Introduction

"Just as the abolition of slavery was a battle for human rights and not only for the rights of blacks, the abolition of prostitution is a battle for human dignity and not only for the dignity of women."²

International law considers prostitution² to be violence against women and trafficking in human beings for the purpose of prostitution to be trafficking. That does not matter, despised by all, chased by all, but secretly encouraged, prostitution⁴, under its sumptuous but poisoned flowers, stifles all that remains of the family virtues. Covering society with a kind of rotten silt, she poisons with her fetid breath the pure joys of the loving union of the sexes.

¹ Trafficking in persons: The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, defines trafficking in persons in its article 3: (a) Activity covering the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or position of vulnerability, or 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. Most trafficking is for the purpose of exploiting prostitution, but also for marriage, labour, organ removal and slavery. (b) The consent of a victim of trafficking in persons to the proposed exploitation, as set out in subparagraph (a) of this article, shall be irrelevant where the means set out in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered as "trafficking in persons" even if they do not use any of the means set out in subparagraph (a) of this article; (d) The term "child" shall mean any person under 18 years of age.


³ Prostitution: Organization of paid access to the body and sex of prostitutes.

⁴ According to the defended perspectives, prostitution is defined as "sex work" (Claire Thiboutot, Lutte des travailleuses du sexe: féminist perspectives, online), Stella, August 2015, site visited 15 August 2015), http://www.chezstella.org and a "profession" (which is the oldest in the world) or as an institution of oppression of women that historically appeared around 6th or 5th BC at the same time as the first markets, especially slave markets, and the degradation of the status of women in societies. Some will talk about structural gender inequality and sexual violence, others about sexual exploitation and even slavery, many about rational, free choice and empowerment, some about deviance and crime. Some will pay particular attention to the causes of entry into prostitution, while others will limit the analysis to the conditions under which adult prostitutes operate without taking into account juvenile prostitution. Yet research shows that about 80% of adults in prostitution have been prostituted at a minor age. The average age of recruitment is around 14-15 years. The same phenomenon is noted in the other dominant capitalist countries. Obviously, under such conditions, the claim that prostitutes exercise free choice is a matter of profession of faith, at least for the vast majority of people in prostitution.
Nowadays, prostitution has reached such colossal proportions that humanity has never known it, even during the periods of its greatest spiritual decline. What do the semi-religious Greeks, these Roman lupanars, this joyful prostitution of "soldier's girls" or "serious" from the workshops of the Middle Ages, this cynical debauchery, openly condemned but secretly encouraged, think of the time of the Reformation; what do these thousands of frivolous grayscales think in the face of the massive sale of the female body practiced today? Like a contagious infection, prostitution spreads from place to place, from country to country, from city to city, poisoning the atmosphere of contemporary social life. Entire professions, entire segments of society are subject to its harmful influence.

Indeed, prostitution is an issue that lawyers and the anti-globalization movement cannot ignore, for several reasons. A first is that its growth and the development of the prostitution system in the world are directly linked in part to liberal and financial globalization, through many mechanisms, and are a privileged area where it is deployed, generating huge profits. In a complementary way, the globalization of prostitution represents today one of the advanced points in the process of generalized commodification of goods and services. But it is important to go further in the analysis. Sticking to condemning and combating the prostitution system for its commercial aspects and its affinities with neoliberal capitalism would entail the risk of obscuring what makes prostitution one of the worst manifestations of social violence against women and male domination, both physical and symbolic.

Prostitution is considered to be "the oldest profession in the world." However, there is an explosion of the phenomenon with globalization, the opening of borders, the migration of people and the generalization of the Internet. The basic reason for prostitution is the existence of a market, it then responds to the law of supply and demand. Network prostitution proceeds to a double commodification of the body: upstream, through the use of threats and violence by pimps, in order to transform the human being into a commodity ready to be exchanged; and downstream, by customers who, by paying for this service, contribute to the completion of the commercial process and to the commodification of the prostituted person. Prostitution networks follow a classic model of entrepreneurship. It is, in fact, a question of speculating on the value of the commercial sex in order to extract wealth and profits from it.

Thus, contemporary crime is consubstantial with neoliberal globalization and deregulation. This deregulation has created an illegal, but highly profitable, economic sector. The majority of those left out are women and children and are in fact the sources of the highest rents in the globalized economy.

Like all markets, the prostitution market has the objective of developing. To do this, new needs are created; and the strategy is to expand supply and demand, make activity banal, legalize it and promote it. Prostitution is a surprising phenomenon in our societies. Whether condemned or deplored, opinions about

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5 Prostitution system: Complex system that connects "clients" to whom pimps guarantee, for remuneration, the possibility of commercial access to the sex of persons - female, in the vast majority of cases - adults, adolescents, children. These people, thus "prostituted" by some men to be sexually available to all others, are thus locked into a status of "prostitutes" (Malka Markovitch).

6 The sphere of the commodity is expanding ever wider and, what is happening, is a commodification of human beings. In this context, the international offensive led by some States to advance the liberalization of prostitution can be equated with all the major global manoeuvres to set the market submission of all aspects of human life in stone and irreversibly so.

7 Pimping, pimping: The "pimping" is the one who lives off the income from the sale of access to the sex of one or more prostitutes. "Pimping" is therefore the system implemented by pimps that legitimizes their profits. This system is composite and includes very different scenarios. These may include individuals, commercial companies that operate prostitution centres where dozens or even hundreds of women live, work and "work", but also persons or institutions that directly or indirectly earn their living from prostitution: advertising, travel agencies and, more generally, hotel pimping.


9 From the Latin "prostituto", the etymology of the word refers to the fact of selling oneself, exposing oneself to others, desecrating by offering one's body. Prostitution can be defined as the activity of exchanging sexual relations for remuneration. Three essential elements are found in the act of prostitution. The first is the carnal trade, making sexual contact the object of a commercial transaction, an economic exchange. The second is remuneration, extended to any economic benefit. It links the two main actors: on the one hand, the prostitute accepts a sexual act or service in return for remuneration and the client pays a monetary contribution to be able to benefit from this act. Finally, the last element is the repeated or usual nature of the activity or the plurality of partners.
it, often strong, show that few people are indifferent. The phenomenon of prostitution in general and the sexual exploitation of persons raise many questions, from various points of view and fields of analysis.

With globalization, prostitution has changed, both quantitatively and qualitatively. The opening of borders, the fall of the Berlin Wall, the establishment of the Schengen area, the development of communication and transport networks and the widespread use of the Internet have led to a massive deployment of prostitution. The ease of migration has increased network activity and the arrival of foreign prostitutes tenfold. Similarly, the existence of a single European market, with regional integration in Africa ensuring the free movement of goods, persons, services, and capital, facilitates the undertaking of criminal networks. In recent years, the role of foreign trafficking networks specializing in prostitution has become increasingly important. Traditionally prostitution seems to have gradually given way to sexual exploitation networks. Capitalism has led to a profound deterioration in social relations and moral regression. The power of money distorts all human feelings and reduces them to a monetary value.

The conditions that lead women to enter prostitution are analyzed from two different perspectives. The first vision consists in apprehending this activity as "forced," constrained by external reasons. Faced with this approach, other authors point out that prostitution can be a matter of choice, a free decision on the part of individuals. Often, the income opportunities that prostitution can offer are the main reasons why people choose prostitution over other low-paying occupations, such as cleaning, cashing or selling. However, regardless of the degree of awareness of choice to enter the prostitution scene, the basic mechanisms are the same: lack of money, housing problems, unemployment, family breakdown, incestuous relationships during childhood... All these factors influence and guide the individual's choice.

In our study, we will focus on analysing the normative framework of trafficking in human beings for the purpose of prostitution under international law and the functioning of prostitution networks and trafficking in human beings for the purpose of sexual exploitation. The challenge is to perceive the mechanisms and functioning of these criminal organizations which, through a process of transforming the human body into an exchangeable commodity, take advantage of people's vulnerability to enrich themselves.

I. A FACTOR IN THE DEVELOPMENT AND EVOLUTION OF PROSTITUTION

"Sex and power are intimately linked." FOUCALUT Michel.

A. THE FACTORS THAT CONTRIBUTE TO THE GROWTH OF PROSTITUTION

10 Our subject thus encompasses a plurality of disciplinary fields, ranging from law to philosophy, political science, international relations, criminology, sociology and psychology.

11 From a qualitative point of view, prostitution has changed. According to the annual report of the OCRTEH (Central Office for the Repression of Trafficking in Human Beings).

12 First of all, the concept of "network". It refers figuratively to a set of relationships between people who are interconnected with each other. Interconnections between the different actors in a network are made through communication and contribute to the sharing of more tangible feelings of belonging, norms, information or other resources. For pimping networks, all the values and norms shared by members are built around the organization of prostitution, whose objective is to derive a financial benefit from it.

13 The pimp is then referred to as a third party who participates in any way in the prostitution of others, while maintaining an external position. In the broadest sense, pimping is all the acts of provoking, promoting or tolerating the prostitution of others.

14 From the point of view of pimps and customers, sexes and bodies placed on the market are objects to sell and buy, they are interchangeable and therefore deserted from their own individuality. The manufacturing process of the bodies, exposed on the market, requires a stripping away of the humanity and individuality of the person whose sex is the object of transaction.

15 It can be a threat from another person, who is then identified as a pimp, or it can be an imperative for economic survival. The discourse of these women reveals that they have "no other choice" and that prostitution is their only means of subsistence.

16 This type of prostitution is then qualified as "voluntary", i.e. a matter of personal choice, following an arbitration between several possible options.

17 Used in the transitive sense, the verb prostitute means "to commit fornication", i.e. to make a human being a prostitute.

18 These are the relationships of domination and subjection between people that produce sexuality in our societies. For him, in modern society, power and pleasure support and strengthen each other, and are mainly male. Commercialization, as an essential process for sexual vanity, takes the form of objectification, enslavement of the person and submission to his means of exchange, money. FOUCALUT Michel, L'Histoire de la sexualité, Paris, Gallimard, 1994.
Inequalities are the factors that significantly contribute to the development of trafficking in human beings for the purpose of prostitution. Globalization has not only meant widespread economic growth and uniform improvements in lifestyles. The paradox of globalization is that it reinforces inequalities of all kinds.

1. Geopolitical inequalities

Globalization seems to have created a two-speed world and two-dimensional humanity: that of the developed countries, increasingly rich, in other words, the northern hemisphere of the globe, and that of the developing countries, of the southern hemisphere, which are stagnating or even regressing and sinking into poverty. Economic liberalization has not been received in the same way and has not produced the same effects in different countries. The poorest countries, which are less politically stable, face existing structural weaknesses such as the burden of colonization, ethnic conflicts, weak institutions, etc. In addition to these old inequalities, "there are also new inequalities that now make up the wealth and power of certain States: access to networks, their control, their creation and the control of knowledge." The severe socio-economic crises in developing countries and high unemployment rates have led to significant changes in migration. Migration flows are less structured and organized, making them less controllable by States. They are also less predictable and, above all, temporarily limited, which constitutes a profitable market for migrant smuggling and trafficking in human beings for the purpose of prostitution. Criminal networks exploit the distress and vulnerability of people seeking a better future by developing a real immigration market.

2. Economic inequalities

"At last, there came a time when everything that men had regarded as inalienable became the object of exchange, traffic and could become alienated." Karl Marx.

Inequalities are not only geopolitical. In addition to the poverty exploited in the least developed countries, there is the exploitation of poverty in the most developed countries in general. The rapid increase in the economic weight of crime makes it one of the most profitable productions of all economic and financial activities. However, the greatest economic benefits come from the exploitation of the greatest misery of human beings.

The widening gap between rich and poor has become the luckiest of markets. The dialectic of globalization reinforces structural inequalities and reinforces injustices, rather than overcoming them: "The neglected of globalization does not only see the benefits of enrichment, promised by the opening of borders and the liberalization of trade and world trade, missing out on them. It is their own fate that becomes the object of this trade and these exchanges."

3. Gender inequalities

Prostitution, whether female or male, is a social institution for the almost exclusive use of men. It is an industry essentially dedicated to male pleasure, this pleasure being understood in terms of power, beyond "sexual satisfaction." When prostitution clients are asked to identify the reasons for their use of prostitutes, several arguments are put forward. Curiosity and the desire for change are the first motives put forward. Then comes the will to break with loneliness or to overcome couple problems. Indeed, the majority of clients are men in need of relationships, who seek, beyond physical contact, to dialogue and communication. However, behind these appearances of social benefits, the prostitution relationship is biased, distorted.


"Prostitutional comedy cannot fill the gaps and lacks; the client is cheated, while the prostitute is exploited. The prostitution relationship is a rigged relationship, a "non-relationship." More or less consciously, other impulses or instincts come into play, such as the desire for domination, degradation or humiliation of the other or oneself. The belief that men have irrepressible sexual needs leads to the social legitimization of prostitution, the enjoyment of a body in return for remuneration. Moreover, in our sex-saturated societies, pornographic production reflects a degrading image of women, seen as sexual objects to possess, to dominate.

This inequality in the male/female ratio leads upstream to the limited social status of women in general. In some countries, gender discrimination is reflected in everyday life in the absence of educational opportunities for girls, women's dependence and subordination on their families and husbands, inequalities in the world of work, in decision-making, in political or religious life. The lack of rights recognized for women seems to be the first factor behind both migration and trafficking in women for prostitution. Thus, sexism is found in all areas of social life and contributes to the marginalization of women. With limited access to properly paid or declared jobs, they often end up working in the informal economy, which exposes them to various forms of exploitation and male violence.

B. Recent developments in prostitution

Prostitution, in its complexity, calls into question the values and benchmarks specific to each society. However, in a globalized world, this value system has changed. The challenges of prostitution are no longer confined to the borders of each society but extend to issues related to economic and social globalization. The internationalization of relations between societies, whether in terms of trade exchanges, migratory flows or the circulation of ideas, has greatly changed the world of prostitution.

1. Current overview of prostitution

The current world of prostitution must be studied on the one hand by a quantitative approach, know its extent, and on the other hand by a qualitative approach, to understand its phases. Since the 1980s, the world has undergone a fundamental transformation in the forms of prostitution. Indeed, several changes are at work, such as the intensification of foreign prostitution, the development of male prostitution, the appearance of occasional prostitution, the increase in prostitution of minors, the development of prostitution via the Internet and other means of communication...

Although these changes provide a mosaic view of prostitution, we can identify key areas of current prostitution.

2. Diversification of places and forms of prostitution

The phenomenon of prostitution is diversifying significantly. The reality of the act of prostitution is structured around the question of the places where this activity takes place. Three types of spaces can be used. The first concerns so-called outside prostitution, where the client is directly sought in public places, such as streets, parks or woods. While this public space is still the first place of prostitution, some prostitutes leave this type of prostitution in favor of less visible places, such as hostess bars or massage parlors that recruit through classified ads. This prostitution, which is more discreet, is called indoor prostitution. Finally, the third type of prostitution is built around an appointment and uses modern means of communication such as the Internet. Beyond the place of prostitution, several types of prostitution can be distinguished, referring to different objectives. First, so-called "emergency" prostitution concerns people who prostitute themselves to meet urgent needs, to survive. These people are involved in prostitution on an occasional or occasional basis, mainly for economic reasons. Then there is the prostitution of "misery" in drug addicts.

This prostitution is linked to the need for liquidity, in order to be able to respond to the daily dependence on narcotics. Finally, "professional" prostitution, which has been on the decline for several years, refers to the struggles of feminist activists in the 1970s and 1980s, who proclaimed the freedom to control their bodies.

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23 PORTES Maiko-David, Prostitution et politiques européennes, pour une approche anthropologique du droit, Paris; Budapest; Kinshasa, l’Harmattan, Questions contemporaines, 2006.

http://www.ijmsbr.com
2. The condition for entry into prostitution

Opponents of regulationist policies reject the distinction between so-called "voluntary" and "forced" prostitution, pointing out that the entry into the world of prostitution, beyond the reasons linked to personal histories, results from an obvious state of economic precariousness. People engage in prostitution to "make ends meet" or to pay off debts, to finance housing, education or drugs.

If money seems to be the driving force behind entering the world of prostitution, it is not the only cause. In addition to the financial aspect, there are other explanations for the action. There is a certain social and psychological determinism that predisposes some people to prostitution. According to several studies, many prostitutes have a traumatic past, a personal history that is difficult to overcome. Indeed, according to the French Senate's activity report on public policies and prostitution, prostitution is caused by human suffering and a buried wound. Thus, abuse, sexual abuse, rape or incest during childhood are reported to affect nearly 80% of prostitutes. Victims of sexual trauma, experienced in childhood, are at risk of experiencing significant disorders, such as self-destructive ideas or behaviours, self-contempt, feelings of shame, eating disorders or drug abuse. Depression and post-traumatic stress disorder are common among prostitutes. All these reasons can largely explain the fact that, through them, the suicide rate and suicide attempts among prostitutes are among the highest in society. Moreover, the encounter with the prostitution scene is facilitated by the social or emotional isolation or family conflicts that these people may have experienced.

Thus, the biographical and psychological elements, combined with economic and social factors, form a set of determinants that pushes some people into the world of prostitution.

II. STATE POLICY, LIBERALISM AND THE GROWTH OF CRIMINAL ORGANIZATIONS AND TRANSNATIONAL ORGANIZATIONS

The study of international standards and government policies shows that the prostitution system has for many years been using the flaws and lack of response of states as well as supranational institutions. Indeed, since the 19th century, the fight against the prostitution system has been an integral part of the fight for equality between women and men. It constitutes violence against women. The fight for women's rights was first and foremost part of the international fight against trafficking in women.

Before analysing liberalism and the rise of transnational criminal organisations, let us analyse state policy.

A. STATE POLICY

Two observations can be made. On the one hand, the concrete policies of officially abolitionist states are often far from the stated principles. On the other hand, several states have recently embraced regulatory policies. However, in the face of prostitution, States fall into three categories:

- Prohibitionist countries;
- The regulatory countries and
- Abolitionist countries

1. Prohibitionist countries

Prostitution is considered a crime, it is prohibited, and all actors are prosecuted. Prostitution in these countries can only be clandestine and repressed, but repression in practice is mainly aimed at prostitutes. The countries concerned are some US States, China, Islamic countries in general..... Like all UN conventions drafted before 1960, the 1949 Convention has no binding enforcement or control mechanism

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within the United Nations. The majority of European countries have ratified the 1949 Convention but do not apply it.

2. Regulatory countries

They consider prostitution to be a "necessary evil" that must be channeled, controlled and organised, a "public service" subject to rules: reserved areas, brothels or erocentres, police registers and files, medical surveillance of prostitutes. Prostitution is carried out under the control of the police and municipalities. Pimping is recognized.

3. Abolitionist countries

They are bound by the United Nations International Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949. Pimping and soliciting are theoretically prohibited. States are required to put in place measures to protect and reintegrate prostitutes, who are considered victims. There are no regulations (no brothels, no police and health registers, and files, no medical surveillance of prostitutes).

B. LIBERALISM AND THE GROWTH OF TRANSNATIONAL CRIMINAL ORGANIZATIONS

The evolution of society and the evolution of the world economy have contributed to the creation of conditions conducive to the exploitation of man. Trafficking in human beings for the purpose of prostitution is facilitated by the very essence of globalization, based on the principle of economic and financial deregulation. Similarly, from an ideological point of view, the new modern values, which advocate absolute freedom to dispose of one's body, facilitate the proliferation of prostitution, but also of prostitution networks. While globalization has opened borders, liberalized trade and increased flows of goods and capital for developed countries, this has not been the case for everyone. Some developing countries have experienced severe economic crises and high unemployment, which have led to significant changes in migration flows.

1. The fall of communism and the transition to a market economy

The collapse of communist regimes in Eastern Europe has led to the disintegration of community life and the legislative system, and consequently to the desire for migration of the most vulnerable people. Democratization and economic liberalization have not met the expectations of the population. On the contrary, the direct results have been the growing impoverishment of the population and the lack of opportunities for economic recovery. Women have been particularly vulnerable and have become the first victims of these reforms. Faced with this economic impasse, many have been forced to leave their country to earn a living elsewhere.

2. Triumph of liberal values and the growth of the sex industry

With the triumph of liberal values, paid sex has expanded at an unprecedented rate. The generalization of market rules and liberal laws of commercial exchange has led to a greater acceptance of paid sex exchange. "Modern liberalism has promoted an ethic and an ideal of individual freedom that allows all abuses and endorses all mechanisms of the market and oppressive constraints."

Society is becoming saturated with sex, which benefits the prostitution market and the exploitation of women and children in third world countries and those in former communist countries. The sex trade is now

25 Article 16 de la Convention de 1949.
26 Trafficking in human beings: An activity covering the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of authority or position of vulnerability, or 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. Most trafficking is for the purpose of exploiting prostitution, but also for marriage, labour, organ removal and slavery.

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globalized and industrialized. This sexual venality leads to radical changes in the mentalities of our societies. We are thus witnessing pornography of social imaginaries but also of certain ways of acting and thinking.

3. New communication technology: new access to sex service

The new information and communication technologies developed over the past two decades were first used by the various "sex workers" to facilitate the practice of prostitution, making it more discreet. This use of new methods of communication has boosted sexual exploitation, facilitating access to women, male anonymity and the proliferation of online services. Mobile phones or the Internet are all tools that can be used not only to facilitate the meeting between a prostitute and a client but also to circumvent legislation, even the most repressive ones. Combined with traditional means, technological innovations have made it possible to develop a real virtual sex industry and strengthen vast prostitution networks. Traffickers and exploiters use technology throughout the trafficking process, from recruitment to exploitation. Trafficking via the Internet takes the form of false job offers, marriage agencies, sex tourism, the sale of pornographic photographs or videos, catalogues of prostitutes' services, etc. The widespread availability of Internet access, the anonymity of users but also of exploiters and the profits made by the sale of pornography are all factors of technological modernity that facilitate and encourage the exploitation of persons for the purpose of prostitution.

III. NORMATIVE FRAMEWORK FOR THE REPRESSION OF TRAFFICKING IN HUMAN BEINGS FOR THE PURPOSE OF PROSTITUTION UNDER INTERNATIONAL LAW

We can never say enough. "While everyone is free to dispose of his or her bodies, human rights and human dignity are incompatible with the fact that a person has the right to freely dispose of another person's body because they have paid." As already mentioned above, international law considers prostitution to be violence against women and trafficking in human beings for the purpose of prostitution to be trafficking. Let us now analyse some of the texts.

A. The 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others

The 1949 Convention is the first international instrument to prohibit slavery and slavery-like practices and defines prostitution as a violation of fundamental human rights. It criminalizes acts related to prostitution, but not prostitution itself because women are considered victims in need of protection.

1. Penalization of pimping and decriminalization of prostitution

The UN Convention of 2 December 1949 for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others is one of the major post-war texts on human rights and is part of an abolitionist approach. This international convention considers, in its preamble, that "... prostitution and the evil that accompanies it, namely trafficking in human beings for the purpose of prostitution, are incompatible with the dignity and worth of the human person and endanger the well-being of the individual, the family, and the community." Ratified by seventy-two countries, it envisages trafficking as a consequence of prostitution, recognizes prostitutes as victims and penalizes procuring in articles 1 to 4. The title defines procuring as the exploitation of the prostitution of others, as a result of which the pimp exploiting the prostitute must be convicted, and therefore his victim must be protected.

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28 François Hollande, le 17 avril 2012.

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States are therefore encouraged to implement victimization policies by first decriminalizing prostitution. This international text goes even further, by qualifying the prostitute as a victim not only of procuring but also of prostitution (i.e., the client, whom some call the prostitute). For Lucile Ouvrard, "From the moment the prostitute is considered a victim, she must be totally excluded from the repressive field. In other words, prostitution must be decriminalized, and the criminalization of solicitation must be abolished, as well as corporal punishment in countries where it exists."³⁰

2. **Protection of the prostitute: prevention and reintegration**

According to the Convention, prostitutes are seen as victims and should be provided with protection and rehabilitation measures. Thus, article 16 requires States to take upstream preventive and downstream measures for the social care of victims with a view to their reintegration: "The parties to this Convention agree to take or encourage, through their social, economic, educational, health and other related services, whether public or private, measures to prevent prostitution and to ensure the rehabilitation and reclassification of victims of prostitution and the offenses covered by this Convention."³¹

Prevention is promoted through education, health, and other social and economic services and programs and the rehabilitation of female prostitutes. For Lucile Ouvrard³², prevention measures are based on social considerations: they aim to explain the causes of the prostitution phenomenon and to change attitudes. The first step is to analyse the causes of entry into the world of prostitution, to detect situations of vulnerability, in order to prevent them. As we have already seen in our first part, the research recurrently refers to the prostitute's emotional or family past and his or her material situation. Previous sexual experiences, sexual violence, family conflicts, financial situation (poverty, unemployment, debt, etc.) and drug use remain the commonly cited causes. In addition, international causes, related to cultural and economic differences between countries, are added. Taking into account the global dimension of the phenomenon, therefore, requires prevention strategies, both in countries of origin and destination and global economic policies.

As for the objective of transforming mentalities, it is a question of combating all types of stereotypes of women, men or transvestites as objects of sexual pleasure, intended to satisfy customers' fantasies. The idea here is to overcome the prejudices of predisposition of the prostitute as mentally ill, hysterical or sexually perverse. Finally, the emphasis is on convincing the entire population that there is no freedom or dignity in prostitution. The main point is to point out that prostitution is sexual slavery, a violation of human rights, in order to dissuade future prostitutes, pimps, and clients from using it. Awareness-raising among young people, information campaigns, posters or advertising are all means of communication for spreading such a message. In addition, collaboration with the press, associations, social services, school education, health and labour services and the mobilization of police services in their investigation efforts are essential. Downstream of the problem and in addition to the preventive purpose, the victimization policy aims to help prostitutes reintegrate into the social world.

Indeed, the Convention obliges States Parties to establish or maintain service with specific tasks to ensure the rehabilitation and reclassification of victims of prostitution. This reclassification policy goes hand in hand with those of employment, education, vocational training, and equal opportunities and requires both material resources (reception centers, health assistance, training programmes, etc.) and human resources (medical staff, social workers, etc.). The State can also rely on associations to strengthen its action.

3. **The freedom of States to intervene**


The 1949 Convention leaves States with complete freedom to achieve the objectives set. By listing social services, education, economic services, and health services in a general and non-exhaustive way, it avoids any reluctance on the part of governments, which remain in control of their modes of intervention. But this freedom of action granted to States may constitute a weakness, insofar as no prescription is imposed on them. Moreover, strangely enough, the Convention does not address the issue of the repression of solicitation. Such measures, by making the prostitute an offender, raise the paradox inherent in the international text, claiming to ensure the status of the victim, not criminal. The said convention leaves governments a margin of manoeuvre, free to prosecute and incriminate other behaviours. Solicitation can, therefore, be prosecuted, without preventing States from acceding to the Convention.

4. Limitations

The main weakness of the 1949 Convention is that it does not provide for any procedure to ensure compliance with human rights obligations. The text does not designate any effective mechanism for the implementation of the provisions it contains and does not provide for anybody to receive and review national factual reports. The absence of a control mechanism does not encourage States parties to establish a system of safeguards against all contemporary forms of slavery. In fact, they have used this Convention to punish and criminalize prostitutes rather than protect them.

Moreover, in practice, the application of international law provisions seems disappointing. The three interviews conducted on this level of analysis reveal a certain pessimism, both with regard to the concrete application of the provisions of international texts and with regard to international cooperation in this area.

B. The 2000 Palermo Additional Protocol

1. An internationally recognized criminal offense

In a context where transnational crime, security, and border control issues are of increasing concern to an increasing number of States, the United Nations adopted in 2000 the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Organized Crime Convention, commonly known as the Palermo Protocol. This Additional Protocol, signed by eighty countries, and which entered into force on 25 December 2003, establishes an internationally accepted definition of the offense of trafficking in human beings. The Protocol is a reference instrument in the fight against trafficking in human beings because it emphasizes the abuse of authority and the extremely fragile situation of the victims. It tackles global criminal networks involved in trafficking in human beings and, in particular, transnational prostitution, by focusing on preventing and combating this phenomenon and promoting international cooperation. The structure of the Additional Protocol on Trafficking expresses the search for a balance between the repressive objective of criminalizing traffickers and the concern for the protection of victims. Prevention and cooperation measures are also priorities.

Amnesty International in Les violences faites aux femmes en France: une affaire d'État identifies three elements of this definition that lead to the conclusion that trafficking is an offense. First, it is an action: the constituent acts of trafficking. The definition identifies the different stages that constitute trafficking, from acts in countries of origin to those of transit and reception: recruitment, transport and transfer and finally accommodation or reception. Each of the acts referred to in the Protocol constitutes an act of trafficking, and

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only one is sufficient for the offense to be considered as committed if there has been coercion and the purposes of exploitation exist. This action is then carried out by the use of specific means, such as threats, the use of force or other means of coercion 36.

According to paragraph (b), the consent to engage in prostitution of a trafficked person is insignificant, if the person has acted under duress, or if he or she has been deceived, abused or threatened for the purpose of exploitation. Therefore, the abused person must, therefore, be considered as a victim of trafficking and must be afforded protection as such. Finally, it is directed towards a well-defined purpose or goal: the exploitation of that person. Exploitation, which is the general purpose of trafficking, includes both sexual and economic exploitation. The exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or similar practices, servitude or the removal of organs, are the forms of exploitation provided for in the Protocol.

2. The obligation of States to act

Trafficking in human beings for the purpose of exploitation also constitutes, in addition to a criminal offense, a violation of human rights. The international treaties that flow from the Universal Declaration of Human Rights require States Parties to guarantee respect for human rights on their territory and to take effective action against all violations, including trafficking in human beings for the purpose of sexual exploitation. Public authorities are under an obligation to take all necessary measures to prevent such violations and, where appropriate, to ensure effective compensation for the damage caused and appropriate compensation. It requires States parties to take the necessary measures to prevent and investigate trafficking, prosecute offenders and adopt policies and programmes to provide assistance and protection to victims.

For Amnesty International 37, the implementation of these obligations by States requires, for example, legal sanctions for trafficking, effective law enforcement, access to legal remedies and appropriate reparation for victims and a prevention strategy to address the real and root causes of trafficking. For Tosun Leman, in his thesis Trafficking in Human Beings: A Normative Study, the Protocol is the first international text to explicitly introduce "demand." For the first time in an international instrument, those that generate the demand for sexual exploitation are clearly mentioned. All signatory countries must adopt or strengthen legislation and other measures to discourage the demand that fuels all forms of human exploitation. Two aspects or actors of the request are mentioned: the trafficker and the requester. On the traffickers' side, law enforcement agencies of States parties must cooperate with each other to detect traffickers. Measures must be implemented to disrupt the manoeuvres, methods, means, and practices of organized criminal groups. Programmes should be devoted to the training of law enforcement, immigration, and other relevant officials. The Protocol encourages cooperation and collaboration between States, national police, immigration authorities, social services, and NGOs in order to maintain regular exchanges of information and thus persecute trafficking networks. Border measures that States are obliged to respect are provided for, such as security and control of travel or identity documents. On the applicant side, States Parties have a duty to take or strengthen legislative or other measures, whether educational, social or cultural, including through bilateral and multilateral cooperation, to discourage demand. Adopting national laws that penalize the purchase of sexual services is an example of a tool to deter demand and thus eliminate trafficking.

3. Assistance and protection of victims

Article 6 of the Protocol, entitled "Assistance and Protection to Victims of Trafficking in Persons," provides for the implementation of measures to ensure the physical, psychological and social recovery of victims of trafficking in persons and Article 7 regulates the status of victims of trafficking in persons in receiving States. The Protocol applies to the protection of both victims and witnesses of trafficking. Running real risks of retaliation or intimidation, the parties are under an obligation to provide them with assistance and protection and, if necessary, to set up adequate procedures to enable them to obtain redress. The trafficked

36 For example, kidnapping, fraud, deception, deception, false promise, deception, fraud or abuse of power are other less explicit means of abusing a victim's vulnerability or a situation of weakness.

person benefits from a presumption of innocence. The judicial system of each State must provide the victim with essential information in his or her legal proceedings, and legal aid must be provided at all stages of the proceedings. On the other hand, the Protocol provides victims with rights that enable them to live a dignified life in the territorial State, such as the rights to housing and employment, education and training.

In addition, taking into account the fragility of victims, the protocol has strengthened the procedural system and places great importance on the physical and mental health and safety of victims. Article 6 requires States to assist victims by providing them with social, medical and psychological assistance while they are on their territory. They may, therefore, be granted a residence permit. Article 7 requires States parties to take "due account of the humanitarian and personal factors" of victims as a mitigating circumstance in the process of regularizing their documents. Finally, the Protocol addresses the issue of return or repatriation of victims of trafficking. Destination countries must ensure that victims are repatriated, as far as possible on a voluntary and safe basis. States have an obligation to accept and facilitate the repatriation of victims, for example by making it easier to obtain the necessary documents for return.

4. The shortcomings

However, there are shortcomings in the progressive perspective of the Protocol. It provides some rights for victims, but the failure of States parties to provide for the needs of victims is an obstacle to its effectiveness. The protection of victims is left to the discretion of the authorities, but there is no monitoring and control mechanism in place to compel them. The absence of an international supervisory body and the lack of an enforcement mechanism, therefore, weaken the effectiveness and implementation of the Protocol. On the other hand, for Tosun Leman, instead of proposing preventive measures, human rights, labour or social rights standards, the Protocol advocates punitive and anti-immigratory measures, which have no other effect than to criminalize victims. Thus, if the law provides for sanctions for perpetrators and protection for victims of trafficking, but in practice, national authorities do not recognize the status of victims to potentially exploited persons, the law remains ineffective, and the protection will be void.

C. The Rome Statute of the International Criminal Court

On 11 April 2002, ten countries had ratified the Rome Statute of the International Criminal Court (ICC), bringing the total number of countries to more than 60 that had ratified the document and bring it into force on 1 July 2002. As fate would have it, the deposit of the instrument of ratification of the said Statute by the Democratic Republic of Congo (DRC) on 11 April 2002 was decisive for its entry into force. It is thanks to the DRC that the International Criminal Court is still hearing its first cases and is experimenting with the principle of complementarity. It is no coincidence that the ICC's first sentencing and sentencing judgments concern the situation in the DRC, specifically the case of The Prosecutor v Thomas Lubanga Dyilo. It is also probably in the DRC that the first decisions of national courts applying the Rome Statute are recorded, for better or for worse.

The ICC Statute considers trafficking in human beings for prostitution purposes as a crime against humanity.

38 TOSUN Leman, La traite des êtres humains: étude normative, université de Grenoble, 2011, pdf, p.230 à 238
39 The ten countries that deposited their instruments of ratification, bringing the number of countries to 66 that had ratified the Statute, were: Bosnia and Herzegovina, Bulgaria, Cambodia, Democratic Republic of the Congo, Ireland, Jordan, Mongolia, Niger, Romania and Slovakia.
40 As Professor Sayeman BULA points out, it was the ratification of the Rome Statute (or better, the deposit of the instruments of ratification) by the DRC on 11 April 2002, following various external pressures, that enabled the Statute to enter into force. Sayeman Bula-Bula, Droit international humanitaire, Louvain-la-Neuve, Éditions l'Harmattan, 2010, p.302.
41 Judgment rendered on 10 July 2012.
42 Judgment rendered on 14 March 2012.
43 Prosecutor v Thomas Lubanga Dyilo, Judgment rendered pursuant to article 74 of the Statute (14 March 2012). We found it online: ICC < http://www.icc-cpi.int>|[Dyilo 14 March 2012]; Prosecutor v Thomas Lubanga Dyilo, Sentencing Decision under Article 76 of the Statute (10 July 2012). We found it online: CPI < http://www.icc-cpi.int>|[Dyilo 10 July 2012], read on 06 June 2015.
1. A crime against humanity

The 1998 Rome Statute of the International Criminal Court is an international body for the repression of war crimes and other serious crimes committed in peacetime. It has the competence to prosecute and try crimes of genocide, crimes against humanity and war crimes, but intervenes only when States parties do not have the will or the means to prosecute these crimes themselves when they have been committed on their territory or by one of their nationals. The International Criminal Court is complementary to national jurisdictions, which continue to play an important role in the repression of these crimes of international scope. Now, according to the Rome Statute, the following acts are likely, in their context, to constitute crimes against humanity: rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization and other forms of sexual violence of comparable gravity. By citing trafficking in human beings with slavery and forced labour in the same provision, it is considered a form of modern slavery and becomes a crime against humanity. For example, article 7, paragraph 2 (c), states that "enslavement" means the exercise of any or all of the powers of ownership over a person, including in the context of trafficking in human beings, especially women and children for the purpose of sexual exploitation.

2. Needs and rights of victims of crimes against humanity

The Rome Statute focuses on the needs and rights of victims and witnesses, as they play an important role in the prosecution of criminals. However, there are no specific provisions protecting victims of trafficking in human beings for the purpose of prostitution, as the protection and assistance offered is applicable to all victims of crime. The Rome Statute of the International Criminal Court gives particular importance to the rights and interests of victims. Its purpose is not only to protect victims but also to recognize their rights and interests and to encourage their participation in the judicial process. To this end, a Victims and Witnesses Unit has been established within the Registry. The Division is responsible for advising and assisting witnesses and victims appearing before the Court, and for planning measures and arrangements for their protection and security. In addition, according to the Statute, victims have a right to compensation.

Indeed, the ICC can demand reparations for victims, in the form of restitution, compensation or rehabilitation, depending on the harm suffered. In addition, a Compensation Fund for victims and their families has been established.

3. Very specific conditions and context

The Rome Statute defines crimes against humanity as "a number of acts committed as part of a widespread or systematic attack directed against a civilian population and with knowledge of the attack." Therefore, for slavery and trafficking in human beings for the purpose of sexual exploitation to be considered a crime against humanity, the acts must be committed in the context of a widespread or systematic attack against a civilian population and with knowledge of the consequences of such an attack. Thus, the conditions for trafficking to be considered a crime against humanity are difficult to meet.

Conclusion

What can we conclude on the analysis of trafficking in human beings for the purpose of prostitution in international law in the face of globalization? I thought of the prophet who would tell us what the world will be like tomorrow; it could be worse, and the prophet will always have done his job. I thought of the priest, pastor or imam who would pray for a better world; the worst happens, it is not his problem, his mission was only to save souls. I thought of a visionary, preferably at the head of humanity, who would decide where we would go and how we would move towards a world without trafficking in human beings for the purpose of prostitution. The story is rather stingy of such characters.

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44 Article 75 of the ICC Statute.
45 Raphaël NYABIRUNGU mwene SONGA, La perception du rôle de la Cour Pénale Internationale dans le règlement des conflits en Afrique à travers les attitudes et prises de positions au sein de l'Union Africaine, in enjeux et défis de la justice pénale internationale à la lumière des conflits armés en Afrique, Actes de la matinée scientifique organisée dans la salle des promotion de l'Université de Kinshasa, samedi 23 août 2014, sous la direction de Ivon Mingashang, Cahier des archives du CERDIA n°1, Kinshasa, 2014, p. 77.
Network prostitution has developed considerably thanks to the opportunities offered by globalization. Prostitution networks are part of a nebula of transnational criminal networks, which instrumentalizes national legislation, follows an entrepreneurial logic and enters the legal sphere in order to increase the efficiency of its activities. The capitalist market requires that bodies be reduced to commercial objects. The commodification of the human being, therefore, implies a mechanism of subjection and depersonalization, which undermines the integrity and dignity of individuals and constitutes a violation of fundamental rights.

Therefore, trafficking in human beings for the purpose of sexual exploitation must be combated through a comprehensive, multidisciplinary and coordinated response, integrating both the suppression of traffickers and the protection and assistance of victims. Enhanced international cooperation, closer collaboration between police and especially judicial authorities, and harmonization of legislation on prostitution are essential to combat this transnational scourge. To thwart transnational prostitution networks, States must therefore in turn place themselves on the transnational scene.

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