

Human Trafficking: A Crime Against the Dignity of Persons

Yves Charpenel

First Attorney General at the Supreme Court of France

2016 Judges' Summit against Human Trafficking and Organized Crime

The question of the impact of human trafficking on the dignity of people was exactly stressed by the 1949 United Nations Convention:

“Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person”.

67 years after the international community took a stand against prostitution, human trafficking is unanimously condemned.

Meanwhile, in 2016, millions of people are being treated as common goods.

Sexual exploitation, forced labor and organ traffic are today a very lucrative business, under the control of the transnational organized crime.

Violence, vulnerability and venality are a daily reality for a growing number of people and nobody could contradict Pope Francis when last year he has described human trafficking as "a crime against humanity"

In our countries, where the rule of law is a supreme value, judges and prosecutors must mobilize, because for them the traffic in human beings is above all a crime.

For all magistrates worldwide, fighting the crime is central for their mission.

In my country, where the public prosecution is born from the fourteenth century, the King fixed judges and prosecutors a major objective, that of defending the widow and the orphan.

The mission of the modern judge remains this: protect the victims and punish criminals.

Today these victims are mostly from the most fragile communities:

In several European countries, the Roma minority is overrepresented in the sexual exploitation:

it represents 50 to 80% of victims in Bulgaria to 70% in some parts of the Czech Republic, about 50% in Romania, at least 60% in Slovakia, around 40% in Hungary.

In India, 65% of prostitutes are coming from poor backgrounds and often from the lower castes

In New Zealand, according to the Ministry of Justice, the majority of child prostitutes is Maori.

By exploiting the most vulnerable women, human trafficking perpetuates inequalities between men and women and violence against women in general.

In this context, how can we speak of a "free choice" of exploitation? Can we continue to close our eyes?

How to hear the voice of the most vulnerable?

What is the commitment of governments and societies who face this problem?

And yet a new threat increases the task of the judge, who must now take into account the digital space, become an Eden for traffickers.

Indisputably, the idea of Internet freedom, or at least the illusion of it, creates the ideal environment for organizations offering prostitution on web sites, which puts vulnerable users at risk.

Social media networks have increase the frequency of this phenomenon, as they are the perfect platforms to seek out future victims by making them feel at ease by fostering their trust over time.

The Internet's assurance of relative anonymity, its ephemeral exchanges and its global character have encouraged procurers and various criminal networks to resort to the most discrete means of developing their illegal activities.

In addition, users can perceive their online relations to these criminals as harmless or completely safe, and then be tricked by the seductive criminal tactic of contacting the victims over a long period of time. The criminal is a friend before he becomes an enemy.

The judge naturally has an important role to play in the fight against this denial of the dignity.

To live up to this ambition, the judge needs three additional weapons, deep knowledge of the realities of the crime he's fighting, effective laws, and an unwavering commitment to implement them.

The data about human trafficking are strategic, and this information can be found only by those who really seek.

It is the role to be assigned to unbiased observatories of this crime, they still remain largely inadequate.

Laws are essential, but how not to worry to see reappear in our legal arsenal of offenses like slavery or servitude which we thought belonged to the past.

Commitment to fight such a crime is not in doubt, but how not to see the cost and the considerable length of necessarily transnational investigations.

Against the power and insolence of organized crime, against the indifference of the public and dealing with its modest means, the judge who fight against trafficking is sometimes very lonely.

Because this crime reports too much money to traffickers, so they do take precautions that greatly complicate the task of the judge, which itself is held in strict compliance with laws.

How indeed compete on equal terms against opponents who know no geographic, judicial or political borders, who cynically use new technology to evade radar of law enforcement, who use intimidation to silence the victims.

Of course States have committed themselves to fight in accordance with international treaties.

The 2000 United Nations Protocol to Prevent, Suppress and Punish trafficking in persons , as well as the 2005 Council of Europe Convention on action against human trafficking, urged states to adopt relevant measures .

The main added value of the Convention is its human rights perspective and focus on victim protection.

Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being.

Considering the constant progress of the criminal profits of traffickers and the growing number of people sold worldwide, we have to admit that these provisions remain mainly dead letter.

In a 2014 study conducted by European parliament, the vulnerable condition represents a characteristic of the exploitation: most of the victims are migrants or/and representatives of ethnic minorities.

The judge, like any citizen of our world, can only see the extent of the challenge.

If every year nearly 500 convictions are handed down by French courts for this type of crime, with fifty international networks dismantled, we are still far from reducing seriously these intolerable violations of the dignity.

But in my country, as in Sweden, Norway, Iceland or Canada, significant advances have recently been made towards a better defense of human dignity with a very comprehensive legal approach: after years of often intense debate, a law was recently adopted by the French Parliament.

This law was passed April 13, 2016, and raises many hopes for all those who reject the inevitability of seeing human person reduced to a marketable product.

Its key points show that its aim is global, and concern both the victim, the trafficker, the client and the public opinion.

Eight main provisions must be noted:

- Creation within each county of a bodily council responsible for organizing and coordinating actions for the victims of prostitution and human trafficking
- Rights for any victim to benefit from protection and assistance in the system
- Creation within the State budget a fund for the prevention of prostitution and for the social and professional support of prostituted people
- Issue of a temporary residence permit for a period of 6 months for foreigners engaged in path to exit prostitution
- Repeal of offense of solicitation
- Obligation for internet providers to block access to sites hosted abroad, that violate French law against pimping and human trafficking
- Using, soliciting, accepting or obtaining sexual relations with a person engaged in prostitution is liable to a fine of a fifth degree offense
- Integrating the fight against the commodification of the body among the topics taught during schooling.

Parliamentarians, beyond partisan affiliations, were aware of a major consideration. The business market aspect of human trafficking is generally underestimated, especially considering that the globalization of the exploitation trade is still expanding.

We can't forget that the United Nations' "Blue Heart campaign against human trafficking" stressed that 25 million people are trafficked each year, with an estimated profit \$ 32 billion USD profit.

We can't forget that human trafficking is linked to corruption, and the injection of criminal assets in the legal economy poses another threat for our common values.

Uphold the dignity of the human person implies to combine preventive, repressive and social approaches.

There are however solutions, as shown by an experiment conducted in France in cooperation with Balkan countries:

In the fight against prostitution and sexual exploitation, prevention and care services have evolved throughout French society.

A "communitarian" perspective has emerged to meet unmet needs.

Thus, some migrants are turning to community-based associations, while others prefer instead, to seek support from outside their community.

This new approach, which recognizes and values the role of the migrant community in the host country, has led to the birth of numerous projects and initiatives by associations of migrant communities and especially its leaders.

Thus, the elite of migrant communities are developing a new framework of interaction with the migrant community (the "roots") and the national community of the host country.

Meanwhile, the judge legitimacy is his compliance with laws.

Obviously he cannot succeed alone, but without him, the fight cannot be won.

Here no doubt lies one of the key to success in the fight against human trafficking, strengthening international cooperation actions

A State that is motivated to fight against the human trafficking, via bilateral cooperation, cannot expect to do so the way it wants, with whoever it wants, and against whatever it wants.

The State must, before any cooperation takes place, identify the subject of the cooperation and the partners included in the bilateral cooperation. Following this it should define the boundaries of cooperation so that it functions effectively.

The relinquishing of state sovereignty implied in bilateral cooperation is the main obstacle: criminal law is very connected to its territory and states are not willing to abandon this in order to have a common area of criminal law.

Furthermore, bilateral cooperation is a difficult procedure to put into action in terms of cost and time.

Some other obstacles include the conflict between legal systems in cooperating countries and the high rate of corruption in countries where sex trafficking is common.

Nevertheless, when bilateral cooperation is put into action it works effectively and allows for the dismantling of sex trafficking networks

All these actions and legislative changes are essential.

How today, and here, can we not think about the warning of the Gospel according to saint Matthew:

"For a tree is recognized by its fruit"

In my opinion, obviously, beyond his professional skills, the judge, in this area, may draw, in a profane way, on the three theological virtues of faith, hope and charity.

Sources :

- UNODC, UNODC Factsheet on Human Trafficking, June 2010.
 - U.S. Department of State, Trafficking in Persons Report, June 2014
 - Bousquet D. (President), Geoffroy G. (Rapporteur), Rapport d'information par la Commission des lois constitutionnelles, de la législation et de l'administration générale de la République, en conclusion des travaux d'une mission d'information sur la prostitution en France, French National Assembly, n.3334, April 13th, 2011.
 - Fondation Scelles, Charpenel Y. (under the direction of), 1st Global Report: Rapport mondial sur l'exploitation sexuelle - La prostitution au coeur du crime organisé, Economica Ed., 2011.
 - Fondation Scelles, Charpenel Y. (under the direction of), 2nd Global Report: Sexual Exploitation - Prostitution and Organized Crime, Economica Ed., 2012.
 - Fondation Scelles, Charpenel Y. (under the direction of), 3rd Global Report: Sexual Exploitation – A growing menace, Economica Ed., 2013
- Farley M., Cotton A., Lynne J. et al, « Prostitution and trafficking in nine countries: Update on violence and posttraumatic stress disorder », Journal of Trauma Practice, Vol. 2, Issue 3/4,2004.
- Fondation Scelles, Charpenel Y. (under the direction of), 4th Global Report: prostitution: exploitation, prosecution, repression Economica Ed., 2016
 - Amnesty International, 32nd International Council Meeting - Circular no.18 - 2015 ICM Circular: Draft Policy on sex work, AI Index: ORG 50/1940/2015, July 7th, 2015.
 - GRETA (Group of Experts on Action against Trafficking in Human Beings), Council of Europe, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Germany, First evaluation round, GRETA(2015)10,Strasbourg, June 3rd, 2015