

United Nations Criminal Policy in Supporting of Victims of Child Trafficking

Fatemeh Shiri

(Corresponding Author)

Department of Law, Science and Research Branch
Islamic Azad University, Khuzestan, Iran
No. 270, Payam Street 5, Dezful, Iran, Zip Code: 6461857791
E-mail: shiri.elham@gmail.com

Abdolkarim Shaheydar

Faculty member of Payame Noor University
Department of Law, Payame-Noor University, Tehran, Iran
E-mail: ashaheydar@yahoo.com

(Received: 22-10-13 / Accepted: 18-12-13)

Abstract

Child trafficking commits by transnational organized criminal groups for the purpose of financial gain. The essence of this crime is the intense violation of human rights which is caused a form of modern slavery. In various conventions committing this crime has been prohibited by the United Nations. Protocol to prevent, suppress and punish trafficking in persons especially women and children, supplementing the UNs Convention against Transnational Organized Crime is the most comprehensive protocol to deal with child trafficking from various angles; one of the ways in which this protocol confront the crime is criminal policy, in this protocol the UNs tries to utilize criminology to discover the activities of the traffickers to prevent the victims of this crime.

Keywords: Child Trafficking, Criminology, Exploitation, United Nations, Victimization of Children.

Preliminaries

One of the challenges facing the international community in this century, particularly in the early 90s and after the collapse of the East Block is the phenomenon of human trafficking. Human trafficking with annual interest of 5 to 7 billion dollars, after drugs and arms trafficking, is the most illicit and profitable trade in the world; and it is counted as the largest and most criminal activity. Four million people are trafficked domestically or internationally each year. (www.gatwinternational.org) due to the characteristics of children according to; age, physical and mental specification; they are the suitable case for human traffickers.

Today, the number of children who are the victim of trafficking each year is estimated about one million and two hundred thousand worlds widely which is covered over thirty percent of annual human trafficking in the world.

Child trafficking committed by organized criminal groups internationally pose a risk to personal, national and international safety. Statistics, facts and figures show that rapid growth and shocking of this anti-humanity crime around the world that engaged all countries of any kind, whether as countries of origin, transit or destination; even some countries may be engaged in two or three forms mentioned. Risks and impacts of the crime led to the United Nations as the most universal and having the most members in comparing to other organizations of the world, which has always been a supporter and advocator of people; for the protection and prevention of the violations of the right of these human who are extremely vulnerable and need to support come to take action and with some activities tried to oppose this horrendous crime; the UNs policies to tackle child trafficking is including the supportive policy of this organization which is happened through the criminalization of child trafficking case that will be discussed in this paper.

1. Victimized Child and Penal Support of Him

1.1. The Concept of Victimized Child

Children generally refer to someone who is not mature. (Aghabigloee and his College, 1380. 24) In the legal term also, it is the person who physically and mentally is not ready for public life. In the first article of "child right convention " presents, any individuals less than eighteen years of age is called a child unless according to the national law of each country the age is determined less than eighteen.

Children are potentially vulnerable and have the background to be a precursor of victimization and due to their pathological characteristics desired to be the suitable target more than others to be victim in the society. Part (a) of Article 1 of the Declaration "Basic Principles of Justice for Victims of Crime and Abuse of Power", adopted in 1985 (resolution 34/40 General Assembly), "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.

According to the above definition, a victimized child is defined as a child who suffered physical, mental, emotional or financial caused by acting or omission, and in Some crimes of children's basic rights are violated, among the basic rights of children according to the international instruments on human rights are having human dignity, good benefits (which includes special protection and harmonious development) and non-discrimination can be noted.

1.2. Support Mechanisms of Criminal Policy

Legislation of comprehensive, efficient and transparent (both substantive and formal) with emphasis on personality of their victims and vulnerability of some of them, including women and children for reasons such as sex and age, and predictions of specific practical guarantee and usually "criminal", is the pattern of support that should be considered in here.(Skandari, 1387: 51).

Article II Declaration on the Rights of the Child, "the child shall enjoy special protection, and facilities and equipments necessary to develop him/her physically, intellectually, morally, and

socially in the healthy and natural way, and in a free and respected environment by the law or the authorities should be supplied. And in this position the interests of children should be a top priority for the legislation.

Assumption policies for Criminalization and punishment - in the field of criminal law, especially victimized child - effective mechanisms for controlling the crime against them is counted, and often is such that in the first place, it affected offenses committed against children and this makes the next step affects the status of children.(Abachi, 1384:196) In the international area international instruments and in the domestic area protecting rules are controlling this aim; in the domestic law sometimes specific criminology and sometimes legislate tougher penalties for perpetrators of crimes against them will be manifested. (Lopez and his College, 1379:52) this support comes to exist in the international instruments as the criminalization.

1.2.1. Supportive Criminalization

Criminalization is a process by which a new behavior made and be the subject of criminal law and eventually ends with punishment. (Najafi Abrandabadi and his College, 1377:76) In the international instruments, supportive criminalization is reflected as acting and omission against children that are harmful. Nowadays harmful behavior towards children is rising; especially the new forms of behaviors could have detrimental effects on children's body and soul. This kind of criminalization is known as supportive criminalization and a kind of opposition to persons who commit crimes against children. (Abachi, 1384:188)

2. Penal Support of the United Nations from Child Victims of Domestic and Transnational Organized Trafficking

United Nations in order to achieve the ideals Declaration of Human Rights and Declaration of child Rights, through legislation, tries to prevent the child rights. The UNs to oppose this crime during its activities authorizes many documents which are related to persons trafficking directly or indirectly. Among these authorized documents which has the Convicted support of the victims of the international child trafficking as organized crime; we can refer to first protocol of "United Nations Convention against Transnational Organized Crime" entitled: prevention, suppress and punishment for the trafficking in persons, especially children and women, to be noted. Palermo conventions Protocol I, is the only evidence against child trafficking through criminalization. Before focusing on the criminalization of child trafficking, it is necessary to analyze the different aspects of this crime.

2.1. Child Trafficking Transnational Organized Crime

Article 5 of the First Protocol of the Palermo Convention has devoted to criminalization of child trafficking as transnational organized crime. So, it is essential to discover the nature of child trafficking as supranational organization crime.

2.1.1. The Concept of Organized Crime

Because for interpreted the protocol should refer to the Palermo Convention, for describing this interpretation refer to the context of the convention. In the "United Nations Convention to Combat Organized Crime" Organized crime is not defined but "organized criminal group" is defined; it seems this deed presents in order to expand the scope of this crime.

As defined in part (a) of Article 2 of the Convention, "organized criminal group composed of three or more persons which is existed for a specified period of time with the aim of

committing one or more serious crimes or offenses, in order to gain the direct or indirect financial interest or other benefit, harmoniously works. " the above definition of serious crime according to the Convention "is a criminal act which is done by an organized criminal group and according to domestic law has the punishment more than four years prison."

Organized criminal groups typically have a hierarchy of a chairman, division of labor and the severe discipline with cruel sanctions, to do their mission and reached their purpose they use and resort whatever means they can; ultimate goal of this group is gaining financial benefit which is the most important aspect to distinguish this type of activity from terrorist activity. (Salimi, 1383:47) certain characteristics of organized crime, committing these crimes by organized criminal groups for the purpose of financial gain that describes the organization of such crimes, thus if child trafficking committed by dispersing person without purpose of financial gain, it is not belonging to this protocol and does not name as organized.

2.1.2. The Concept of Transnational Crime

Accordance with paragraph 2 of Article 3 of the Palermo Convention on transnational crime will be considered if it: 1) has occurred in more than one country; 2) has occurred in a country realm, but the important part of preparation, planning, direction or controlling have happened in another country; 3) has occurred in a country, but an organized group has been involved that is involved in criminal activities in more than one country; 4) has occurred in one country, but has substantial effects in another country.

In this section four criteria are considered for a crime to be transnational crime in which only in the first case, the financial element of the crime is located in more than one country.

2.2. Child Trafficking as Compound Crime

Article 3 of the First Protocol supplements the Palermo Convention has thus written:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring 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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs.

The definition of child trafficking in this Protocol among the definitions of child trafficking at the international level has the specific importance; this definition includes three parts: criminal activities, equipments that are used to commit those acts, intention and purpose of this act.

- **The act (ion) of:** recruitment, transportation, transfer, harboring or receipt of persons.
- **By means of:** threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim.
- **For the purpose of:** exploitation which includes, at a minimum, exploiting the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery or similar practices and the removal of organs. (UNODC, 2006:51)

Child trafficking is composed of three stages as follows:

- A) The process of human trafficking begins with the abduction or recruitment of a person. (UNODC, 2006:57) there are several known methods by which people are recruited by human traffickers. (UNODC, 2006:59) Some tricks to deal with victims are used by traffickers; these tricks involve threats, deception, force and coercion in a form of physical or mental. In the other cases the trafficker by the abuse of power or person's vulnerability or buying the child from his/her parents attempts to do the duties. The point which is necessary to be noted here is that under paragraph (c) of Article 3 of the protocol, the recruitment, transportation, transfer, harboring 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; this is a special protection to a victimized child which is achieved by reduction conditions of the crime.

Entrapping the victims and start Child trafficking occurs in the country of origin and there are various ways to entrap victims by traffickers, for example, "Organization for Supporting Victims of Violence" has examined the situation and kinds of human trafficking in Iran in which the result is presented below:

- 1) Iranian girls trafficking to Pakistan: traffickers or dealers have suited girls from poor families and marry them, and then they sold them to brothels or clubs in Pakistan which are known as (kharabat). Unfortunately, the recent phenomenon of girls sold by their families or husbands in different border cities has become worrisome. Actually Victims often have no awareness of being trafficked. Victims through marriage have been deceived, unluckily, did not officially registered their marriage has been the main problems. According to the victims lack of full protection and security of its eastern border is the major reason to make the trafficking easier. Most victims did not receive any money for their sexual work; usually the husband's family has received all the money.
 - 2) Girls trafficking to the UAE: usually girls who are trafficking to the United Arab Emirate (Dubai) are between 10 and 16 years of age and they transact in two ways:
 - a) Some of them are officially suited under the great Arab sheikhs and their families receive some money to let their daughter crossing the border by traffickers.
 - b) Some others are girls who are abducted for this purpose and taking out of the country without the permission of their parents. Many of these girls worked in the market and are engaged in prostitution in clubs and nightclubs. (Organization for Defending Victims of Violence, 1382:55-60).
- B) It continues with the transportation from the place of origin to the place of destination. Transmission and transport expressions defined in the Trafficking Protocol, refers to the process of smuggling. In case of transnational trafficking in persons, the process includes the entry of the individual into another country. (UNODC, 2006:57) In cases of international child trafficking does not necessarily taking the children outside the boundaries of a country and may be the trafficking happened within the same country, but an international organization crime and trafficking is committed (cases b, c, d, paragraph 2 of Article 3 of the Convention Against organized Crime). The trafficked Children were trafficked through the country of origin to the transit country and then to country of destination, the transfer of children can be done through air, sea or by land; entrance of the victims may be legally be done until later to be abused, or illegally and with faked documents or illegally trafficked through the border by land or sea. In transferring the victims, what worried that nations provide criminal offenses associated with trafficking include abuses of immigration and border-control laws, corruption of, officials, document forgery, acts of coercion against the victim, unlawful confinement and the withholding of identity papers and other documents by traffickers in order to dominate and control over victims by traffickers. (UNODC, 2006:60).

As part of a UNODC project regarding the trafficking of human beings in the Philippines,⁴⁷ UNICRI was given permission to analyze data held by the Italian law enforcement authorities concerning human trafficking and smuggling activities undertaken by a Filipino criminal organization utilizing Slovenian and Pakistani crime networks: An identified human trafficking route from the Philippines to Italy could be divided into three phases, with each leg of the trip being taken care of by different individuals and sub-units of a larger network. The route, identified through the results of a victim survey started in the International Airport at Manila. The first part of the journey (Manila to Budapest, via Bangkok) was completed by plane and arranged by Filipino agencies. Usually passengers flew to Thailand where it appeared to be easier to get a visa for Hungary, the next transit country.

The second part of the journey began with the victims' arrival in Hungary (the Czech Republic was also mentioned as a transit point). Once in Budapest, the victims were met by members of Slovenian organizations who served as guides and chauffeurs taking the victims by van from Hungary to Slovenia. During this European part of the journey, the Filipino victims were kept in safe houses and, after having been divided into smaller groups, were taken to Italy by van or foot. The length of staying in the transit countries depended on weather conditions and border control. The third part of the journey began at the point of passage in Italy where the victims were met by drivers of the Filipino organizations who would take them to their final destination.

- C) This trend will continue with exploitation; child trafficking beginning to reach the level of financial and monetary gains from the exploitation of the victims.

The children which are issue of trafficking then exploitation and abuse, after they are sent to the destination country, although they are exploited by traffickers and their accomplices in the destination country, but because they are poor and lack of financial and social support give deference to the wishes of their traffickers and exploiters.

Such little person is declared legally incompetent and cannot distinguish between good and bad to declare his/her will; so, dissatisfaction of the children in all cases where they are trafficked is considered to be supposed. (Salimi, *ibid*: 46)

2.3. Different Kinds of Exploitations of Child Trafficking

The key human trafficking action associated with destination countries is the exploitation of victims in any number of forms. The Trafficking Protocol provides a non-definitive list of forms of exploitation, these exploitations are as follows:

2.3.1. Sexual Exploitation

Sexual abuse of minors (person who is under 18 years of age) is not a new problem and over the years, has taken a variety of forms. Phenomenon that crossed the boundaries of time and place and in different ways and originally United, within the labyrinth path, and in this way serves the same purpose. (Qannad, 1377:2) because of the risks which it has for the health it must be criminalized. (Qannad, same: 28) The abuses which can be considered are: prostitution or whoredom, pornography, forced prostitution, rape and sexual slavery.

2.3.1.1. Forced Prostitution

The term Forced prostitution is used to describe the situation in which women and girls by husbands or parents or other persons through legal rules and procedures, who has retained their ownership, sold or forced into prostitution; and also when someone with the authority

which is obtained, forced someone to have sex or to continue to serve as a prostitution, it is forced prostitution. (Askin, 1999, 44) what distinguishes this crime from sexual slavery is financial or non- financial benefit in which the perpetrator or another person obtained or expected to be obtained through transaction of the victim or from the person who is prostituted. (kittichaisaree, 1382:150) regarding human trafficking, where women are prisoners, or they are without identity documents, or they are in the position which they did not know the location, this definition will be apt and suitable, because not only it is possible to use physical force to do sexual deeds but also the victim is mentally weak enough not to present his/her idea effectively that is agree to do the action as a prostitution or not. (Piotrowicz, 2004:23)

2.3.1.2. Rape

Jurisprudence of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Yugoslavia (ICTY) established rape as "a physical invasion of a sexual nature committed under coercive circumstances" and solely confined rape and sexual organs or not physical force, is to be interpreted. (Prosecutor.v.Akayesu, ICTR96-4-T, 1998:597)

In many cases the victims of human trafficking are raped, because the traffickers and others who have control over the victim - such as brothel owners and even customers - in many cases to break the resistance of victimization, rape is committed, because rape is like other forms of sexual violence often is used as a tool to break the will of the majority of victimization of trafficking or to force them into forced labor, sexual servitude or prostitution (Kelly and Regan, 2000: 1987)

2.3.1.3. Prostitution or Whoredom

Paragraph (b) of Article 2 of the Convention on the Rights of the Child, prostitution or whoredom is defined as "the use of children in sexual activities for money or other issues".

Published reports in the Spanish media suggest that international human trafficking networks, with the deceit of pride of people, in the backward or developing countries, drag them in Europe and put into prostitution. The weekly "Noviyeh pokoleniyeh" published in Almaty present an article titled twenty-first century girls wrote more girls who are sent out of the country are busy in prostitution. (Telex report on Iran's Islamic Republic News Agency, 1379/06/28)

Israel has become one of the major centers to attract women who are trafficked for prostitution. According to International Amnesty, hundreds of young women mainly from Eastern Europe and the former Soviet union Republics are brought into the country to serve in the Corruption centers every year. (Telex report on Iran's Islamic Republic News Agency, 1379/04/08)

2.3.1.4. Pornography

In Blacks Law Dictionary, Child Pornography is the product of data that describes the participation of a person under eighteen years in sexual acts. (Garner, 2004:1199) Interpol is defined child pornography as "to show the sexual exploitation of children by focusing on Showing children's sexual organs or sexual activity". (Interpol61, General Assembly, 1995) the Optional Protocol to the Convention on the Rights of the Child about sale, prostitution, and child pornography in paragraph (c) of Article 2 of child pornography is defined it as "Child pornography means any representation, by whatever means, of a child engaged in real

or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.”

2.3.1.5. Sex Slavery

According to the provisions of the constituent elements of crimes sexual slavery is that in which committed the activities such as: buying and selling, hiring, exchanging and similar activities, and having his own right for himself to force others into sexual acts. (Sadeghi, 1383: 118) many cases of human trafficking can be regarded as sexual slavery especially when people are forced into sex profession are tricked or lured into sexual slavery can be considered as sexual slavery. (Zaqely, 1388: 194) Many girls have stolen every year in different countries and are trafficked to other countries and they are sold like goods and after purchasing they force to serve at notorious homes and centers.

2.3.2. Labor or Forced services

Article 2 of the ILO Convention (canceled) forced labor in 1930; forced labor has defined as "all work or service which is done by someone by threatened or forces to claim retribution and punishment, and the person does not do it as a volunteer" and there is no distinction between adults and children in its definition.

The UNs body responsible for monitoring the implementation of the UNs Child Rights Convention defines child forced labor as:

Any substantial work or services that a person is obliged to perform, by a public official, authority or institution under threat of penalty; work or services performed for private parties under coercion (e.g. the deprivation of liberty, withholding of wages, confiscation of identity documents or threat of punishment) and slavery-like practices such as debt bondage and the marriage or betrothal of a child in exchange for consideration. (Dottridge and others, 2012:4)

Paragraph (a) of Article 3 of the Convention "Further abolition of slavery, the slave trade and institutions and practices similar to slavery" forced work (forcible) or involuntary servitude is known as other instances of similar slavery. According to recent statistics from UNICEF, 5.7 million children trapped in forced labor around the world, that is about half of all people who suffer from this affliction. (UNICEF, child labor, 2006:1)

2.3.3. Slavery and Slavery-Like Activities

Another case of abuse of child trafficking which was presented in the paragraph (a) of Article (3) of first Protocol supplements the Palermo Convention is slavery or similar practices. Slaveholding is powers for ownership relating to properties owned by the man and owning the man himself/herself, including buying, selling and exchanging human. In the ICC Statute enslavement is defined as 'Enslavement' means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children. This definition is based on customary international law and the slavery Convention in 1926 of the "slavery " is presented. (kittichaisaree, 1382:150)

Paragraph (a) of Article 3 of the concord monitoring the worst forms of child labor (1999) among the forms of slavery or similar practices, such as sale and trade of children, forced loans and bonds, forced child labor referring to armed conflict should be presented.

2.3.3.1. Buying and Selling Children

Dealing the child under paragraph (a) of Article 2 of the Optional Protocol to the Convention of the Child about the sale of children, prostitution and pornography of child (2000) defined it as "Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;" sales and trading child violation of child rights, and is the pre-introductory to slavery, as well as the application of a form of slavery and is banned in various international documents.

2.3.3.2. Servitude because of Debt

This term refers to a condition in which a person who has got the loan, he/she was committed to working for and under the control of their debt till has completed his/her debt. (ghafari Farsani, 1387: 245)

Portion (a) of article 1 of the convention " Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery " (1957), amounts to the definition of debt bondage or force to serve because of debt" « Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined; »

Enslaved because of debts are also known as guaranteed work, is recognized as another form of slavery.

2.3.3.3. Serf or Slave

Serf or slave status of a person is a condition that is required to work under the domination of the land given to the land owner. (Garner, 2004:1397) Part (b) of article (1) of the Convention a similar definition is offered"

Serf Bondage: A state or situation in which a serf has responsibility to work on a land which is belonging to others according to the rule or custom or contract and do the proper services for the owner freely or with getting fees, and in any circumstance there is not allowed to change the situation. In child trafficking this situation occurs when children are trafficked and forced to work on farms of the buyer as a servant or slave until death or transfer to another.

2.3.3.4. Forced Labor of Children in Armed Conflicts

Sometimes children are used by private natural and legal persons and sometimes by the governments. The uses of child labor by governments are sometimes using them in military activities. (Eravaniyan, 1382: 132) paragraph (a) of Article (3) concerning the Worst Forms of Child Labor Convention (1999) forced or compulsory recruitment of children for use in armed conflict is a clear example of the forced labor. In some countries especially African countries, including Angola, Congo, Uganda and Sudan the children are used in such activities. (www.hrw.org/children/labour.htm)

2.3.3.5. Mandatory Adoption

Children are bought from their families or are abducted and sold to families seeking children. Commentary points to the first protocol to the Convention against Transnational Organized

Crime in the somewhere in the illegal adoption is the cause of behavior or practices similar to slavery, will be the concerning of this protocol. (<http://www.uncjin.org>)

2.3.4. Slavery

The exploitation which has presented in paragraph (a) of Article 3 of the first protocol to the Palermo Convention is slavery. For the definition of slavery should say; slavery is a condition where a person has absolute and despotic controls on the body, living, and freedom of another person. (Garner, 2004:1422) the human can be possessed according to slavery rule, and is the property of another person and would be treated as a financial asset. The slave is not the subject of human rights but it is the issue of property rights. (Iraqi, 1384:155) because of the Submissiveness of the children more than adults, they are more prone to slavery. (Ghaffari Farsani, 1387:245)

Article 1 of the International Convention on the prohibition of the slave trade and slavery, adopted on 25 September 1926 defines slavery as «the status or condition of a person in which any of the powers or property of the owner towards him is applied».

Practices similar to slavery, are the acts such as: the woman against the amount of money which is paid to his family forcedly marry others, or her husband against some money give her to others, or after the death of her husband like other properties is inherited to others. (Parshekoji, 1388: 35) forced marriage or forced engagement against debt or compensation or lack of commitment is another similar practice to slavery.

2.3.5. Removal of Organs

After kidnapping people, especially children by the criminal gangs, make them unconscious and while they are alive separate the organs and sell them to individual who are applicants in the black market. In paragraph (a) of Article 3 of the First Protocol of the Palermo Convention one of explicit exploitation by traffickers intention is explicitly stated the removal of organs that can be applied in one institution similar to slavery, because the child is dealt as a commodity not Human beings.

2.4. Criminalization of Child Trafficking

Article 5 of the Protocol to " Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children entitled "criminalization" of child trafficking is presenting:

1. 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.
2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:
 - (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;
 - (b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and
 - (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.

As you can see in this article has not discussed the nature of the crime and in the second paragraph, the provision presented in Article 3 of the Protocol has been criminalized.

There are the possibilities to convict of the perpetrators of those acts which intentionally and with knowledge that they are part of an organized operation, these persons shall be guilty of the following acts by the protocol:

2.4.1. Attempting to Commit a Crime

Paragraph (a) of Article 5 of the mentioned Protocol requires all countries to the criminalization of the crime referred to paragraph (a) of Article 3 with respect to the basic concepts of its legal system. Doing the criminal act is including criminal intent, initial operations, initial administrative offense and total offense; If the crime stop (cut) at any stages before achieving total offense, (apart from the criminal intent) it is called abortive.

The purpose of the drafters of the mentioned protocol to point to the crime to present "initiating crime according to the basic concepts of the legal system of each country," consider the fact that some states not only beginning the implementing operations, but they are agree that the Foundation should also be wanted While the other states agree the preliminary preparations are not criminal.(UN.DOC.A/55/383/Add2.p.4) this means that the "criminal act" in criminal law is different in every country. And the drafters of this Protocol try to have flexibility to the different legal systems to get more countries joining the Protocol and a major step would be taken towards the harmonization of criminal law in all countries.

2.4.2. Participation in Crime

In paragraph (b) of Article 5 of the First Protocol supplements the United Nations Convention to combat organized crime, "participation as an accomplice" in committing the crime set forth in paragraph (a) of article 3 puts to the criminalization.

Since the Convention is counting as a reference to the interpretation of its protocols to clarify the meaning of participation as an accomplice we refer to the definition of the Convention in this respect; In part (a) of Article 5 of the mentioned Convention to the involvement in organized criminal groups is defined as:

- (a) Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:
 - (i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group:
 - (ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:
 - a. Criminal activities of the organized criminal group;
 - b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;

As stated in paragraph 2 of Article 5 of the Convention. The knowledge, intent, aim, purpose or agreement of the involvement in organized criminal groups can be inferred from objective factual circumstances.

2.4.3. Organizing and Directing the Trafficking of Children

In part (c) of Article 5 of the mentioned Protocol, organizing and directing others to commit child trafficking put into criminalization. The subjects in this group are Organizers and investors who are at the top of this hierarchy; they monitor the activities of the organization, they decide when and how to do the crime, and invest to do operations. These people are not involved in any way in the Special Crime and lower classes are not recognized and do not engage physically in crime and no one in the organization contact with them. They can also work in the legal profession and can be the top political individual.

Conclusions:

Thousands of innocent children transfer across international borders for sexual exploitation economic purposes each year. Child Trafficking as transnational organized crime violates the fundamental rights of children who are often from poor and underdeveloped countries. These children due to some factors such as poor cultural and economic poverty, social problems, unstable political atmosphere and etc. are the victims of these inhumanity crimes. Child trafficking not only disrupt the international order but it also have a destructive effect on the impact of economic, cultural, religious, social and even political of different communities. The United Nations for fighting this crime has used different policies among them to combat this crime is through the criminal policy. But fighting against child trafficking through repressive measures alone cannot be Consequent and it causes to spread the crime of child trafficking. In this case it is assumed that with the criminalization and punishment the perpetrators the problem can be solved, while taking measures alone have several consequences, Including more dependent of the victims to the perpetrators and criminal activities, increasing victimization, change prostitution to the more covert forms of sexual exploitation and more economical abuse.

Finally, this conclusion is obtained that criminal measures to combat child trafficking is necessary but is not sufficient and with the economic, social, cultural, political, administrative and educational policies which it will be consequent. Government cooperation at the national and international level with the UNs policy which has presented in the protocol to prevent, prohibit and punish human trafficking especially women and children is an important step in combating the child trafficking.

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