

Contribution to the Reflection on the Phenomenon of Human Trafficking

Abstract: Human trafficking is a socially destructive crime that is difficult to combat as perpetrators use methods that are increasingly complex and difficult to detect. The phenomenon is evolving and takes different forms depending on the purpose of the exploitation of individuals. The undertaken reflections focus on presenting the causes, essence, and nature of the phenomenon. The following were discussed: contemporary forms of trafficking in human beings, the profile of perpetrators and victims, and the offenders' methods of operation. At the same time, it was emphasized that due to the global nature of the problem, it is necessary to take coordinated action at various levels in order to counteract this shameful practice. These considerations may inspire further in-depth analysis of the issue.

Keywords: crime, trafficking in human beings, forms of trafficking, profile of perpetrators and victims, methods of perpetrators

Introduction

Human trafficking is one of the most serious and socially destructive crimes that negatively impacts both individuals and entire societies. Although it is often associated with prostitution and the sale of children, it actually encompasses a broad spectrum of illegal activities that typically combine various forms of exploitation and abuse. Traffickers use deception, fraud, and even emotional dependency or love proposals to lure their victims into a trap.

Nowadays, human trafficking is not limited to adults but it increasingly affects children as well. Young victims are exploited in a variety of ways – from forced slave labour via participation in armed conflicts to organ trading. This type of crime is particularly difficult to combat because traffickers often operate in international criminal networks, making it difficult to effectively prosecute and punish the perpetrators.

Victims of human trafficking often experience unimaginable suffering and trauma, which leaves permanent marks on their psyches. Therefore, the fight against this practice requires coordinated action at the international level, including the strengthening of systems for the protection of human rights, public education, and close cooperation between security services. Protecting the most vulnerable members of society from this cruel phenomenon is the responsibility of all of us.

Normative Framing of the Phenomenon of Human Trafficking

The concept of “human trafficking” is included in both Polish legislation and international legal regulations. Although the crime of trafficking in human beings is not a new phenomenon, the *definition of “trafficking in human beings”* was introduced into the Criminal Code relatively late – only in the provisions of the Act of May 20, 2010 amending the Act on the Criminal Code, the Act on the Police, the Act on the Introductory Provisions of the Criminal Code, and the Act on the Code of Criminal Procedure, which came into force on September 8, 2010¹.

According to the Criminal Code, human trafficking is the recruitment, transportation, delivery, transfer, harbouring or hosting a person using:

- violence or unlawful threat,
- abduction,
- deception,
- misrepresentation or exploitation of a mistake or incapacity to grasp the intended action,

¹Journal of Laws of 2010, No. 98, Item 626.

- abuse of a relationship of dependence, exploitation of a critical position or a state of helplessness,
- giving or accepting a financial or personal benefit or the promise of it to a person having custody or supervision of another person – for the purpose of exploitation, even with the person’s consent, in particular in prostitution, pornography or other forms of sexual exploitation, in forced labour or services, in begging, in slavery or other forms of exploitation degrading human dignity, or in order to obtain cells, tissues or organs in violation of the law. If the perpetrator’s behaviour involves a juvenile, it constitutes human trafficking, even if the methods or means mentioned above were not used².

The main objective of the Palermo Protocol is to prevent and combat trafficking in human beings with a particular focus on women and children, and to protect and assist victims of such trafficking with full respect for their human rights. Article 3 defines human trafficking as “*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, on the other hand, as defined in the Protocol, “*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*”. According to the article, it is also considered human trafficking to recruit, transport, transfer, keep or host a child for the purpose of exploitation, even if none of the listed methods were used³.

In the case of the European Union, the Maastricht Treaty on European Union clearly indicated the need for police cooperation to prevent and combat organized crime. The Treaties of Amsterdam and Nice also signalled the need to combat human trafficking as a form of organized and cross-border crime. In Title VI of the Maastricht Treaty titled *Provisions on Police and Judicial Cooperation in Criminal Matters* indicated the need to introduce police and judicial cooperation to combat organized crime, one of the manifestations of which is human trafficking. This goal was to be achieved through preventing and combating organized or other crime, especially terrorism, human trafficking and crimes against children, illegal drug trafficking and illegal arms trafficking, corruption and fraud⁴.

The Charter of Fundamental Rights, as part of the Treaty on the Functioning of the European Union, which is a collection of fundamental human rights and civic duties, stipulates that no one shall be held in slavery or servitude (Article 5(1) of the EU Charter of Fundamental Rights), no one shall be forced to perform forced or compulsory labour (Article 5(2) of the EU Charter of Fundamental Rights), and human trafficking is prohibited (Article 5(3) of the EU Charter of Fundamental Rights). This provision thus introduces the prohibition of slavery, forced labor, and human trafficking⁵.

Directive 2011/36/EU of the European Parliament and of the Council, in turn, defines human trafficking in Article 2 as “*the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those 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*

² Law of June 6, 1997, Criminal Code, i.e. Journal of Laws 2022, Item 1138, Article 115, Section 22.

³ *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime*, adopted by the United Nations General Assembly on November 15, 2000, Journal of Laws 2005, No. 18, Item 160.

⁴ B. Namysłowska-Gabrysiak, *Handel ludźmi w celu wykorzystania seksualnego. Zagadnienia karnoprawne i kryminologiczne*, Wydawnictwo C.H. BECK, Warszawa 2018, p. 92.

⁵ *Ibidem*, p. 95.

person, for the purpose of exploitation. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved. Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs. The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant. When the conduct involves a child, it shall be a punishable offence of trafficking in human beings even if none of the means has been used. "A child" shall mean any person below 18 years of age"⁶.

It should be noted here that the transposition of the Framework Decision on human trafficking by incorporating the most relevant provisions of this decision into Polish legislation was necessary to ensure the requirement of legal certainty⁷.

The concept of "human trafficking" found in the so-called Warsaw Convention⁸ has been characterized as "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". In turn, exploitation, within the meaning of the cited Convention, includes, "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". Like the previously presented legislation, the Warsaw Convention also considers any method of recruiting, transporting, transferring, storing or receiving a child for the purpose of exploitation to be human trafficking. It should be noted that all the presented definitions of trafficking in human beings included in international acts consist of three elements, i.e. the mode of action, the means, and the purpose. Undoubtedly, however, the definition contained in the above-mentioned convention contains a broader formulation of the concept of human trafficking, although, as noted by B. Namysłowska-Gabrysiak, it is also not without flaws, which were of significance in the context of Polish domestic law, especially the regulation of the crime of human trafficking contained in the provision of Article 253 of the Criminal Code, repealed by the amendment⁹.

Aetiology and Symptomatology of the Phenomenon

The ease with which criminals manage to persuade originating victims to travel abroad, and later force them into prostitution, is due to a number of "permanent" and "periodic" factors, not only lying with the victims themselves. In terms of permanent factors, women enter the path of prostitution as a result of: poverty, young age (lack of awareness of dangers, recklessness, love disappointment, illegitimate pregnancy), desire for profit or its equivalents (e.g., subsistence, dress, entertainment, etc.), lack of education and vocational training, low wage levels in certain professions, lack of home care or poor family environment, rape, drunkenness, unhappy marital life, psychopathic constitution. A significant factor in the issue of vulnerability to sex traffickers is also the "low level of education," which

⁶ Directive 2011/36/EU of the European Parliament and of the Council of April 5, 2011, *on preventing and combating trafficking in human beings and protecting its victims*, replacing Council Framework Decision 2002/629/JHA, Official Journal of the European Union L.2011.101.1.

⁷ K. Liżyńska, A. Płońska, *Kilka refleksji nad definicją handlu ludźmi*, Acta Universitatis Wratislaviensis, No. 3322. Przegląd Prawa i Administracji LXXXV Wrocław 2011, p. 179.

⁸ *Council of Europe Convention on Action against Human Trafficking*, drawn up in Warsaw on May 16, 2005, Journal of Laws 2009, No. 20, Item 107.

⁹ B. Namysłowska-Gabrysiak, *Ratyfikacja Konwencji Rady Europy z 3.05.2005 w sprawie działań przeciwko handlowi ludźmi znaczenie i skutki*, [in:] *Handel ludźmi w Polsce*. Report materials 2009, issued within the framework of the implementation of the National Action Plan against Human Trafficking for 2009-2010, Ministry of the Internal Affairs and Administration, Warszawa 2009, p. 8.

“not only determines the lower moral level of the general population, but also induces in girls a state of helplessness and blind trust, which is so easily exploited by criminal elements”¹⁰.

In addition to permanent causes of human trafficking, attention should be paid to periodic causes. In this context, political, economic, and social causes are discernible. While the latter to some extent fall within the “permanent” causes, they are caused by political reasons and, as a consequence of the former, economic causes. Increases in prostitution and new phenomena in this field are triggered by such periodic causes as war, economic crisis, and accompanying unemployment¹¹.

In the context of the social causes of the analysed phenomenon, attention should be paid to the seemingly legal forms of human trafficking in operation. An example of such an activity was the recruitment of masses of workers at the turn of the 20th century to work in the new world¹².

Different forms of trafficking are presented in the literature and legislation. Some are traditional, historical, cultural, while others consider contemporary problems in this area.

Signed in Geneva on September 7, 1956, Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery¹³ introduced the concept of “practices similar to slavery”¹⁴. The Convention’s concept of “slavery-like practices” includes the following situations, which can be considered traditional, historical, culturally specific forms of human trafficking:

1. *“debt bondage, i.e., the condition or situation resulting from the debtor’s obligation to pledge his personal services or the services of a person in a relationship of dependence to the debtor as collateral for the debt, if the value of these services, estimated within the limits of reason, is not credited to cover the debt, or if the duration and nature of these services are not adequately limited and defined;*
2. *serfdom, i.e., the condition or situation of a tenant who, by law, custom or agreement, is obliged to live and work on a land owned by another person and perform certain specified services for the benefit of that person regardless of whether such acts would be paid or not, and is deprived of the freedom to carry out a change in his condition;*
3. *any institution or practice by which:*
 - *a woman, deprived of the right to object, is promised as a wife or given in marriage for remuneration payable either in cash or in kind to her parents, guardian, family or any other person or group;*
 - *a woman’s husband, his family, or his clan has the right to transfer her to another person in exchange for remuneration received or otherwise;*
 - *a woman on the death of her husband may be bequeathed to another person;*
4. *any institution or practice by virtue of which a child or a person under 18 years of age is given by either or both parents or by his or her guardian to another person for payment or free of charge for the purpose of exploiting such child or person under 18 years of age or their labour”¹⁵.*

Referring to the youngest group, i.e. children, it is worth noting that the 1959 Declaration of the Rights of the Child already dealt with the protection of youth labour (Principle No. 9), and Article 10 of the 1966 International Covenant on Economic, Social and Cultural Rights further developed this protection. The protection of young people from economic exploitation was also the subject of the Copenhagen Declaration on Social

¹⁰ R. Antonów, *Polskie zmagania z handlem kobietami i dziećmi na przełomie XIX i XX wieku. Wybrane zagadnienia polityczne, prawne i społeczne*, Acta Universitatis Wratislaviensis, No. 3903, „Studia nad Autorytaryzmem i Totalitaryzmem” 2019, vol. 41, No. 1, p. 51.

¹¹ Ibidem, p. 52.

¹² Ibidem, p. 55.

¹³ Journal of Laws from 1963, No. 33, Item 185.

¹⁴ M. Sokołowska-Walewska, *Zakaz handlu ludźmi z perspektywy systemu ochrony praw człowieka*, „Studia Prawnicze” 2013, No. 1(193), p. 74.

¹⁵ M. Sokołowska-Walewska, *Zakaz handlu ludźmi...*, ed. quote, p.75.

Development and the Program of Action of the 1995 World Summit on Social Development. Among the numerous conventions of the International Labour Organization concerning, among other things, the protection of youth labour, the most important is undoubtedly Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted on June 17, 1999, in Geneva. According to Article 3 of that Convention, “the worst forms of child labour” include:

- “all forms of slavery or practices similar to slavery, such as the sale and child trafficking, slavery for services and serfdom, or forced or compulsory labour, including forced or compulsory recruitment of children to participate in armed conflict;
- using, engaging or offering a child for prostitution, the production of pornography or pornographic performances; using, engaging or offering a child for illegal activities, in particular the production and drug trafficking, as defined by relevant international treaties;
- work that, due to its nature or the circumstances under which it is conducted, may endanger the health, safety or morality of children”¹⁶.

Perpetrators practice human trafficking in various forms, which are often subject to change¹⁷. This variability is a major impediment to preventing this phenomenon. Trying to systematize the forms of human trafficking in terms of the purpose of victim exploitation, one can distinguish several more general groups of this phenomenon. The first one is human trafficking for the purpose of (broadly defined) sexual exploitation, with the victims being primarily women, as well as children. The second group is the exploitation of someone else’s labour, where the gender of the victims does not play such a significant role. Nevertheless, it is possible to identify employment sectors in which women and children are more likely to become victims, and those in which men are more often victimized. The third group is child trafficking. The fourth one is trafficking for begging exploitation. And the fifth group is trafficking in tissues and organs. More recently, there has also been the emergence of another form of trafficking in human beings, which is trafficking for the purpose of using victims to perform coercive legal acts, such as taking out loans, or to force them to commit crimes¹⁸. Of course, in many cases the groups indicated above may overlap.

According to Interpol, contemporary forms of human trafficking are as follows:

1. “Human trafficking for forced labour;
2. Human trafficking for forced criminal activity;
3. Women trafficking for sexual exploitation;
4. Trafficking for the purpose of organ removal;
5. People smuggling”¹⁹.

In the case of *trafficking for forced labour*, the victims of this usual form of the phenomenon in question are primarily from developing countries. They are recruited and trafficked using fraud and force, and find themselves in conditions of slavery in a variety of occupations. Victims may be engaged in agricultural, mining, fishing or construction work, as well as domestic servitude and other labour-intensive jobs. This crime is not limited to one region or demographic group.

Human trafficking for forced criminal activity enables mafia-like groups to profit from a variety of illegal activities without risk. Victims are forced to engage in a range of illegal activities, which in turn generate income. These can include theft, drug cultivation,

¹⁶ Ibidem, p. 89.

¹⁷ J. Bryk, M. Kobylas, I. Malinowska, *Handel ludźmi - wykorzystanie narzędzi analitycznych w procesie wykrywania sprawców*, WSPol, Szczytno 2014, pp. 21-25.

¹⁸ B. Namysłowska-Gabrysiak, *Handel ludźmi*, ed. quote, p. 18.

¹⁹ Types of human trafficking, <https://www.interpol.int/Crimes/Human-trafficking/Types-of-human-trafficking> (access: 20.09.2023).

selling forged goods or coerced begging. Victims often have quotas and can face severe punishment if they fail to perform adequately²⁰.

Women trafficking for sexual exploitation affects every region of the world, whether in the country of origin, transit or destination country. Women and children from developing countries and from vulnerable parts of society in developed countries are lured by promises of decent employment to leave their homes and travel to what they believe is a better life. Victims are often supplied with false travel documents, and an organized network is used to transport them to the destination country, where they are forced into sexual exploitation and held in inhumane conditions and constant terror²¹.

Human trafficking is closely related to the issue of *people smuggling*, as many migrants can fall victim to forced labour while traveling. Smugglers may force them to work in inhumane conditions to pay for their illegal passage across borders²².

A form of human trafficking is also the act of *exploiting someone else's labour*. Within this crime, we can also distinguish several forms. These include forced labour, labour for debt, begging, forced labour of children, child labour as soldiers²³.

Forced labour occurs when a victim is *forced by violence*, threat or otherwise, to perform work against his or her will. Forced labour is usually performed within the merits of occupation as domestic help, employment in factories, construction, agriculture or other types of manual labour. Prostitution can also be included in this form, if we assume that its practice is never dictated by free choice. Exercise of control by the perpetrators most often takes place through the place and conditions of accommodation and/or confiscation of identity documents. Accommodation of victims takes place at the place of work or in other premises owned by the perpetrators, where the housing conditions are most often poor or extremely poor²⁴.

Another type occurring within the scope of the issue at hand is “*work-for-debt*,” which consists of a situation in which the victim has a loan to repay, the value of which is not precisely established anywhere, nor are the rules for its repayment. Work-for-debt particularly affects illegal migrants, because due to their situation: lack of legalized residency and/or lack of a work permit, they have no chance to pursue their claims through the law.

Forced labour of children, which is also child trafficking, as well as the use of children as mercenary soldiers, poses a serious threat to their physical and mental health, prevents education, and is most often combined with the use of various forms of violence against children. It constitutes the most serious form of exploitation with a wide reach. The International Labour Organization indicates that annually, of the world's 246 million working children, about 1.2 million (or 4.8%) are victims of this form of trafficking. Children, also working for debt, are forced into prostitution, pornography for domestic work in foreign homes (mostly girls)²⁵.

Another form of human trafficking is *child trafficking*. The problem of child trafficking affects the entire world. Child trafficking is most often a staged phenomenon conducted across multiple countries. In the country of origin there are child traffickers who search for potential victims, then these or others transport them legally or illegally through transit countries. In the destination country, a specific buyer is already waiting for the child, who, as mentioned above, often then uses the child, for example, in prostitution or in the production of child pornography²⁶. A particular form of child trafficking is commercial illegal adoption. The phenomenon of “illegal adoption”, also known as “underground adoption”,

²⁰ Ibidem.

²¹ Types of human trafficking, ed. quote, (access: 20.09.2023).

²² Ibidem.

²³ B. Namysłowska-Gabrysiak, *Handel ludźmi...*, ed. quote, p. 35.

²⁴ Ibidem.

²⁵ B. Namysłowska-Gabrysiak, *Handel ludźmi...*, ed. quote, p. 37

²⁶ Ibidem, s. 38

“wild adoption” or “commercial surrender of a child for adoption” is exceedingly difficult to clearly define and evaluate. This is because it raises a number of questions about the prerequisites for qualifying “illegal adoption” as human trafficking. It is sufficient to say that there was an adoption bypassing the law, without the control of the relevant institutions. Or it is just a matter of “buying a child” combined with acting against his interest. The question of evaluating the perpetrator’s actions from the point of view of the child’s interest also raises serious difficulties. It is not always the case that failure to comply with adoption laws, as well as the transfer of a financial benefit to the perpetrator for the delivery of a child, will be equal to a violation of the child’s interest²⁷.

One form of *child trafficking* is child pornography and prostitution. “*Child prostitution amounts to the sexual exploitation of children for payment or any other remuneration. Child pornography, on the other hand, is any display, using a variety of means, of a child engaged in real or masked sexually motivated activities, or any display of a child’s sexual organs that has a sexual basis, and would be the following:*

- *promising, trafficking or accepting a child in any way for the purpose of: sexually abusing a child; selling a child’s organs for profit; forcing a child into slave labour; and soliciting, as an intermediary, consent to the adoption of a child, in violation of international legal principles related to adoption;*
- *promising, receiving, taking possession of or leading a child into prostitution;*
- *producing, distributing, disseminating, importing, sending, offering, trading or possessing for the above purposes child pornography”²⁸.*

The purpose of another group of behaviours classified as *human trafficking* is to exploit them in begging. This is, increasingly, an emerging form of modern slavery²⁹.

One of the modern forms of *human trafficking* is the trade in human organs. It is an offshoot of commercialization in the biomedical sphere, where elements of the human body are sometimes used to successfully apply selected therapeutic methods or conduct scientific research. An obvious example of this is the field of transplantation medicine. It should be noted that due to the ever-increasing shortage of organs for transplantation, commercial methods of obtaining them are increasingly being considered. A natural consequence of subjecting the human body to commercialization processes is that the other person is viewed in terms of economic value. This approach means that the human body is no longer treated as an exemplification of human dignity, but as a thing that serves to satisfy the immediate needs of the market³⁰. There are dangers posed by the process of commercialization of the human body and its parts, leading to the exploitation of human beings³¹.

According to World Health Organization (WHO) estimates, between five and as many as ten percent of kidney transplants performed each year may be the result of illegal organ procurement. Such a high number is primarily due to the ever-increasing shortage of available transplants compared to the actual needs of those waiting for a transplant. This situation prompts patients from wealthy and aging societies to seek organs in underdeveloped countries, whose residents are willing to sell their organs for an immediate improvement in living conditions³².

Human organ trafficking is increasingly becoming the focus of organized crime groups with international connections. These groups, realizing the high profitability of the procedure, take advantage of the situation in which the potential donor finds himself and,

²⁷ Ibidem, p. 39

²⁸ Ibidem, p. 41.

²⁹ B. Namysłowska-Gabrysiak, *Handel ludźmi...*, ed. quote, p. 42.

³⁰ M. Clay, W. Błock, *A free market for human organs* [w:] L. Territo, R. Matteson (eds.), *The international trafficking of human organs. A multidisciplinary perspective*, Boca Raton, London-New York 2012, p. 52.

³¹ *International trade in human eggs, surrogacy and organs. A Report from The Danish Council of Ethics*, „Jahrbuch für Wissenschaft und Ethik” 2015, vol. 19, No. 1, pp. 327-340.

³² J. Kapelańska-Pręgowska, P. Chrzczonowicz, *Handel organami z perspektywy prawa międzynarodowego oraz polskiego prawa karnego*, „Przegląd Sejmowy” 2015, No. 6(131), pp. 73-74.

using various forms of pressure, force consent to the sale of the organ. The donor receives only a small part of the sum paid by the recipient for arranging and conducting the illegal transplantation. However, there are also cases when the donor receives no remuneration at all. It is estimated that the annual profits made by organized crime groups from engaging in similar practices can reach as much as \$600 million to \$1.2 billion³³.

Human trafficking for the purpose of exploiting extortionate credit and social benefits is the latest and rapidly growing form of trafficking in human beings in recent times. The activity to commit crimes in this area has been dominated by national criminal associations, based on the inadequacies of the financial systems and social policies of countries such as Germany and the United Kingdom, on the one hand, and, on the other hand, the material position of the victims and their desire to find occupation. Although in this form of exploitation some of the social characteristics of the victims are not of any importance, most victims are men, usually middle-aged. Most of those willing are promised employment, such as in the construction sector or cleaning companies. There are reported cases of perpetrators deciding to transport entire families, often with many children, as this offers opportunities for additional cash in the country of destination³⁴.

Characteristics of the Phenomenon of Human Trafficking in the World and in Europe

The phenomenon of human trafficking in the world has a long history. From the beginning, its main form was slavery – known since the beginning of humanity. Analysing each historical epoch of social development in turn, it should be pointed out that none of them was free of some form of slavery. The essence was always a relationship of dependence, whereby a person or a group of people called slaves were the property of other people or a group of people (family, tribe, etc.), or an institution (state, temple) that could freely dispose of them. Slavery existed from the beginning of the oldest civilizations, i.e. from about 4,000 BC in the areas of what was then Mesopotamia (present-day Iraq). In Antiquity, the primary areas in which slaves were used were domestic service, agriculture and, eventually, industry. In the early days, one could become a slave as a prisoner of war, as a result of the wars waged by ancient states, over time by birth or when caught by slave traders or sold by one's own family especially when one could not pay their debts³⁵.

Slavery of ancient times was regulated by law. The first formal legislation sanctioning the existence of slavery was the Code of Hammurabi, which contained many regulations pertaining to slaves, such as the provision that if someone else's slave is killed, the owner must be paid for the loss suffered or the slave must be redeemed. The Code of Hammurabi regulated the situation of the slave, treating them as a commodity (thing) rather than as a human being. However, the Code already contained provisions that discriminated against women, as, for example, it provided for the right of a male slave to own property or to marry a free woman, without providing the same rights for a female slave. The largest population of slaves is known to ancient Rome, at that time they accounted for about 30-40% of the total population of ancient Rome, and 10-15% of the total population of the Roman Empire. At the beginning of the Middle Ages, slaves still played an important economic role (although already smaller than in Antiquity)³⁶.

In the modern era, slavery became a source of economic development especially for Europe, which could not even compare with the Chinese or Indian powers during the Middle Ages. Modern slavery and the inherent slave trade have become key factors in the economic development of capitalist Europe. At the time, the slave trade was also sanctioned by law in accordance with the existing view that slavery was the natural state of certain types of people.

³³K. Ambagtsheer, D. Zaitch, W. Weimar, *The battle for human organs: Organ trafficking and transplant tourism in a global context*, „Global Crime” 2013, vol. 14, No. 1, p. 4.

³⁴B. Namysłowska-Gabrysiak, *Handel ludźmi*, ed. quote, p. 45.

³⁵Ibidem, p. 1.

³⁶B. Namysłowska-Gabrysiak, *Handel ludźmi*, ed. quote, p. 2.

Slaves brought on ships, primarily from Africa, worked on plantations or, less frequently, in mines. It is estimated that between the mid-15th century and the end of the 19th century, around 50 million people were transported out of Africa, which seems likely to be the source of the current immense poverty in these regions³⁷. Slavery was finally abolished in the 1960s. However, the problem of bondage remained as much as it transformed into human trafficking – in the main the domain of activity of today’s organized crime groups.

Nowadays, global trends in organized crime have for years indicated that human trafficking, and in particular women trafficking, is characterized by an extremely high dynamics of development, comparable to drug or arms trafficking crime. It is now a problem not only of individual countries where such trafficking takes place, but also a global one. Data on human trafficking in the world are shown in the following table (Table 1).

Table 1. Number of trafficking defendants and convictions and identified trafficking victims worldwide from 2015-2022 (in brackets, a division of the number of total trafficking prosecutions and convictions).

Year	Defendants	Convicted	Identified victims
2015	19,127 (857)	6,615 (456)	77,823 (14,262)
2016	14,939 (1,038)	9,072 (717)	68,453 (17,465)
2017	17,471 (869)	7,135 (332)	96,960 (231906)
2018	11,096 (457)	7,481 (259)	85,613 (11,009)
2019	11,841 (1,024)	9,548 (498)	118,932 (13,875)
2020	9,876 (1,115)	5,011 (337)	109,216 (14,448)
2021	10,572 (1,379)	5,260 (374)	90,354 (21,219)
2022	15,159 (2,670)	5,577 (528)	115,324 (24,340)

Source: *Trafficking in persons report. June 2023, United States Department of State Publication Office to Monitor and Combat Trafficking in Persons, June 2023, p. 79.*

In recent years, more victims of human trafficking have been identified around the world. In 2019 a record of 118,932 people was identified, in 2020 109,216, in 2021 90,354. In 2022 the balance of those identified approached the record and amounted to 115,324 victims. It is noteworthy that despite the dynamic growth in 2022 of those accused and convicted of committing this category of acts, a downward trend is noticeable in the broader term. Within Europe, too, more victims of human trafficking have been identified each year.

It is worth noting that the number of defendants and convictions for these crimes is increasing in Europe compared to the world. Detailed data showing the phenomenon is presented in Table 2.

Table 2. Number of defendants convicted of human trafficking and identified victims of human trafficking in Europe in 2015-2022 (in parentheses a breakdown of the number of all prosecutions and convictions for human trafficking).

Year	Defendants	Convicted	Identified victims
2015	4,990 (272)	1,692 (245)	11,112 (3,733)
2016	2,703 (201)	1,673 (40)	13,349 (3,192)
2017	2,548 (179)	1,257 (53)	12,750 (3,330)
2018	2,394 (234)	1,379 (80)	16,838 (2,675)
2019	2,896 (106)	1,346 (41)	17,383 (1,369)
2020	2,355 (101)	1,291 (33)	18,173 (1,082)
2021	3,285 (86)	1,905 (92)	21,347 (2,124)
2022	2,932 (169)	1,668 (67)	24,528 (2,497)

³⁷ Ibidem, p. 3.

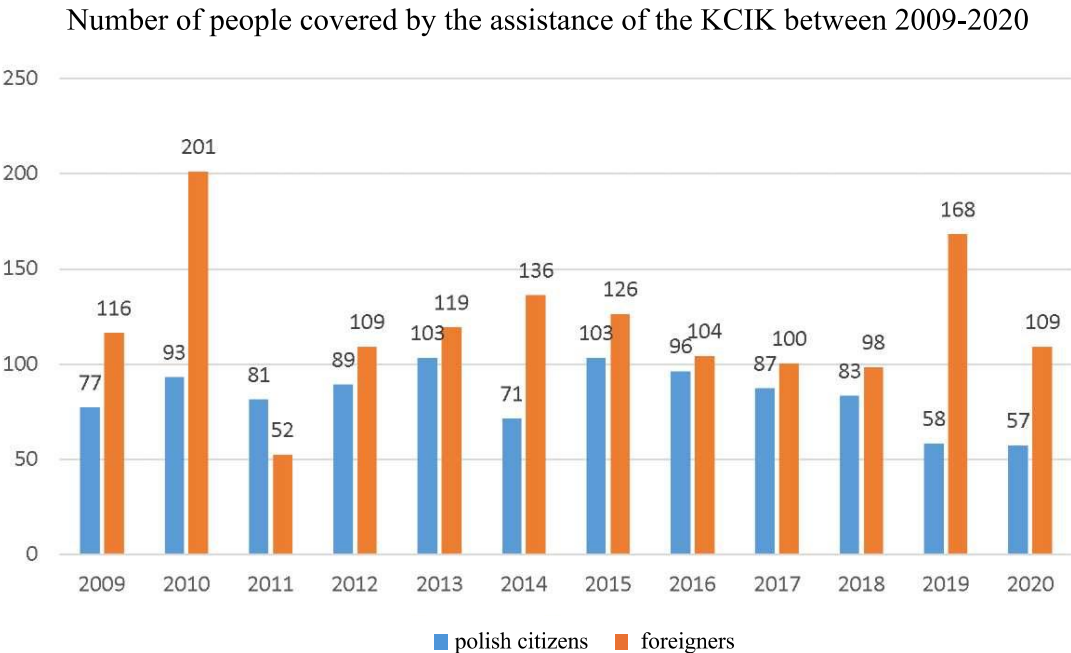
Source: *Trafficking in persons report. June 2024, United States Department of State Publication Office to Monitor and Combat Trafficking in Persons, July 2022, p. 89.*

Referring to the time frame adopted by the authors of this study covering the period until 2022, it is reasonable to mention that as of the date of publication, the U.S. Department of State has not published data covering a later period.

Poland can be pointed out as one example of a European country where the problem of the phenomenon in question occurs. Procedure of human trafficking often also affects citizens of this country located in the very centre of Europe, a member of the EU community, who, becoming economic migrants in order to improve their material situation, become victims of forced labour, prostitution or begging. Based on statistics kept in this regard, the victims of forced labour most often become men working in the construction sector or agricultural production³⁸.

According to the current data from the National Action Plan Against Human Trafficking 2022-2024, women and girls are still visibly subject to the trade. Polish women become victims of sexual crimes, including forced prostitution or pornography. Poland has become the final stop for trafficking victims. The recruitment of Poles exploited locally as well as in other countries takes place within the country. On the other hand, victims of the procedure coming from foreign countries identified in Poland are most often citizens of European countries such as Ukraine, Belarus, Romania, as well as those originating from Asia (Vietnam, Philippines, among others) and Africa (Uganda, Sierra Leone). The group includes both women and men, as well as children. Victims of human trafficking are most often sent to perform slave labour, engage in fornication or begging. There are also cases of exploitation for farm work and illegal (unlawful) marriages³⁹. The scale of the human trafficking phenomenon can be depicted using data from the National Intervention and Consultation Centre for victims of human trafficking (Figure 1).

Fig. 1. Number of people assisted by the National Intervention and Consultation Centre for Victims of Human Trafficking (KCIK) in Poland between 2009 and 2020.



³⁸National Action Plan Against Trafficking in human Beings 2022-2024, <https://www.gov.pl/web/handel-ludzmi/krajowy-plan-dzialan-przeciwko-handlowi-ludzmi-na-lata-2022-2024>, p. 3 (access: 20.09.2023).

³⁹ Ibidem.

Source: National Action Plan Against Trafficking in human Beings 2022-2024, p. 4.

Between 2009 and 2020, the National Centre aided 2,270 people (941 Polish citizens and 1,329 foreigners). Among foreigners, support was provided to, among others: citizens of Ukraine, Belarus, Bulgaria, Romania, the Philippines, Vietnam, Saudi Arabia, Myanmar, Indonesia, Georgia, Syria, Uganda, Cameroon, Sierra Leone or Guinea⁴⁰.

Profiles of the Perpetrator and the Victim of Human Trafficking

The crime of human trafficking is intricately linked to the relationship that exists between the recruiter and the victim. As can be seen from the criminal cases analysed, the perpetrator of trafficking, the person who recruits or later exploits, is usually a man, but increasingly women are also involved, often having been trafficked themselves in the past. It is noted that the personality of a woman who was previously a victim may have been destroyed by the perpetrators. The abusers look for vulnerable people – unemployed, those with problems, those in debt, single mothers with low incomes. An ideal for the perpetrator is a woman who does not ask where to go or why and is desperate enough to accept the offer to go indiscriminately. The perpetrator tends to look for people who are young and poor⁴¹.

People involved in human trafficking are often members of large-scale organized crime groups. Traffickers use sophisticated methods to “get” the victim. Most often, good wages or a certain prospect of a better life are offered. Sometimes there is a situation where the victims themselves agree to a certain job that they will have to do (e.g. work in a restaurant, hotel, etc.), but on the spot it turns out to be something completely different (different job, different wages), resulting in, among other things, performing work for several hours without money, poor or no food, poor housing conditions⁴².

In the past, criminals were looking for women who were locked up in brothels. Nowadays they are looking for people who want to earn quick money. Those who do not get paid, get into gigantic debts instead. A large number of job offers abroad is addressed exclusively to women. They are offered jobs as caregivers for children and the elderly, bartenders, cleaners, models, hostesses, and domestic help. These proposals are often related to the age of the people “the younger, the better”, and no conditions are set as to education, skills, knowledge, etc. In return, particularly good working conditions are offered, good salaries, arranging the necessary official formalities, favourable financial conditions to begin with⁴³.

The literature states that matrimonial proposals or the influence of female friends to make decisions that have already been in the West are often the method of recruitment.

Personal conversations and meetings are meant to solidify a person’s belief in earning potential, and sometimes they are already used to conclude an employment contract. Most often, victims sign a contract in a foreign language not knowing the circumstances of the working conditions. Recruiters do not consider the skills of people, but their external attractiveness. The vast majority of detained women do not want to submit to their tormentors and perform work that is derogatory to their dignity. For this reason, criminals resort to various forms of coercion to subjugate their imprisoned victims. Women are extorted, intimidated, and subjected to violence, including sexual violence. This problem particularly affects victims forced into prostitution.

Recruitment most often takes place in the abused person’s country of origin, and most often this is also a region that is well known to recruiters (where the abusers live or where they are from). Recruiters come from the same countries and often even cities as their

⁴⁰ *National Action Plan Against Trafficking in human Beings 2022-2024*, ed. quote, p. 4 (access: 20.09.2023).

⁴¹ P. Łabuz, I. Malinowska, M. Michalski, T. Safjański, *Handel ludźmi. Przestrzeń prawnokarna i kryminalistyczno-kryminologiczna*, Difin, Warszawa 2017, p. 152.

⁴² *Ibidem*.

⁴³ P. Łabuz, I. Malinowska, M. Michalski, T. Safjański, ed. quote, p. 152.

victims and usually live in the same locality. Prospective victims of trafficking are mostly solicited by taking jobs. Occasionally there are cases of marriage promises or love relationships. These situations refer to young girls with family problems (broken families or affected by pathology). The modus operandi of perpetrators is varied but always subordinated to the acquisition of victims. Most often, during the solicitation, prospective victims are deceived, lied to about the circumstances and/or working conditions so effectively that perpetrators in this arrangement do not choose to use coercive measures. During the solicitation, victims generally do not experience unpleasantness, although there may be situations where young women are abducted for the purpose of prostitution⁴⁴.

Perpetrators just as often opt for direct means of soliciting would-be victims (through meetings), and indirect means, i.e. through third parties or social agencies or media advertisements. Most often, the perpetrator is a stranger unknown to the victims, which gives a better chance of acquiring the person. Such situations occur when the abuser uses actions through information posted in a newspaper, web portal or through an agency⁴⁵.

Slightly less frequently but still quite often, it happens that the recruiter is a so-called acquaintance for the victim, with the relationship being very loose and superficial. The victim knows little about the recruiter, his background, family or work. The person is usually an acquaintance of a friend or colleague, or someone met through the Internet. The rarest situations, however, are when the recruitment mechanism involves an immediate family member (parent, sibling, spouse)⁴⁶.

The organizers of the practice in question use all kinds of methods of recruitment and further resale and exploitation of potential victims of human trafficking. These are methods that have been used, due to their effectiveness, for many years and innovative methods unknown to law enforcement agencies, among others:

- *solicitation by owners of escort agencies and its employees of any level* (without giving money); including circumstances where a person presents the victim with a person engaged in prostitution and uses persuasion, telling them how much money they receive, that they will not earn more anywhere;
- *placing ads in the media, on the Internet*; the woman chooses the job offer herself, no one persuades her, she often has experience with work;
- *recruiting women from competing agencies*, for example, under the influence of the client, better and more profitable conditions;
- *hiring from agencies* that have dissolved their operations without the consent of the former owner; the woman seeks new employment for herself and agrees to work for another agency on her own without anyone's help⁴⁷.

In the case of human trafficking (usually women) for prostitution, the following *methods of the perpetrators* can be distinguished:

1. *“On-the-job” method* – involves recruiting women with the support of newspaper advertisements or personal contacts of perpetrators. Victims are very often recruited based on the nature of their work (including bartenders, hostesses, servers, kitchen help, babysitters, strippers, etc.), working conditions, income, and this is done with the help of inauthentic newspaper advertisements, oral information, and even fake employment contracts. Victims are simultaneously deprived of all or a sizable portion of their earnings. Offers often include conditions regarding age (young women are preferred), rather than requirements as to education, experience, foreign language skills. In return, attractive working conditions are offered, good wages, the completion of all formalities, favourable financial conditions at the start (start-up loans, etc.).

⁴⁴ K. Sawicki, *Handel ludźmi*, Szkoła Policji w Pile, Piła 2011, p. 17.

⁴⁵ P. Łabuz, I. Malinowska, M. Michalski, T. Safjański, ed. quote, p. 153.

⁴⁶ A. Suda, *Analiza zjawiska handlu ludźmi. Pomoc ofiarom przestępstw związanych z handlem ludźmi*, Warszawa 2012, pp. 15-16.

⁴⁷ P. Łabuz, I. Malinowska, M. Michalski, T. Safjański, ed. quote, p. 157.

2. *The “for love” method* – involves the perpetrator entering an emotional (intimate) relationship with the victim. The perpetrator uses techniques of seduction and gaining the trust of the victim, in the belief of which he is her partner (boyfriend). The victim then goes abroad with him, where she is supposed to start a new life. In fact, the abuser’s goal from the beginning is criminal. In this method, the specific perfidy is to play on the feelings of the victim, which to a considerable extent, already after the real purpose of the perpetrator is revealed, hinders the decision of victims (wishing to save the hypothetical relationship) to turn to the police, because they may see the case in individual terms and not see him as a criminal.
3. *The abduction method* – involves physical violence, deprivation of freedom, acting against the will of the victim. This method is rarely used in the case of Poland. The second phase of the perpetrators’ action after recruiting or kidnapping the victim is to persuade (“break”) them (usually by breaking the victim’s will) to give in to all their intentions. The perpetrators use a variety of methods for this purpose, the most common of which include:
 - *physical violence* – this includes rape (including gang rape, so-called “riding”), giving intoxicants, locking in rooms (very often dark and cold), beating (combined with breaking ribs, bouncing kidneys); these actions are carried out “expertly”, because they cannot lead to permanent mutilation of the victim, and at the same time prevent the victim from working;
 - *psychological violence* – consisting of forcing victims to watch physical violence in the forms mentioned above⁴⁸.

The third stage of the perpetrators’ actions is the realization of intentions and keeping victims in obedience. The realization of intentions occurs when the perpetrators act in three forms: through abduction, through recruitment in the country of origin or in the country of destination (using the methods mentioned above). If the recruitment took place in the victim’s country of origin, it is necessary to cross the country’s borders with the victim somehow⁴⁹.

The process of effectively identifying victims of human trafficking is a fundamental challenge for any country in combating and preventing this type of crime. This is due to the following factors. First, human trafficking is a criminal activity and as such will always be kept as secret as possible by its perpetrators. Second, the modus operandi of the abusers includes hiding and isolating victims from their surroundings by various means, such as limiting their contact with the outside world, depriving them of their liberty and keeping them in closed rooms, premises or houses. Thirdly, victims are intimidated and beaten which keeps them in a state of enslavement. In addition, as time passes, they repress the traumatic experiences and do not want to revisit them (or sometimes are not even able to recall them), let alone tell the justice authorities about them. In addition, many victims fear arrest, deportation or criminal liability for their unlawful behaviour as a result of being a victim of this type of crime. Often, too, victims are reluctant to testify because, fearing the reaction of the perpetrators, they thus protect themselves and their families from their revenge or retaliation. Finally, it happens that the conditions of the work they do are much better than those they had in their country of origin, which makes them not see their situation in terms of “becoming a victim”, “a target for exploitation”⁵⁰.

Summary

The phenomenon of so-called human trafficking not only threatens basic human rights, but also violates the foundations of our civilization. A deeper analysis of the problem of human trafficking, both globally and regionally, reveals a clear evolution of this phenomenon on many levels, making it even more difficult to identify and combat. Each country must

⁴⁸ P. Łabuz, I. Malinowska, M. Michalski, T. Safjański, ed. quote, p. 158.

⁴⁹ Ibidem.

⁵⁰ B. Namysłowska-Gabrysiak, *Handel ludźmi*, ed. quote, p. 177.

adapt its tools, including legal regulations and institutional structures, to effectively respond and prevent cases of trafficking. This is especially true since the nature of modern armed conflicts is conducive to the development of the phenomenon in question. People fleeing war, often having no other choice, rely on the help of others who can exploit them. Especially in such situations, it is often a procedure that is difficult to detect and prevent.

Human trafficking is one of the most heinous crimes imaginable, and it affects each of us directly and indirectly. Its sinister nature is constantly evolving, making the methods used by criminals increasingly complex and difficult to detect. Therefore, the growing forms of enslavement and exploitation of human beings require constant changes in systems for preventing and combating it.

It is necessary to introduce innovative and dynamic measures that will effectively protect victims and punish perpetrators. Education of the public, international cooperation, and support for non-profit organizations working to help victims of human trafficking are crucial in the fight against this problem. Each of us has a role to play in countering human trafficking, so it is important that we are aware of the problem and take action to combat it.

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