

# Human trafficking from the perspective of international criminal justice

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# Human Trafficking (I)

- Crime of human trafficking
- From 1990 onwards / human existence and personality are violated
- The individual is treated as an object (res)
- It is typical of the classic ideology of slavery
- Before the start of World War II, the Third Reich supplied domestic industry with labor – these were people who had been sentenced to forced labor because they were considered “unreliable elements” (homeless, homosexuals, criminals, Jews, political dissidents)
- After World War II, third-country nationals (including Greeks) were added and held in labor camps
- A similar policy was followed by Japan

# Human Trafficking (II)

- Cold War: Soviet bloc countries continued this practice for labor in factories that had come under state control
- The difference between human trafficking and the slave trade ideology is the economic footprint it has
- To combat international trafficking, the 3ps doctrine is applied: prevention, protection, prosecution
- The 3ps gradually became 5ps: provision of services to victims, partnerships
- See UN Palermo Protocol

# Human Trafficking (III)

- ICC Statute: does not explicitly refer to the crime of human trafficking
- The crime of enslavement is referred to in the category of crimes against humanity
- Conceptually it also includes human trafficking
- Enslavement: exercise of any or all of the powers inherent in the right of ownership over persons and includes such power especially against vulnerable groups (women & children)
- Includes acts such as: buying, selling, lending, exchanging or imposing similar forms of deprivation of liberty
- It is considered that its commission presupposes the existence of organized crime

# Human Trafficking (IV)

- Art. 187 Greek criminal code: citizen protection from acts of criminal organizations
- It also includes the country's compliance with the Palermo Treaty
- Punishment of significant forms of organized criminal activities that target society as a whole
- The organized criminal group has multiple possibilities in relation to individual criminal action, given the criminal nature of the crime
- Art. 232A Greek criminal code (the crime of human trafficking)
- Art. 187 par. 7: provides that acts are punished even when they were committed abroad by a Greek national or targeted a Greek citizen and regardless of whether they are considered punishable in the country of commission
- International nature of crime – three bases of jurisdiction

# Human Trafficking (V)

- Victim of human trafficking: means any natural person who has been subjected to acts of trafficking, or who is reasonably considered by the competent state authorities to be a victim of trafficking, regardless of whether the perpetrator has been identified, arrested, prosecuted or convicted, as well as any person who has been identified by the authorities as a victim
- Persons who are assessed with a degree of relative certainty to be victims regardless of whether the participants in the respective criminal organizations have been arrested or criminal proceedings have been brought against them or have been convicted

# Human Trafficking (VI)

- International crime of human trafficking (Art. 3 UN Palermo Protocol)
- Article 3 — Use of terms
- For the purposes of this Protocol:
- (a) "Trafficking in persons" shall mean 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;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (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 subparagraph (a) of this article;
- (d) "Child" shall mean any person under eighteen years of age.

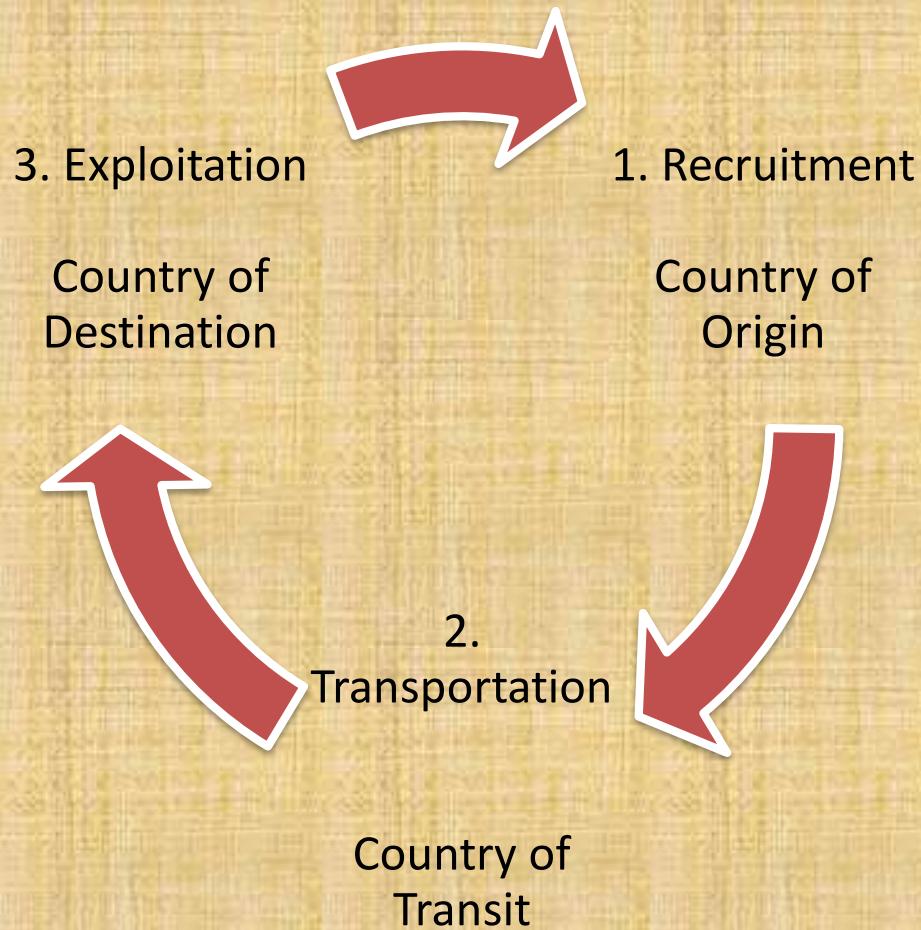
# Human trafficking (VII)

- Problem of international repression of organized trafficking crime
- The non-participation of victims as witnesses in the trials of perpetrators
- Inability to prove guilt beyond all doubt
- Protection of witnesses so that there is no danger and intimidation
- Social stigmatization / ostracism
- Risk of retaliation
- Risk of criminal prosecution of the victim
- Existence and protection of the victim's children
- Civil nature of rights – are victims entitled to compensation?

# Dimensions of Human Trafficking

- Human trafficking - **third most profitable illicit trade**, after that of arms and drugs
- Generates about US\$ 217 billion in revenue, annually\*, - linked to other organized crimes - human smuggling, drug trafficking, and money laundering
- ILO \*\* - there are 2.45 million trafficking victims currently under exploitative conditions - estimated that another 1.2 million persons are trafficked annually

# Trafficking as a process



# Legal documentation

- United Nations Convention Against Transnational Organized Crime, 2000 – Palermo Convention
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, 2002
- Protocol Against the Smuggling of Migrants by Land, Sea and Air, 2002
- Protocol Against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition, 2002

# Convention on the Rights of the Child, 1990

## ***Article 34 -***

... protect the child from all forms of sexual exploitation and sexual abuse. ... take all appropriate national, bilateral and multilateral measures to prevent:

- (a) ... child to engage in any unlawful sexual activity;
- (b) ... use of children in prostitution or other unlawful sexual practices;
- (c) ... use of children in pornographic performances and materials.

## ***Article 35 -***

... measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

# Other international instruments

- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979

## ***Article 6 –***

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

- The ILO Convention on the Worst Forms of Child Labour, 1999 (No. 182)
- Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2002

# Push-pull Factors

- Large supply of potential victims:
- Economic difficulties, lack of employment opportunities, poverty, illiteracy, lack of awareness
- Growing demand for women and children for sex trafficking / forced/ exploitative labour
- Organized criminal networks exploit supply and demand situation:
- Trafficking in persons is regarded as a high profit – low risk crime

# Traffickers' profile

- Friends/Family/Romantic partners
- Sex industry managers and “Pimps”
- US and International government employers
  - e.g. Diplomats
- Legitimate employers
  - e.g. Households with domestic workers

# Survivors' trauma and situation impacts medical assessment

- Fears consequences of identifying as victim:
  - retaliation by trafficker - especially common are threats made against family members or loved ones
  - deportation (foreign national)
  - social services interventions (especially for youth who previously experienced abuse or harassment in foster care placements)
- In crisis mode
- Trouble recounting history/details
- May not self-identify as victim
- Loyalty to trafficker(s)
- Cultural/language barriers
- Mistrust of health professionals
- Limited understanding of rights