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**PROSPECTION OF  
INTERNATIONAL  
HUMAN TRAFFICKING;  
PERSPECTIVE OF  
INTERNATIONAL LAW IN  
THE LEGAL AND SOCIAL  
CONTEXT**

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*Marcelo Carvalho de Oliveira*

Faculdade La Salle Manaus

*Bárbara Mota Lima Feitosa*

Faculdade La Salle Manaus

*Maria Bianca da Silva Dias*

Faculdade La Salle Manaus

*Tatyane de Araújo Campos*

Faculdade La Salle Manaus

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**Abstract:** Currently, the world is experiencing a huge lack of interest – coexistence with human trafficking will become the main form of human trafficking, in addition to other forms that continue to increase more and more. The important thing is to decipher what human trafficking means and what its definition is in a general context. Human trafficking is perpetrated by actors with different levels of sophistication within their organizational structures. Due to its vastness and intricacy, this form of trafficking is the result of an association of different social, economic and political aspects that involve not only the situation of countries in general, but also the individual himself in the social context.

**Keywords:** Human trafficking. International right. Legal and Social Areas.

## INTRODUCTION

This work is about International Human Trafficking, about a prospection of International Law. In a cohesive manner, the historical background of International Human Trafficking will be covered, from ancient Greece, 3,500 BC - 476 AD to the present day, as well as international legislation on the subject, mainly the Palermo Protocol.

To differentiate the reader's understanding, this article contains three phases, the first of which focuses on a study of the historical antecedents and evolution of International Human Trafficking, and the characteristics of displacement in some form, the second focused on the analysis of International Jurisprudence, such as the Palermo Convention and the third focused on an analysis of the causes and consequences of International Human Trafficking in a global context.

Due to its vastness and intricacy, this form of trafficking is the result of an association of different social, economic and political aspects that involve not only the situation of countries

in general, but also the individual himself in the social context.

Human trafficking is considered “one of the worst disrespects to the inalienable rights of human beings”, according to the United Nations (UN), thus being one of the biggest violations of human rights, responsible for affecting thousands of people around the world.

## HISTORICAL EVOLUTION OF INTERNATIONAL HUMAN TRAFFICKING

In Classical Antiquity (ancient Greece, 3,500 BC - 476 AD), there were already histories of trading prisoners of war to be enslaved, but it was only from the 14th century onwards that human trafficking began to be stimulated with more intensity (BURKE, 2013).

According to a report by historian Philip D. Curtin (1972), the first cases of human trafficking for financial profits occurred from the Renaissance (14th century - 17th century), during this period when the colonization of the Americas by European peoples took place, It was common to sell slave labor for profit, especially from African countries, where they were transported in degrading and inhumane conditions to be enslaved in the American colonies, including Brazil.

Such as the International Convention relating to the Suppression of Trafficking in Adult Women, of 1933; and the Convention for the Suppression of Human Trafficking and Pimping, drawn up by the UN in 1950.

According to Guarinello (2006, p. 229), there is a difficulty in defining slavery in Antiquity, and that the field of historiography sees as “an almost universal phenomenon, present, in different degrees of intensity, in almost all human societies pre-capitalists”.

# INTERNATIONAL HUMAN TRAFFICKING LEGISLATION

## HISTORIC

It can be said that international legislation on the subject began in 1814, with the Treaty of Paris, which first dealt with the trafficking of black people, an object of trade for slavery (GALLAGHER, 2010 p.12, 13).

The first Convention against White Slavery was adopted in 1904 (WEISSBRODT, 2007).

In 1921, an important Agreement was created with the purpose of repressing trafficking in women and children, it was the Convention for the Suppression of Traffic in Women and Children, 1926 in the Slavery Convention, in 1933, the Suppression of the Traffic in Women (International Convention for the Suppression of the Traffic in Women of Full Age), with an Amendment made in 1947 (PALMIOTTO, 2015).

Other instruments of International Law that include segments against slavery and human trafficking that we can mention are: the famous Universal Declaration of Human Rights of 1948 (Universal Declaration of Human Rights), International Covenant on Civil and Political Rights 1966 (International Covenant on Civil and Political Rights 1966), International Covenant on Economic, Social and Cultural Rights 1966 (PALMIOTTO, 2015).

Also part of this scope of legal instruments are the United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 (The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others), the 1949 Convention and Final Protocol for the Suppression of Human Trafficking and Pimping (Lake Success), the 1950 European Convention on Human Rights, the International Covenants on Civil Rights

and Politicians of 1966 (The International Covenants on Civil and Political Rights), the Supplementary Convention Relating to the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956 (the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery) (PALMIOTTO, 2015).

American Convention on Human Rights 1969, which specifically included “trafficking in women” in its text, the 1979 Convention on the Elimination of All Forms of Discrimination against Women (The Convention on the Elimination of all Forms of Discrimination Against Women), African Charter on Human and People’s Rights 1981, which also presented a different approach to slavery, treating it as a form of degradation alongside torture, the 1989 Convention on the Rights of the Child (KING, 2015).

In December 1998, the UN General Assembly, through resolution 53/111, decided to establish an Ad Hoc Intergovernmental Open Committee with the aim of drafting a global international convention against transnational organized crime and discussing its drafting, illicit trafficking of and transport of migrants, including by sea (GALLAGHER, 2010, p.14, 15).

But it was only in 2000 that a legal instrument was implemented that represents the fundamental milestone in international efforts to combat human trafficking, the United Nations Convention against Transnational Organized Crime or Palermo Convention and the Protocol relating to the Prevention, Suppression and Punishment of Human Trafficking, especially Women and Children (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime), (UNODC, 2021).

## INTERNATIONAL HUMAN TRAFFICKING JURISDICTION

### PALERMO PROTOCOL (2003)

*The Palermo Protocol is a document that supports Combating Human Trafficking, as it derives from the most current conceptions about the crime of Human Trafficking and outlines guidelines that must be followed at the internal and international level of each State, with the purpose of achieving global protection of the most basic Human Rights (such as life and freedom), in accordance with the socioeconomic and cultural reality of each country (CARDOSO, 2011).*

*Palermo Protocol on Human Trafficking, in its article 2, states that its objectives are: to prevent human trafficking, with special attention to women and children; protect and help victims, fully respecting their human rights; and promote cooperation between States Parties to achieve these objectives (UNODC, 2021).*

*Therefore, although the Palermo Protocol is linked to the Convention, it brings obligations independent of it. Taking into consideration, the nature of the crime of human trafficking and all the human rights violations that it implies, this reading seems more appropriate, both with regard to combating the crime and with regard to the treatment of victims, since, in addition Although it has a criminal nature, it is conduct that violates numerous provisions of other international treaties, especially human rights (BELSER, 2005).*

*Article 3 of the Protocol on Human Trafficking stated that:*

a) The term “human trafficking” means the recruitment, transport, transfer, harboring or receipt of persons, using the threat or use of force or other forms of coercion, kidnapping, fraud, deception, abuse of authority or situation of vulnerability or the delivery or acceptance of payments or

benefits to obtain the consent of a person who has authority over another for the purposes 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;

b) The consent given by the victim of human trafficking with a view to any type of exploitation described in paragraph a) of this Article will be considered irrelevant if any of the means referred to in paragraph a) have been used;

c) The recruitment, transport, transfer, accommodation or reception of a child for the purposes of exploitation will be considered “human trafficking” even if they do not involve any of the means referred to in paragraph a) of this Article;

d) The term “child” means any person under the age of eighteen.

Human trafficking is, therefore, composed of three elements: action, means and purpose (GALLAGHER, 2010; UNODC, 2012).

The action is recruitment, transportation, transfer, accommodation or reception. The means are the threat or use of force or other forms of coercion, kidnapping, fraud, deception, abuse of authority or taking advantage of a situation of vulnerability or the delivery or acceptance of payments or benefits to obtain consent of a person having authority over another. And the purpose is exploration. These elements are what characterize human trafficking and, therefore, determine who its victims are (GALLAGHER, 2010; UNODC, 2012).

### CAUSES OF INTERNATIONAL HUMAN TRAFFICKING

The phenomenon of trafficking has intensified in recent decades as a result of multiple causes and its result is a combination

of political, economic, historical, social and cultural factors (ABREGÚ, COURTIS; 2004).

Behind the growing migratory movements that fuel the expectations and dreams of those who, as a result of enormous socioeconomic disparities, seek alternatives and better lives, we can identify countless individuals who take advantage of the innocence of some in their search for quality of life by offering cruel trafficking coated with opportunity (TAVARES, 2017, p. 294-295).

Globalization, brought with it the promise of broader markets and greater profits, created complex new networks and even new forms of exploitation given the ease with which people and goods travel between nations. According to data, the number of air passengers has grown approximately 5% per year over the last 30 years. (ABREGÚ, COURTIS; 2004).

Criminals took advantage of the openness and opportunities of the globalization process, so we must exploit these same factors in order to defend human rights, defeat the forces of crime, corruption and human trafficking (CAMPOS 2007, p. 38-39).

At the same time, women investigated for human trafficking are also significantly more likely to be convicted than men. This suggests that the justice system may discriminate against women and/or that women's role in trafficking networks may increase the likelihood of being convicted of the crime (PALMIOTTO, 2015, p 61-62).

## **CONSEQUENCES OF INTERNATIONAL HUMAN TRAFFICKING**

Victims of human trafficking are also victims of a social reality. In general, they find themselves in a vulnerable situation (MORAWSKA, 2007).

These weaknesses are generated by economic, political, social or cultural issues. Underdevelopment and lack of perspective

in certain countries and regions make people look for opportunities elsewhere to support themselves and their families (RODRIGUES, 2013, p. 98-100).

Inequal treatment between ethnic groups, or between genders, in some places also leads to the emergence of vulnerable populations. Civil wars leave families without breadwinners and create demands for soldiers and women (PALMIOTTO, 2015, p 61-62).

Many of the factors that generate populations susceptible to human trafficking are confused with the causes that generate refugee populations, in addition to these, in many cases, also being vulnerable to traffickers (UNODC, 2021).

Furthermore, with increasing interconnection, populations in underdeveloped countries find themselves increasingly attracted by the promises of a better life and earning much more money in other parts of the world. (FERNANDES, 2016).

Regarding the abuse of someone's vulnerable position, according to the interpretative note of the preparatory work of the United Nations (UN), "it is understood to be any situation in which the person involved has no real or acceptable alternative but to submit to that abuse". CASTILHO, 2007).

In most cases, especially in cases of trafficking for sexual or labor exploitation, capture is carried out non-violently. Victims are deceived with false promises of good jobs in other locations or abroad. In some cases, it is all "free", and it is agreed that after starting to work, people will be able to reimburse their "benefactors" (CARDOSO, 2011).

In others, the victims pay, through loans from the agents themselves, sums that they will never be able to pay off with the little or nothing they will receive in the job that does not correspond exactly to the one chosen (MORAWSKA, 2007).



Cardoso (2011), explains that:

The initial victimization of the trafficked person is usually by a member of their own ethnic group. For example, Chinese, Mexican or Russian groups recruit from their own communities. There are many reasons why recruitment occurs within the group itself. Proximity and access are important. But equally important is trust. Trust is important because people often hire traffickers and smugglers to move them to a specific location, to pay them a certain amount of money, or to keep them in debt for a certain period. Trust is more easily established with someone from the same ethnic, linguistic or cultural group. Violation of this trust, which occurs in all cases of trafficking, can be as devastating to the individual as physical or psychological abuse applied to the victim.

Therefore, it is not any exploitation, in a broad sense, that characterizes trafficking. This exploration must, at least, characterize one of the situations described, but it does not necessarily have to occur (ARENDETT, 2012).

The attempt is possible, as long as it is verified that the intention of the perpetrators of the previous actions was exploitation. It is important to highlight that the trafficking of children for adoption, when it is not aimed at exploitation, does not fall within the notion of human trafficking covered by the protocol, being a conduct prohibited by other international standards (CASTILHO, 2007).

In addition to the difficulty of rescuing these victims, there is also the difficulty of characterizing the crime, as the victims themselves are unable to see the situation they find themselves in to report it to the authorities in order to have their rights guaranteed (FERNANDES, 2016).

## **FINAL CONSIDERATIONS**

As studied and reported during the preparation of this work, the greatest need seen to date in the search to combat, prevent and punish human trafficking is the lack of

preparation of agents to identify victims, in addition to the lack of investment, lack of cooperation and infiltration of criminals within the bodies destined for combat.

The problem of human trafficking is evident in the existence of several factors that we must take into consideration, including economic, social, ideological and geopolitical, as they drive the crime.

It is important to understand how to address the issues faced by victims and understand the psychological impacts and treatment needed to restore the mental health of victims of trafficking in order to develop both therapeutic and policy responses to this issue. Develop effective prevention strategies, understanding both the risk factors of potential victims and the characteristics of traffickers.

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