefore, many international provisions have been interested in addressing this phenomenon, in an attempt to adapt, at each period, to the new forms and dimensions they take at each era. In line with the current situation, there are approaches that do not limit the mechanisms adopted to combat women trafficking issues to prevention, repression and punishment, but rather to address the root causes of this phenomenon, which relate to combating poverty, inequality and corruption.

Keywords: *Integration Of Higher Education, Pedagogical Competence, Novice Teacher, University, Professional Competence of a Teacher.*

Introduction

In an era when the international community prides itself on adopting treaties that enhance the status of women and accord them all human rights, the offense of trafficking in women unfortunately appears among the most lucrative illicit activities in global , as organized crime networks play a major role in the spread of this activity throughout the world.

Internal and international armed conflicts, illegal migration and many other factors have contributed to the widespread offence of trafficking in women , creating a political and legal conviction that measures must be taken to combat this phenomenon by adopting new international standards. This trend led in (2000) to the elaboration of a protocol on human trafficking issues, known as the "Palermo Protocol" . The importance of which is highlighted by its inclusion of other forms of trafficking such as forced labour, begging, and organ trafficking . However, the issue of paid sex remains a thorny issue, as it continues a state of division among global feminist movements, between a global feminist stream embracing the principle of abolition and non-legitimization of this activity, and another global feminist stream believing that prostitution can be a legitimate option for women if exercised voluntarily without coercion or coercion.

However, we believe that voluntary sex is in fact only an expression of looted will, a voluntary act of oppressed personality driven by poverty and need or by misleading and falsifying females' awareness of the reality of freedom.

Study Importance

The importance of this study is highlighted by its presentation of the phenomenon of trafficking in women and violations of international agreements on human rights and the protection of women, in particular the Protocol to Prevent, Suppress and Punish Trafficking in Human Beings, especially women and children "Palermo Protocol", which was adopted by the UN General Assembly in November (2000). This study will address the emergence and evolution of the phenomenon of trafficking in women, grave violations of their human rights, and the similarities and differences with the offence of illegal immigration, and conclude with the identification of measures to combat trafficking in women in international law.

¹ Associate Professor, Faculty of Law – Kuwait University, Tel: +965 552 24455, Email: abdulsalam_alanzi@hotmail.com

The Dilemma Dealt with in the Study and its Raised Questions

Despite the interest of the international community and many international and regional organizations in combating organized crimes, including the offence of trafficking in women, through a series of measures and procedures to prevent it, where the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime of (2000), was concluded, except that, the protection of women, particularly in poor countries, has not met the international ambition sought, as the offence of trafficking in women takes many forms, including slavery, sexual exploitation, forced labour of women, corvée, enslavement and trafficking in women's human organs. This study raises several questions, including:

What are the international differences on the notion of trafficking in women and what is the cause of those differences?

What effective protection has the Palermo Protocol added to combat trafficking in women?

What human rights are violated by the offence of trafficking in women?

What is the difference between the offence of trafficking in women and illegal migration?

What are the international measures to combat the offence of trafficking in women?

Study Objectives

This study links human trafficking conventions with human rights conventions to define serious violations against women that may amount to war crimes and crimes against humanity, while Article (8) of the Rome Statute deals with war crimes and prohibits rape, sexual slavery, forced prostitution or forced pregnancy... or any other form of sexual violence also constitutes a war crime. The study also aims to outline the concept of the phenomenon of trafficking in women and the national and international measures to be taken to reduce it.

Study Methodology

In this study, the analytical approach as well as the descriptive approach in some of its aspects will be followed; as a result, the important aspects of this study will be clearly clarified.

Study Divisions

In order to highlight the offence of trafficking in women, it is useful that this study be divided into two chapters:

- Chapter I: The Emergence of the Phenomenon of Trafficking in Women, the Evolution of its Concept and the Grave Violations of Women's Human Rights.
- Chapter II: International Measures to Combat the Offence of Trafficking in Women.

Chapter I

The Emergence of the Phenomenon of Trafficking in Women, the Evolution of its Concept and the Grave Violations of Women's Human Rights.

The term trafficking in women has been deeply associated with the notion of slavery and prostitution, until the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,

adopted by the UN General Assembly (Palermo Protocol), came to establish a new international definition of the offence of "Trafficking in Human". Under Article (3) thereof, the offence trafficking in persons is any offence against which the following "acts" is proven:

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. The Protocol is governed by the UN Convention against Transnational Organized Crime of (2000).

The use of the definition of trafficking in human contained in the Additional Protocol is appropriate to understand the term "trafficking in women" and to know what it means; because trafficking in women is the same as trafficking in human, but the difference is that trafficking in women deals with cases that apply to women of adulthood.

First Topic : Evolution of International Conventions in Defining the Concept of Trafficking in Women

The concept of trafficking in women has evolved in international conventions since (1904) until (2000). During this evolution, the conditions and criteria that define the concept of trafficking in women, especially transboundary trafficking, were established. It is useful to address this evolution in an attempt to understand the origins of this problem. This topic can therefore be divided into two sections:

- Section I : Evolution of the Concept of Trafficking in Women
- Section II : Palermo Protocol and Combating Trafficking in Women
- Section I : Evolution of the Concept of Trafficking in Women

At the end of the nineteenth century, the notions of "women trafficking" and "prostitution" were considered identical, and they were called "white slave trafficking". In (1904), the first international convention to prevent the prostitution of women and girls abroad for immoral purposes was signed in Paris, and was ratified by fourteen countries.

In the aftermath of the First World War, the League of Nations, from (1924 to 1927), commissioned a "Special Committee of Experts" to investigate the offence of "trafficking in women and children". The committee's report concluded that the majority of victims were women. Then, the UN, in its (1949) convention called the "Convention for the Suppression and Abolition of the Traffic in Persons and of the Prostitution of Others", devoted a direct link between prostitution and trafficking in persons for the purposes of prostitution, as the first act is the catalyst for the second act, and the two concepts were treated equally, as the two acts constitute, according to the authors of the convention, an assault on human dignity.

In (1992), at the request of the General Assembly, the Economic and Social Council established the Commission of "Crime Prevention and Criminal Justice" to coordinate UN activities and programmes with governments of states for the prevention of organized crime. On the recommendation of the Commission, several global ministerial conferences on transnational organized crime were held in Naples in (1994), Buenos Aires in (1995), and Dakar in (1997), and at the conclusion of these three conferences, the UN General Assembly, by its resolution (53/111) of (9 December 1998), established a special intergovernmental committee responsible for the elaboration of a general international convention against transnational organized crime. After almost two years, the Convention against Transnational Organized Crime was adopted on (15 November 2000) in the Italian city of "Palermo", and entered into force in (September 2003). The Convention currently has (192) States Parties, and aims to strengthen cooperation among States Parties in order to prevent and combat transnational organized crime more effectively. The Convention targets four specific criminal acts:

Participation in an organized criminal gang.

Laundering the proceeds of crime.

Corruption.

Obstruction of justice .

It proposes repressive judicial proceedings against those who commit such criminal acts. The Palermo Convention includes three protocols, namely the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, dated (November 15, 2000), known as (Palermo Protocol), the Protocol against the Smuggling of Migrants by Land, Sea and Air, dated (December 15, 2000), and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, dated (May 31, 2001) .

Section II : Palermo Protocol and Combating Trafficking in Women

The world's developments in the nineties changed the nature of human trafficking, so it was necessary to set up new international criteria capable of combating this phenomenon. These criteria have been incorporated into a Supplementary Protocol to the Palermo Convention (Palermo Protocol) to indicate that a new approach to combating trafficking in human necessarily goes through international efforts to combat transnational organized crime. The Palermo Protocol, which was adopted in (November 2000) and entered into force on (December 25, 2003), has become the international normative reference instrument in combating human trafficking, especially since the number of state parties has reached (118) states at the date of the research .

Ethical logic and human rights advocacy methodologies have been adopted to create this first normative instrument to combat human trafficking, representing a change in approach, as the issue of combating human trafficking is now subject to the human security paradigm . The human security model focuses on the security and protection of individuals, and dealing with all threats that affect various aspects of human life . With the increasing volume and intensity of transnational threats such as migration, organized crime, drugs, arms trafficking, terrorism and environmental degradation, traditional notion of security that relate only to military dimensions have been surpassed , as the issue of human trafficking has become a matter of human security . Based on this model, the issue of combating human trafficking is based on protecting the fundamental rights of individuals, reaching the stage of enhancing cooperation between the relevant parties at the national, regional or international level.

The scope of the Palermo Protocol is limited to acts of trafficking in women involving an organized criminal group. Although the offence of trafficking in women must be of a transnational nature to fall within the scope of the Palermo Protocol, according to Article (5) of the Protocol, States Parties must criminalize trafficking in women regardless of whether the offence is transnational or not.

The wording of some of the provisions for victim protection in the Protocol remains somewhat vague, as paragraph (1) of Article (6) states that “Each State Party shall, in cases where it may be necessary and to the extent permitted by its local law, ensure that the privacy and identity of victims of trafficking in human are protected, including by making legal proceedings relating to such trafficking confidential” . Elsewhere, the Protocol stipulates that each State Party shall consider implementing measures to ensure the physical, psychological and social recovery of victims of human trafficking , with some views holding that freedom of choice had been left to States Parties as to whether or not to take measures to protect victims, and thus, some criticism has been directed at this Protocol for focusing more on suppressing the occurrence of the offence rather than protecting the rights of victims .

One of the most significant developments in the Palermo Protocol of (2000) is the proposed definition of human trafficking, as the international community agreed on a common definition of human trafficking. The proposed definition includes three main elements: (the act, the means, and the desired goal/purpose).

These three elements must be present in order for the case to be classified as an offence of trafficking in women .

First Element: Description of the act to be criminalized. In the case of trafficking in women, many acts related to trafficking in women have been described, and only one of these acts is sufficient to commit such an offence. It also includes recruiting, transporting, transferring, harbouring, or receiving persons.

Second Element: For these acts to be considered trafficking in women, they must have been carried out by means of coercion, such as the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

However, paragraph (c) of Article (3) excludes from this rule the victim's association with a means of coercion until the offence of trafficking is established in the case of a child, as any person under the age of 18 will be recruited, transferred or hosted by a person for the purpose of exploitation will be considered an offence. In order to prove the offence of "trafficking in persons" against an adult, three elements must be present: The act, the means of coercion and exploitation, whereas in the case of child trafficking, only the act and exploitation are required for the offence to be formed .

Third Element: Achieving the desired goal/purpose, is to exploit the person (victim). Such exploitation means, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour, slavery or practices similar to slavery, servitude or the removal of organs.

Forms of sexual exploitation, forced or compulsory servitude, slavery or practices similar to slavery are all included, but these concepts are not defined in the text of the Protocol, and therefore reference should be made to definitions in other international legal instruments already developed to determine the meaning of such concepts.

The definition contained in the Palermo Protocol enjoys broad international consensus, but States continue to interpret the concept of human trafficking in different ways, owing to the existence of two main opposing viewpoints in the combat against trafficking in women; on the one hand, there is a global stream that struggles to abolish prostitution without criminalizing prostitutes who are considered victims of exploitation by the prostitution system, and on the other hand, there is a second global stream that considers prostitution a legitimate form of work depending on the surrounding circumstances . Both of these viewpoints are supported by a coalition of international non-governmental organizations (NGOs):

Coalition against Trafficking in Women (CATW).

Global Alliance against Trafficking in Women (GAATW)

During the negotiations on the Palermo Protocol on Trafficking in Human, the (GAATW) coalition proposed to limit the definition of trafficking to “forced trafficking” and to limit the application of the Protocol to cases involving victims who could prove an element of coercion . Ultimately, however, the adopted definition stipulates that three elements must be present to establish the offence of human trafficking: the act, the means of coercion, and exploitation. The victim’s consent does not matter as long as one of the means of coercion proposed in Article (3) of the Palermo Protocol exists . This clarification is important, because many victims of human trafficking go to their destination of their own volition, only to realize upon arrival that they have been trafficked, and are then forced to work in very exploitative conditions to pay off the debts the traffickers have paid them. Therefore, regardless of consent, all victims of human trafficking are protected under the Protocol.

In the researcher's view, the definition proposed by the Palermo Protocol was the result of a compromise between the differences between those who support the idea of voluntary prostitution and those who support the complete abolition of prostitution, which they consider a form of exploitation and violence against women and insist that prostitutes are victims of a male-dominated system.

According to international documents to combat trafficking in women, it can be said that the definition of trafficking in women went through three stages:

Stage I : Pre-Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) stage, where several international conventions were concluded, including: Paris International Convention for the suppression of the White Slave Traffic (1904), The International Convention for the Suppression of the White Slave Traffic (1910), The International Convention for the Suppression of the Traffic in Women and Children (1921) and The International Convention for the Suppression of the Traffic in Women of Full Age (1933).

Where all above named conventions addressed the term “Trafficking in Women” but did not define it precisely.

Stage II: The stage of the UN Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others (1949).

Stage III: The stage of Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000).

Second Topic: The Correlation of Trafficking in Women Offence with Human Rights and Illegal Migration

The offence of trafficking in women is related to human rights on the one hand, which will be discussed in the first section of this topic, and is also related to illegal immigration on the other hand, which will be the subject of interest in the second section of this topic.

Section I : International Conventions Protecting Human Rights and the Offence of Trafficking in Women

The relation between human rights and combating trafficking in women is expulsive, so when human rights protection is strengthened, a sharp decrease in the rates of trafficking in women worldwide will be noticed . Many international texts emphasize that there are fundamental human rights that are inalienable , which means that all victims of trafficking are entitled to enjoy them. The International Covenant on Civil and Political Rights states that States Parties undertake to ensure the rights recognized in the Covenant to all persons within their territory and to adopt such legislative or other measures as may be necessary to achieve this objective . Human trafficking is undoubtedly the most human rights-violating manifestation of human dignity and a stain on the international community. The United Nations Office on Drugs and Crime's (UNODC) global report on human trafficking indicated that women constitute (70%) of the victims of human trafficking. Therefore, it is important to clarify the most violated human rights through the continuation of the offence of trafficking in women .

The Right to Life, Liberty and Security

Article (3) of the Universal Declaration of Human Rights provides that "Everyone has the right to life", and Article (6) of the International Covenant on Civil and Political Rights states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.", and the right to life is classified by the United Nations Human Rights Committee as "Supreme Right".

All of this means the existence of a positive obligation toward the state to pursue through its various agencies the protection of the right to life, and a negative obligation preventing states from committing any act that deprives individuals of this right . Article (13) of the European Convention on Human Rights stipulated that “Everyone whose rights and freedoms as set forth in the Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.” Women's right to life must therefore be respected, with many of them being murdered and often subjected to suicidal conditions such as torture and psychological and physical abuse.

Article (1) of the Universal Declaration of Human Rights states that "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience." Article (2) of the same declaration provides "Everyone is entitled to all rights and freedoms," and Article (3) of the declaration stipulates "Everyone has the right to life, liberty and security of person" .

By reviewing these provisions, it is noted that the international community has prohibited enslavement, slavery and slave traffic in all forms, as well as servitude, and it is not permissible to force women into forced or compulsory labour (corvée). Article (9) of the International Covenant on Civil and Political Rights addresses the right to freedom, stating that "Everyone has the right to liberty and security of person". The Human Rights Council draws the attention of States to their obligations under Article (6) of the Convention on the Elimination of All Forms of Discrimination against Women, which states that "States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women", and, as stipulated in Article (18) of the same Convention "States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect".

Therefore, the international community stresses that every human being has the right to freedom, security, and the right to leave any country, including his own. This contradicts what traffickers do by confiscating women's passports in order to control them and prevent them from leaving in order to traffic them.

Right to Privacy and Freedom from Torture or Inhuman or Degrading Treatment

Article (12) of the Universal Declaration of Human Rights provides that "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks." Article (17) of the International Covenant on Civil and Political Rights prohibits arbitrary or unlawful interference with a person's life, family, home or correspondence, nor any unlawful attacks upon his honour and reputation. Therefore, it is imperative to claim that every person has the right not to be interfered with or violated in his private life , as it is of utmost importance to protect a person's privacy, reputation and honour.

Article (11) of the Council of Europe Convention on Action against Trafficking in Human Beings also affirms that "each Party shall protect the private life and identity of victims", and therefore "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person ". Trafficking in women, especially those who have been abducted or deceived into forced sex, is far from the humane treatment stipulated in international conventions.

In addition, victims of human trafficking often experience physical torture and ill-treatment, and often when they are free, they are subjected to physical and emotional trauma and fear retaliation from the traffickers.

Article (5) of the Universal Declaration of Human Rights prohibits any form of torture or cruel, inhuman or degrading treatment or punishment. "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment" , thereby imposing on states an obligation to protect women from cruel and inhuman practices . Torture is not limited to acts that cause physical pain to victims, but also extends to acts that cause psychological suffering.

Article (2) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction. The same article also stipulates that no exceptional circumstances whatsoever as a justification of torture, nor may an order from a superior officer or a public authority may not be invoked as a justification of torture. In cases of repatriation, Article (3) of the Convention stipulates that "No State Party shall extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture". Article (4)

of the same Convention obliges each States party to include all acts of torture are offences under its criminal law, and shall make these offences punishable by appropriate penalties which take into account their grave nature.

Victims must be assisted and protected, and each State Party must ensure that all victims of torture have the right to fair compensation, including the means for rehabilitation, and in the event of the victim's death, his dependents are entitled to compensation.

Although the Rome Statute, which entered into force in (July 2002), does not provide for offences of trafficking in human per se, references can be found to certain elements of trafficking in persons , for example, slavery and the forcible transfer of children. Article (7) of the Rome Statute prohibits "crimes against humanity" and any of the following acts if committed as part of a widespread or systematic attack directed against any civilian population: Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law, torture, rape, sexual slavery, enforced prostitution, forced pregnancy or any other form of sexual violence .

Article (8) of Rome Statute also addresses "war crimes" and prohibits the commission of rape, sexual slavery, enforced prostitution, forced pregnancy as defined in Article (7), paragraph 2 /f, enforced sterilization, or any other form of sexual violence which also constitutes a war crime.

Article (75) of Rome Statue provides for reparation for victims, stating that the court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.

Right to Physical and Mental Health and Freedom from All Forms of Discrimination

Article (12) of the International Covenant on Economic, Social and Cultural Rights states that "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" .Many female victims experience psychological trauma, forced abortion, and sexually transmitted diseases such as AIDS. They are also often subjected to torture and psychological and physical abuse by traffickers in order to subjugate them.

Article (2) of the same Covenant provides that " The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Article (3) also addresses equality of rights between men and women, while Article (5) prohibits the violation of any of the rights enshrined in the International Covenant on Economic, Social and Cultural Rights and declares that no restrictions on any of the fundamental human rights stipulated for shall be recognized.

Freedom of Marriage and the Right to Work

Article (16) of the Universal Declaration of Human Rights provides that "Marriage shall be entered into only with the free and full consent of the intending spouses" , and Article (23) of the International Covenant on Civil and Political Rights states that "No marriage shall be entered into without the free and full consent of the intending spouses" . Indian Interior Ministry figures indicate that (90%) of sex trafficking in India is internal and primarily for sexual exploitation and forced marriage, and that there are many cases where families sell their daughters as wives to provide for their financial needs . Undoubtedly, everyone has the right to work under fair terms, the right to free choice of employment, the right to fair and satisfactory remuneration to ensure a life worthy of human dignity and, if necessary, supplemented by other means of social protection . Article (2) of the Forced Labour Convention issued by the International Labour Organization (ILO) (1930) defines forced or compulsory labour as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" . Forced labour restricts human freedom and exposes victims to economic exploitation that violates the victim's dignity and physical integrity . As Article (1) of this Convention stipulates that "Each

Member of the (ILO) which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period".

The ILO Declaration on Fundamental Principles and Rights at Work was adopted by the International Labour Conference on (June 1998). Article (2) of which stipulates that "All Members, even if they have not ratified the Conventions in question, have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution", the fundamental rights set forth in the convention are:

Freedom of association and the effective recognition of the right to collective bargaining.

The elimination of all forms of forced or compulsory labour.

The effective abolition of child labour.

The elimination of discrimination in respect of employment and occupation.

As a conclusion, the violation of human rights is one of the most prominent negative consequences of trafficking in women, as it constitutes a grave violation several human rights recognized by the international conventions and instruments. Trafficking in women violates the human right to life, liberty, freedom from slavery and the right to health. Many international reports indicate that women victims of this offence were subjected to slavery, servitude, cruel or inhuman treatment and violence.

Section II : Illegal Smuggling of Migrants and the Offence of Trafficking in Women

The most prominent challenge facing the issue of defining the notion of human trafficking is the ability to distinguish between human trafficking and migrant smuggling, especially since the latter phenomenon has magnified.

Human trafficking and migrant smuggling are two different offences, but they overlap in their elements. Therefore, it is important to distinguish between the two offences to protect women from the risks of being trafficked during their migration, as women often fall prey to the trafficking process during migration. Therefore, it is essential to identify the points of difference and linkages between human trafficking and migrant smuggling:

The Point of Difference between Human Trafficking and Migrant Smuggling

The definition of smuggling contained in the Protocol against the Smuggling of Migrants by Land, Sea and Air issued by the UN in (2000) constitutes an important basis for distinguishing between human trafficking and migrant smuggling. Under Article (3), paragraph (a) of this Protocol, the smuggling of migrants means "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident". Consequently, smuggling of migrants contains three main elements :

Act (illegal entry measure).

Destination (entering a country of which the person is not a national or permanent resident).

Purpose (obtaining financial income or material benefit).

Therefore, some important differences can be identified between trafficking and smuggling:

The first difference lies in the victims' consent to being smuggled. Migrants actively seek a means to manage their movement and collude with smugglers to cross borders, whereas in human trafficking, female victims are lured, deceived or abused.

The second difference is the exploitation, as smuggling ends with the migrants reaching their destination, while trafficking in women involves their continued exploitation.

The third difference is the idea of crossing borders. While smuggling has always taken place outside national borders, with migrants moving outside their countries of origin, trafficking in women can take place within or outside the country of origin.

The fourth difference relates to profitability. The profit from trafficking in women does not come from transporting the victim from one place to another, but rather through sexual exploitation, forced labour, or selling victim's body organs.

The fifth difference is that human trafficking is an offence against persons, while migrant smuggling is an offence against the state, the former is a violation of human rights and dignity, and the latter is a violation of the immigration system. Hence, the basic and fundamental difference is that victims of human trafficking are considered victims of a crime under international law, while migrants are not because they pay smugglers to facilitate their movement. It is worth noting that the relationship between human traffickers and the victim of human trafficking is longer, and exploitation either continues or begins upon arrival at the destination, while the relationship between human smuggler and migrants generally ends upon arrival at the agreed destination.

The Common Points between Human Trafficking and Migrant Smuggling

There is a close relationship between migration flows and human trafficking, as the Global Report on Trafficking in Persons found that nearly (60%) of human trafficking victims are foreigners in the country in which they were detected and that most of them are migrants who moved to another country where traffickers exploit their desires to improve their lives. There are two types of immigration policies that may have an impact on human trafficking: pro-immigration policies and restrictive immigration policies. For example, many developing countries, such as Vietnam and Indonesia, have encouraged their citizens to seek work in wealthier countries to help solve poverty and unemployment problems and increase the inflow of foreign capital. Therefore, migration becomes a development strategy in many source countries, and people from developing countries choose different migration routes. Among the mass migration waves, women and girls are more vulnerable and easily fall prey to traffickers looking for new faces to recruit into the sex trade. Other countries may take strict measures to restrict the flow of irregular migrants, such as deporting illegal sex workers and irregular migrants, or punishing them as lawbreakers, making them more vulnerable and more likely to engage in other crimes.

The UN International Migration Report of (2015) confirms that the number of international migrants worldwide has continued to grow rapidly over the past (15) years, reaching (244) million in (2015), compared to (222) million in (2010) and (173) million in (2000). Specifically, women constituted nearly half of international migrants, and the share of female migrants decreased from (49%) in (2000) to (48%) in (2015). The number of female migrants exceeds the number of male migrants within Europe and North America.

Women's migration yields social and economic benefits to the migrants' communities of origin, as women migrants tend to save a large portion of their income to send back home to support their families. As a result of the massive increase in women's migration within and across borders, more women have become prey to human traffickers, and these women easily fall prey to tourists and traffickers.

Chapter II

International Measures to Combat the Offence of Trafficking in Women

Many international conventions have included measures to combat trafficking in women, and in order to achieve the desired objective, it is necessary to explain and analyse several international conventions, namely: the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the

Prostitution of Others (1949), as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000). Wherefore, it is useful to divide this chapter into two topics:

First Topic: International Measures to Protect Women and Develop Security Services in Member States

Section I: International Measures for Assistance to Female Victims

Article (6) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (2000) and Article (19) of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) emphasize that the national legislation of Member States must include measures to protect the privacy of women victims, the confidentiality of legal proceedings related to their trafficking, the provision of adequate housing and medical and psychological assistance, as well as employment, education and training, the provision of information to them, and enabling them to take criminal action against perpetrators and prosecute traffickers and take the necessary administrative and legislative measures, so that women victims are not deprived of their rights under those conventions and enjoy legal protection and access to compensation for the damages they have suffered. Member States must also enact national legislation and laws that prohibit trafficking in women and criminalize all acts contained therein, as well as attempts to commit or contribute to its commission. Each State must also ensure that its legal system includes measures to provide victims of trafficking in women with the necessary assistance, and that legislative measures should be adopted to allow victims to remain in its territory temporarily or permanently. Member States should also enact legislative measures to prevent the use of means of transport to commit criminal acts related to trafficking in women, and carriers should ensure that passengers have valid travel documents. Member States should issue legislation requiring persons engaged in prostitution to place their names in private registers because such registers may fall into the hands of criminal networks involved in trafficking in women, thereby endangering them.

Article (6) of the (2000) Protocol and Article (19) of the (1949) Convention, where the latter addresses the issue of returning victims of trafficking in women to their homelands, whereby each State whose citizens are victims of trafficking or permanent residents is obligated to facilitate their return without delay to their homeland and guarantee them the necessary documents and funds while ensuring their safety. The State is obligated to verify that the victim is one of its nationals. If this is confirmed, the State is obligated to issue travel documents or other documents necessary for the victim to re-enter her country.

Not only should victims be repatriated, but the countries to which these victims have returned should work to rehabilitate and integrate them into their societies. The media in these countries should maintain the confidentiality and privacy of victims' information, and should not publish information that could harm the victims or the course of justice. There must also be coordination between international organizations that help in reintegrating female victims, and if return of victims to their homelands would expose them to the risk of persecution and non-integration into society, they can be granted asylum to a third country that guarantees them legal protection and safe living in society. The need for the rehabilitation of victims was emphasized by the UN General Assembly resolution of (12 December 1997), which was reaffirmed in paragraph (d) Allocate resources to provide comprehensive programmes for the treatment and rehabilitation of victims of trafficking in persons in the community, including through job training, legal assistance and confidential health care, and to take measures to cooperate with NGOs to provide social, medical and psychological care to women victims of trafficking.

Section II: International Measures for the Development of Member States' Security Services

Member States' first obligations to protect women victims are exchanging information and investigations on the offences under the Convention, where all information that would help in preventing crimes related to trafficking in women is collected. Centres must be established in each member state in close contact with similar centres in other countries to exchange data on any offence related to trafficking in women and

exchange data on investigations with persons who commit any of these offences, or their prosecution, arrest, refusal to enter the country or expulsion from it and all other information about them.

Authorities in Member States should also cooperate to identify individuals crossing international borders as perpetrators or victims of trafficking in women or not, the types of travel documents used by individuals to cross international borders for the purpose of trafficking in women, and ascertain the means and methods used by criminal groups to traffic in women, including the recruitment and transportation of victims, and the links between individuals and groups involved in such trafficking. States should also provide training to law enforcement and immigration officials to prevent trafficking in women. Training should focus on prosecuting traffickers, protecting the rights of victims, and taking into account human rights and sensitive issues related to children and women. States should also encourage cooperation with NGOs and other civil society institutions.

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children of (2000) supplementing the United Nations Convention against Transnational Organized Crime of (1949) imposes, through Article (16) of the latter, on Member States to take social, economic, educational, health and media measures to prevent trafficking in women. Through these measures, States must endeavour to rehabilitate and socially reform the victims of this offence by developing policies to protect women victims from physical and psychological abuse, alleviate the factors that make people vulnerable to women trafficking gangs, and improve their living conditions to keep them away from poverty, need, underdevelopment and unequal opportunities. Member States must also address women's living conditions to keep them away from criminal networks that force women to travel and thus traffic them.

Member states must also cooperate in the field of media, highlighting all international treaties and various conventions and legislation that aim to combat trafficking in women through prostitution, sexual exploitation, slavery and trafficking in human organs, and monitoring employment and servants' offices and agencies to prevent the risk of prostitution and trafficking in women seeking domestic work. Each country must ensure that its travel documents are of a quality that makes it difficult to misuse them illegally, and to check the authenticity of travel documents suspected of being used in trafficking in women, prohibit entry of persons accused of such offences, and prevent the use of means of transport in the commission of such offences. Carriers are obliged to ensure that all passengers have the necessary travel documents to enter the destination country and that violating carriers are penalized.

Second Topic: International Measures for the Extradition and Punishment of Women Traffickers.

Since trafficking in women is a transnational offence, cooperation must be strengthened to prevent and combat this offence and protect its victims. The principles of the Office of the United Nations High Commissioner for Human Rights emphasize that "Trafficking is a regional and global phenomenon that cannot always be dealt with effectively at the national level: a strengthened national response can often result in the operations of traffickers moving elsewhere. International, multilateral and bilateral cooperation can play an important role in combating trafficking activities. Such cooperation is particularly critical between countries involved in different stages of the trafficking cycle". In order to enhance the efficiency of international cooperation mechanisms, criminals' extradition should be required, and the principle of double criminality, i.e. the offence for which extradition is sought, should be punishable under the local law of both countries, should be applied, and should also focus on establishing the application of jurisdiction, thus facilitating the process of extraditing and prosecuting traffickers of women.

Article (5) of the 2000 Protocol has made it clear that the following acts constitute the offence of trafficking in women and should therefore be criminalized in all countries: "Any conduct included in the term trafficking in women such as the recruitment, transportation or receipt of women, 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, for the purpose of sexual exploitation or otherwise as provided for in Article (3) of this Protocol".

Inter-State (letter rogatory/chargé d'affaires) for offences related to trafficking in women must also be implemented. Perhaps it is reasonable that when the court encounters some obstacles while resolving

certain disputes, and it becomes clear from these obstacles that the court is unable to resolve the dispute or estimate the damages and losses related to this dispute, due to the distance of the dispute from the court or the inability of the opponents to appear before it or otherwise, then this court may delegate another court or judge to carry out this judicial function, which is known in jurisprudence as the term "letter rogatory/chargé d'affaires". There is a multiplicity of legal expressions in the definition of "letter rogatory/chargé d'affaires", but they often revolve around converging meanings, although they differ in some words or terminology, such as: a legal situation whereby the court to which the case is brought, called (court below), assigns another court called (court above) to take certain procedures such as investigation, proof or execution procedures, due to the latter court's jurisdiction over them, and the inability of the first court to carry them out on its own ..

With regard to the offences of trafficking in women, States are obliged to enforce the "letter rogatory/chargé d'affaires" if there is any reason to do so. The letter rogatory shall be sent through direct contact between the judicial authorities; or through direct contact between the Ministries of Justice of the two States or between the competent authority of the requesting State and the Ministry of Justice of the delegated State, or through the diplomatic or consular representative of the requesting State in the delegated State. Each State could send the method of sending letters rogatory to other States, and no fees or expenses may be claimed for the execution of such letters rogatory.

In addition to the previous measures to protect victims of the offence of trafficking in women, international conventions have also recognized the principle of punishment against perpetrators of this offence, as society cannot truly be protected from certain offences unless we define this offence with the appropriate punishment, so that we prevent its commission, and deter its perpetrators and others after it occurs. The principle of punishment has been approved in the Convention for the Prohibition of Trafficking in Persons and of the Exploitation of the Prostitution of Others in some provisions, including Articles (1 to 4) of the Convention, which imposes punishment on any person who procures, seduces or misleads another person for the purpose of prostitution, even with the consent of that person, or exploits the prostitution of another person, even with the consent of that person.

The principle of punishment also recognized the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, adopted in (2000), as punishment can be included in each State's legislative measures to combat this offence, to which Article (5), paragraph (1), provides: "Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in Article (3) of this Protocol, when committed intentionally" . Notwithstanding the adoption of this principle, the Convention has left the amount of such penalties to the laws it deems appropriate.

Conclusion

The phenomenon of trafficking in women has become an international phenomenon that disturbs the international community, because it extends to a many countries and is regarded a form of organized offence. However, it differs from one country to another according to the concept of trafficking in women in its national legislation and the extent of its respect for human rights. The international community has recently witnessed an escalation in the phenomenon of trafficking in women. With the growing prevalence of internal and international armed conflicts, the existence of internal unrest, political instability, the deterioration of economic conditions in many countries, and the growth of transnational organized crime gangs, the number of female victims who are exploited in this heinous offence has increased.

Outcomes

The Palermo Protocol suffers from a lack of definitions of many important terms, such as "Exploitation of the prostitution of others" and "Other forms of exploitation".

The Palermo Protocol failed to address the controversy surrounding the idea of the victim's consent to being trafficked.

The problem with dealing with the offence of trafficking in women is that it may be a local crime or a transnational offence and may reach the level of an international offence.

The Palermo Protocol contains many effective measures to combat the offence of trafficking in women.

Recommendations

The Palermo Protocol should stipulate that the consent of female victims to their trafficking should not be taken into account.

The Palermo Protocol should be reviewed to define several concepts such as: exploitation of the prostitution of others and other forms of exploitation, forced servitude or forced/compulsory labour, slavery or practices similar to slavery, as these concepts are not defined in the text of the Protocol.

Amending paragraph (1) of Article (6) of the Protocol to oblige States Parties to implement the necessary measures to ensure the physical, psychological and social recovery of female victims and not to make it optional.

The necessity of raising awareness among members of society about the dangers of the phenomenon of trafficking in women and allocating an educational curriculum in educational stages.

Member states must adhere to the legal definition contained in the Palermo Protocol on the crime of trafficking in persons, as member states still interpret the concept of trafficking in persons in different ways, which leads to differences in public policies, laws and internal strategies adopted by those countries, which negatively affects the combating trafficking in women at the national level.

Member States that have not enacted specific legislation to combat human trafficking should expedite its promulgation, as the existing traditional laws are insufficient to address the modern methods and practices used by organized crime gangs, which are characterized by continuous development with the aim of circumventing national legislation.

Activating laws that criminalize illegal immigration, because despite the clear distinction between trafficking in women and illegal immigration, the issue of illegal immigration may turn into an issue of trafficking in women, as female migrants who are exploited may become victims of human trafficking.

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