

Measures to prevent and combating the trafficking of human beings with the focus in Republic of Kosovo

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Abstract

The aim of this research is to provide the understanding of the definition of trafficking of human beings and also by incorporating different researches to elaborate the measures that can be effective in combating this criminal offense. Trafficking is considered as a form of modern slavery which implies the transfer, acceptance, recruitment, threats, intimidation or other illegal forms of exploiting for the main purpose of exploiting persons for personal gain. Human trafficking is a growing phenomenon, so it is necessary to analyze and elaborate more specifically the ways and forms of prevention of this phenomenon.

In Republic of Kosovo the strategy against combating trafficking in human beings is a task of the Government and this strategy is based in the human rights convention which is associated with the promotion and protection of human rights, particularly in protecting the rights of victims of trafficking such as women and children. The rights of victims who are usually violated or intend to be violated by traffickers are: the right of liberty and security, the right of non-obedience, the right of humanity and respect, the right to move and to choose the place of residence, not to be tortured and the right to live free, so the aim of the strategy is to protect and promote these rights.

Nowadays trafficking of human beings is considered as a type of modern slavery, so the intentions of every modern and democratic state are to combat and abolish this phenomenon from society using the measures that every state has incorporated them in the internal judicial system. For the first time in Kosovo the human trafficking has been foreseen as a criminal offense under UNMIK Regulation 2001/04, and after this regulation it was followed by other regulations which foreseen the protection of victims of trafficking and at the same time fighting and preventing this phenomenon.

In Kosovo Trafficking with human beings is a reactive phenomenon, which in recent years, especially after the post-war period, has taken large proportions referring to the statistics published by the Crime Department in Kosovo - Basic Court of Pristina.

The criminal code of Republic of Kosovo the trafficking with human being determines as a criminal offense against humanity and values which are protected by international law.

Keywords: Kosovo, trafficking, human being, combating, criminal code, victim.

Introduction

The spread of multiple form of criminality in nowadays society including in Kosovo, in some of its most dangerous forms such as trafficking in human beings has appearance and largely upgraded the necessity to study this phenomenon in the criminological and in other aspects.

Every state and democratic society has reacted to this negative phenomenon, which

in continuous ways have violated the human rights. The trafficking with human beings or its forms has existed since in ancient times and still up to nowadays. The criminal sanctions regarding this phenomenon are as early as the very existence of this criminal offense but of course during the course of development of society have also evaluated the forms of reaction against this phenomenon.

The changes that have taken place within the sanctions against this criminal offense and the ways of combating it, naturally can be called continuous efforts of state institutions, which have given a special contribution first but not only to inform the population about the meaning of this criminal offense, the consequences of this act, the protection of the most vital values of the individual and the protection of human rights and fundamental freedoms which are just some of the fundamental human rights that can be violated by this offense.

Trafficking in human beings, both in the criminal code of Kosovo and in the criminal code of the states of the region, is considered as a criminal offense and it is punishable according to the law of each state. The only purpose of trafficking is the exploitation of persons for various purposes starting here from exploitation for prostitution, forced labor, enslavement, captivity or even extreme cases such as removal of organs for the purpose of selling them, so it is very important to be aware and to undertake appropriate methods and measures to combat this phenomenon which is rapidly growing and attacking vital values. The term trafficking recently is replaced by another term which is also known as the form of modern enslavement, from which illegal activity various persons gain by controlling and expelling others.

Victims of trafficking in human beings, including children and young people under the age of 18, are the most vulnerable age who are exposed to different forms of trafficking, including sexual services, prostitution, forced labor inside homes, or even in others places always against their free will.¹

Common factors for each of these situations are the elements of using force, deception, threat or obligation for the only purpose of achieving control of these people.

Based on many researches and some interviews on the topic of human trafficking, we have come across different opinions of society about how they consider trafficking in human beings, many responses to this question have been that this phenomenon is understood as a compulsory service which violated the freedom of the person and the right which are guaranteed even with the highest national and international acts. The mission of the anti-trafficking strategy in Republic of Kosovo consists in defining the strategic priorities of the fight against trafficking in human beings, defining the specific objectives of the institutions that has the liability to fight against human trafficking and harmonizing the inter-institutional actions to achieve the set objectives. As a characteristic of people who in many cases fall as a prey to trafficking is that they come from different countries, separated from the family or by their language but also from the culture and habits they are accustomed to live with, and most of them especially to immigrants do not report cases in law enforcement bodies from fear of revenge, deportation and injury etc. which makes us realize that in many cases of trafficking the traffickers remain unidentified and victims without support as a consequence of the threat and the force exerted against them.

¹ Kosovo's Judicial Institute- Human trafficking, Pristina, 2008. XIX presentation.

The strategy and action plan in the fight against trafficking in Kosovo is focused on three main areas such as:

- trafficking and re-trafficking prevention,
- victim and witness protection,
- tracking and punish ability of the Traficant.

The goals of the strategy against trafficking in Republic of Kosovo are:

- Raise public awareness on anti-trafficking issues,
- Increase the efficiency of the education system at all levels in order to prevent trafficking
- Promote and enforce the rights of children as a prerequisite for reducing the risk of their trafficking
- Identify victims of trafficking
- Provide and coordinate effective services for victims of trafficking, including children and adults
- To achieve long-term reintegration of victims of trafficking
- Improve proactive and reactive investigation techniques in order to increase efficiency against trafficking in human beings
- To improve cooperation with other states and international organizations in the area of international law enforcement to combat trafficking with human beings and organized crime
- Increase the efficiency of prosecution and courts in terms of persecution and punishment of perpetrators of these criminal offenses
- Ensure confiscation of property of perpetrators of these offenses and compensation the victims of trafficking.
- To ensure the adequate and non-discriminatory treatment of victims by the police, the prosecution and the court. ²

The action plan, which has been approved at the same time as the action strategy, envisages in detail the goals, specific objectives, activities, responsible, supportive institutions, timelines, budget and other relevant indicators to prevent the human trafficking, the protection of victims and persecution of perpetrators of these criminal offenses.

It is necessary to emphasize that the action plan against the trafficking in Republic of Kosovo among other activities has foreseen these important activities:

- Increasing the number of judges and prosecutors dealing with the trafficking issues.
- Recognition of judges, prosecutors and victims' advocates for compensation of victims with the material worth confiscated by the perpetrator of criminal offenses of trafficking
- Increase the number of executing judges and support the staff at the Basic Courts.
- Provision of information and assistance to the victims and their rights
- Training the police officers, prosecutors and judges on human rights ensured by international conventions
- Drafting the memorandums of cooperation with relevant institutions that provides human right

² Strategy against trafficking of human beings.

- Training the judges and prosecutors through exchange of experience for punishing perpetrators of criminal offenses of trafficking.
- Provision the information to the victims on their rights
- Drafting of memoranda of cooperation between relevant institutions.
- It is also important to note that in this strategy and action plan are included all the possible mechanisms for combating trafficking and the assistance of victims of trafficking.

Every year human traffickers benefit billions of Euros from victimization of people in the world, and this phenomenon is unfortunately considered to be one of the most lucrative income-producing industries.

The main causes that indicate in committing the trafficking in human beings

Causes, circumstances and conditions affecting the occurrence of criminal offenses in a country or territory in society are called criminogenic factors, criminogenic factors are considered as objective and subjective circumstances that explain the links and impacts on criminal activities, but the issues to determine the factors that contribute in the appearance of criminality are not too easy to find and because of these we have different opinions regarding this phenomenon.

Fairly, this term or notion is considered quite complicated and requires more treatment and more care. There are different theories in science for the factor or cause of criminality in society, some of the theoretician has considered that there is only one factor that cause the criminality, so these authors are called "authors of monophasic", while there are also such theories that the appearance of criminality in society interwoven by many or some of the factors that affect criminality, so taking in consideration these two different theories external factors and internal factors are considered potential causes of criminality and in this case they are related to trafficking with human beings.³

External (objective) factors of criminality or exogenous factors represent or are considered as a determinant factors in criminal behavior. External or objective factors are numerically numerous and each one has one its importance and its role in the appearance of criminal behavior but we are going to mentioned just some of them that are considered as more important or that have we have face with during the treatment the related cases.

External social and economic factors, –which includes migration. Migration of the population is a widespread and growing phenomenon in recent decades many people nowadays pretending to have a better life are moving from the countries that are consider as poor and not to developed towards the other countries, so while they faced with different difficulties such as not knowing the language, cultures, laws, difficultness finding a job and realize incoming it's suppose that all of these factors indicate in committing different offense including here also trafficking with human beings. It's also important to emphasize here that also the people that migrate from one to other country, are more easy "prey" for criminal structure to fall into their trap. Economic Crisis and Poverty – as knowing economic crises provide poverty so being

³ DrRagipHaliliKriminologjia – Prishtine.

in this situation while many of analyses has confirmed that in significant way people increased their criminal actions. War and the criminality etc.⁴

Referring to literature there are also knowing the subjective factors that can also indicate in committing criminal offense some of them that are mentioned are the character of the offender, personality, temperament, habits and criminal inclinations, intelligence, emotions, motives and different disorders which in direct or indirect way can contribute in criminal behavior.⁵

Preventing and combating trafficking with human beings with preventive measures

The preventive measures are considered the measures that affect on preventing the trafficking in human beings and therefore they are part of the plans and strategies against this phenomenon, as preventive measures against trafficking mentioned:

Education – without any doubt education is considered as one of a preventative measure which is effective in combating the phenomenon of trafficking, according to many statistic the persons that have been victim of trafficking where with lower rate of education and with difficult social economic conditions, so the naivety and the lack of knowledge in many cases has been a decisive factor in their trafficking. Today's education and training of persons naturally has to include various trainings and awareness-raising information about the phenomenon of trafficking and the avoidance of this phenomenon.

Employment and Gender Equality - Employment as a measure for the prevention of trafficking is very important, usually after the victim of trafficking repatriation in the state where they belong they need to relive their stimulation through self-confidence and simulation for life, employment and gender equality as a generalized measure has very importance because the independence of persons, especially the female gender, directly affects to elimination they personal history that they have been through while trafficking. As we know from practice most of the persons that where victim of trafficking fall prey of traffickers for the reason to have a better financial life for themselves or their family.

Massive and Electronic communication measure - Mass media is considered as a powerful measure in combating the trafficking because the society can receive information from mass communication for the phenomenon of trafficking, the fight against this phenomenon and the support that should be offered for the persons that are prey of trafficking, so the massive communication development of the globe recently has had a good impact on fighting this phenomenon.

Preventing and Combating Trafficking in Human Beings with Repressive Measures

Judicial Police and it's role - The role of the police in combating trafficking in human beings is very important, as we know from the practice of living in the first line of

⁴ DrRagipHaliliKriminologjia – Prishtine2011.

⁵ DrRagipHaliliKriminologjia – Prishtine 2011.

the throne regarding the fight against crime, is the state police. The police actions that are involved in combating crime consist in three basic principles: prevention of trafficking in human beings, protection the victims, and prosecution the traffickers: police duty is the investigation of cases of trafficking in human beings, protection and provision of assistance to victims that have been trafficking.

The prosecution and its role - Prosecutor in the fight against trafficking has the main role in investigating the criminal offenses of trafficking, as well as by the prosecutor and other organs, is required to treat trafficked victims more and more humanely.

The Court and its role - The Court must also be very effective in condemning the perpetrators of criminal offenses of trafficking in persons, the Court should treat the victims with special care to realize their rights and to track them in compensation for the damage from the offense in question, punishments given to perpetrators should be in conformity with the offense committed and also the court should draft ideas and plans that after the punishment of a perpetrator of criminal offense.

Recently in the law system of republic of Kosovo is approved the regulation for compensation the victim of crime including here the victim of trafficking, the regulation has base in the law of compensation the victim of crime and this has been consider as a big step for our country in providing and protecting the human rights. ⁶

The trafficking of human being in Kosovo for the last two years

Based in many researches the economic state is one of the most important factor that indicate in trafficking of human being in republic of Kosovo. As a post war state we still do not have a stable economic condition so this indicate directly in committing different criminal offense including here trafficking, but we are dedicated and continuously working in many ways in fighting this phenomenon and providing the rights of victims and resocialization them in society.

For the last years Kosovo has been the destination country for trafficking of human beings.

In the last two (2) years (2017 and 2018) in Kosovo are identify 47 victims of trafficking with human beings, 32 in 2017 and 15 in 2018, 244 suspected person are arrested for criminal offense such as prostitution, exploitation of prostitution and similar offense. For trafficking of human beings and its other form are suspected and arrested 29 persons.

For the propose to fight the trafficking with human being the analyst and also the society propose the state to undertake some measure while facing this phenomenon, firstly in criminal code the punishment should be raised because this is considered as a business with human beings and the criminal offender should be aware that if they commit this offense they will face the adequate punishment, also the economic state to be improve, the young generation to have possibilities to find appropriate work with their adequate education and the society to be inform with awareness activity about this offense.

⁶ Dr Ragip Halili Kriminologjia Prishtine.

Conclusion

The research was set out to give some of the important information of trafficking of human beings as a criminal offense as a worrisome phenomenon which deserves to be studied, and through its study, there are also forms and methods for fighting this phenomenon which directly attack the most vital value rights of human beings.

The process of reintegration and post-criminal assistance to persons who were victims of trafficking is very important, because the process of their re-victimization is far more dangerous than their primary victimization because it sometimes ends up with the reception and as a guiding point for preventing this offense.

Taking in consideration that this phenomenon is considered to be one of the most profitable crime, it is understandable that efforts to develop and disseminate it will not be easy to stop, but it is very important to undertake the right measures to fight it and in the same time to avoid the factors and conditions that brings people committing this offense.

This research through empirical examination sought to provide what kind of measures we as society and the state should take to avoid the commitment of this offense and here are some measures which I think in the near future would give the results and fill the gaps an avoiding this phenomenon: punishments against the perpetrators of the offense of "trafficking in persons" should be intensified in order to influence their effectiveness, to provide information for the wide society about this phenomenon, to identify the persons who were victims of trafficking and resocialization them, and also the procedure to compensate the victim of this crime to be simple and functional, the courts should treat these cases with priority and in short procedure without prolongation the process

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