

Criminal Legal and Administrative Legal Genesis of Combating Human Trafficking in Ukraine

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Abstract

Today human trafficking is one of the most urgent and critical problems in Ukraine and all over the world. Expansion of the phenomena is mainly caused by opportunity to make huge profits from the criminal activity.

The factors contributing human trafficking are poverty of most people in different countries, lack of social protection, unemployment, armed conflicts and other social cataclysms.

In Ukraine about 90 cases were filed by facts of human trafficking in 1998. In 2000–2022 over 4600 victims were involved in such cases. 920 of 1771 convicted of human trafficking-related crime are women. Over 805 Ukrainian citizens were convicted of such crimes committed abroad. As of July 1, 2022, 77 criminal proceedings have already been registered.

Key words: human trafficking, armed conflicts, social cataclysms, kidnapping, prostitution.

Introduction. There is no doubt that the mass media exerts profound influence on forming social attitude to the phenomena. However the analysis of the mass media publications and appearances reveals that most publications on the problem are mainly devoted to prostitution, which is one of the consequences even if the former deals with some facts of human trafficking. Besides, journalists often write about quite another crime, for example – kidnapping, under heading “Human Trafficking”. Popularizing attitude to the notion of human trafficking the mass media creates vague idea about the phenomena. Instead of analysis and detailed coverage the critical problem becomes a sensation aimed at striking dumb readers. With all this going on journalists often cite absolutely contradictory figures. Other weak points of such publications are absence of pattern, incompetent interpretation or substitution of notions, tendency to sensation, lack for publications on less spread forms of human trafficking, absence of analysis of the phenomena, its origin and features, little information for potential victims of human trafficking and individuals ready to assist with combating the phenomena [1].

Trade in human beings is one of the most rapidly increasing criminal businesses. The volume of the trade in women and children as “commodities” for the sex industry and porno-business is estimated to be 7 to 12 billion US dollars a year. The researchers of the most countries note that the trade in human beings, especially in women and children, is highly profitable transnational crime and, in comparison to drugs trade and arms trade, has minimum risk level. Each year all over the world 1–2 millions of women and children become objects of the sale-purchase. This crime has long historical roots and that’s why several conventions, declarations and other documents, purported to prevent and fight this phenomenon, were adopted on international level during XIX-XXI centuries. In nineties of XXI century independent Ukraine faced the trade in human beings. In international system Ukraine is identified as country supplying the human beings to European, Asian, US and other markets. According to unofficial statistics, over 480 thousands of Ukrainian women and young girls have left the country seeking jobs or luck. The 100 thousands of them are involved in sex business. The number of children smuggled for sex and porno industries is unknown yet [2].

It should be mentioned that first of all, notwithstanding several legislative norms (Article 149 “Trade in human beings or other illegal agreement on transfer of the human being”, Article 302 “Creation or maintaining of dissolute places”, Article 303 “Prostitution or forcing or involving into prostitution” and other) the discussions on definition of the “trade in women”

still continue [3]. The significant number of the respondents (7% of 100%) has negative attitude even to the “trade” notion itself, they consider that the demand for beautiful women and offer should always be connected and, therefore, the notion “trade” should be replaced by “mutual agreement”. However, the U.S., Netherlander and Ukrainian experts are right stating that this crime violates freedoms of the women and, in such case; it is not the mutual agreement [2, 4].

The opinions and conclusions about the trade in women are not always similar, but all legislative and scientific publications, interviews of different categories of population and other, state that the trade in children, their sexual exploitation and involvement in porno-business is the worst social crime (only 9% of the respondents do not consider this issue as primary and only 2% of the respondents do not know that there is trade in children in Ukraine). According to UNIAN during the first half of 2001, the Ministry of Interior of Ukraine has opened 35 criminal cases on trade in human beings (the total number since 1991 – 90 cases). The analysis of the criminal cases and the stories told by victims of the trade in women and children allows determining the causes and conditions for such crime. The economic and political instability should be named among the main causes, especially during the first years of Ukraine’s independency, which led to negative consequences, such as distrust in the future, disastrous low level of birth-rate, high deathrate, unemployment, lack of earnings, deficit of food and other goods, general decrease of the life level, difficult ecological situation – all of that affects women in the first turn. Over 270 thousand of unemployed women were registered in Ukraine (it represents 76% of the total unemployment). The women are forced to “sell” themselves, or their children, to get some food for family. Significant number of children are begging, does not attend school. The recent years show the decline of the social morality, in particular, increase of the domestic violence, aggression, cruelty, so called “sexual revolution”, domination of the porno products, etc. It is not by accident, that the interviews of the girl’s graduates (Yalta, Alushta, Sudak, Berdiansk, Primorsk, Zaporizhia) showed that 2/3 of them are willing to go abroad for a job, in spite of the low level of knowledge of the foreign languages and lack of professional background. Yalta, the resort city, showed highest index (97%), and 6% of the respondents even did not object to be sold to sexual slavery. According to our research, in most cases (70%) the traders capture victims by deception: fake promises of employment, advertising and marital agreements. The children’s traders use castings (selection of the talented children for education, model business, etc.). Kyiv, Kherson, Mykolaiv, Odessa, Donetsk,

Dnipropetrovsk, Lviv and Zaporizhia are among the regions with the highest rate of women and children smuggled abroad; however, in general, there is no region when this crime is absent [2, 5].

The women from western regions of Ukraine are most often smuggled to Czech, Kosovo, Bulgaria, Germany; the women from northern and central regions are most often smuggled to the Baltic countries Finland, Sweden, Netherlands; the women from southern regions are most often smuggled to Turkey, Greece, Italy, Romania, UAE, Israel, Syria, Germany, the women from eastern regions – to Russia less to Syria, China, Japan. Moreover, through Russia the women are smuggled to Western European and Baltic countries, and through Georgia women are smuggled to Middle East. We have determined that in most cases the trade in women and children is conducted by the organized crime group according to the following scheme: leader (or leaders of the group) – technical personnel (recruiters, couriers, guide security, drivers) – corrupt officers (passport departments, custom services, etc.) and different types of agencies (tourist agencies, job agencies, etc.) – pimp in the countries, which receive the “commodity” – purchaser or user of the human being. The groups are stable and have the transnational connections. 69% of the groups have female leaders (ex-prostitute as a rule, however, there are lawyers and teachers among the leaders of the criminal’s group). The typical features of recruiter are higher education, good communication skills and age of 30-35. The recruiter’s couriers, security, guides fulfill the routine technical functions, and drivers, in the most cases, deliver the “commodity” to airports, rail way stations, border crossing points, etc. In the receiving countries the 62% of pimp are men and 38% - women. In some cases, the women are sold through the false firms which temporarily employ the women. In week or so, the women are asked to write formal letter stating that they enjoy their present job. Then the well-known scheme starts to work: without passport and money, without the possibility to move and communicate, the woman is forced to service the “clients”. If the woman does not obey, the brothel owner uses violence and by intimidation, beating, drugs, starving or blackmail, forces the victims to provide porno and sex services. The criminological characteristics of victims deserve special attention. Most of the women (about 71%) still wish to go abroad, even being aware of false marriage ads or the possibility to end up in a brothel. The victims of the trade are women and children of different age, however, in general (about 70%) they are girls younger than 25. The 33% of victims have uncompleted secondary education, half of victims (48%) has

secondary and 19% of victims have higher education. Most of the women are single or divorced (72%). However, many of the women are married and even some of them (11%) were supported by their husbands. The rest of women (17%) lived in civil marriage or were going through the divorce. 3/4 of the women were unemployed (some of them had season jobs). The women, who worked as prostitutes in Ukraine (21%) form the special category. According to the results of the interview of 84 victims of the trade, 53 (63%) of them intend to go abroad again [2, 6].

Conclusions It is of urgent concern to develop law mechanisms for all law enforcement units to interact and cooperate effectively under combating human trafficking. At that it is of paramount importance to exchange information on organized travels of women abroad, especially including travel groups and separate individuals and firms engaged in removal of people abroad.

Combating human trafficking and prostitution Ukrainian and foreign law practical interaction.

It is of advisability to conduct regular checkups of private firms engaged in unlicensed employment abroad. It is necessary to establish liability for media officials who allow advertising job opportunities for Ukrainian nationals abroad with no licenses.

Law antitrafficking in people activities should be carried out along with social and economic, cultural and educational, preventive and elucidative activities under bringing up a young generation to comprehend everything connected with sex relations right.

Legislation of Ukraine should provide for criminal responsibility for slavery including provisions for criminal responsibility of medical personnel for violating the rules of transplantation causing grave consequences. Legislation also should prohibit commercial advertisement of transplantation and donor.

Along with strengthening countermeasures as to illegal migration it is advisable to perfect the law regulating of legal migration. Ukraine has already made a step forward by signing the agreement with Russia and other bordering countries on re-admission of illegal migrants.

It is necessary to tough punishment measures in cases of producing, selling or distributing pornographic products, pictures or other things of pornographic character under involving children and individuals underage.

It is of great need to conduct revision of international law acts on slavery and human trafficking and select appropriate provisions for developing a unique law – for example, called

“International Code. Slavery, Exploitation, Human Trafficking and Other Similar Crimes Counteraction”.

Effective struggle and prevention of human trafficking requires close international collaboration in law, wide-scope interaction between law enforcement agencies of different nations, resolution of employment issues including protection of victims in human trafficking, readmission and other respective problems on international level. On national level countermeasures effectiveness depends on adequate and deliberate government policy in social, economical and criminal law spheres.

Under planning and conducting actions and developing international programs on combating human trafficking special attention should be focused on organizing constant information exchange and collaboration between governments, law enforcement agencies including non-governmental and public organizations [1].

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