

The penal policy to combat human trafficking crimes in light of the developments of Law 4/2023

السياسة الجنائية لمكافحة جرائم الاتجار بالبشر في ضوء مستجدات القانون 2023/4

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Abstract:

The issue of combating human trafficking is one of the most important legal issues that requires More scientific research and academic study, Perhaps the reason is that it relates to the human being, his bodily integrity, and the protection of his rights guaranteed to him by international humanitarian law and international treaties. The crime of human trafficking is one of the transnational organized crimes committed by organized international gangs for the purpose of achieving huge profits by attacking human rights, their honor and dignity. Therefore, the issue of human trafficking has great attention internally, regionally and internationally. The importance of the study lies in focusing on the crime of human trafficking, which has become a pain to the national and international conscience, Especially after it spread widely throughout the world. I would like to point out that the study will analyze the legal aspects of the crime from the perspective of Law (4/2023) dated in May 7th, 2023. With a focus on explaining and analysis the most important penal policies and national and international legal mechanisms aimed at reducing human trafficking crimes. The study will focus on increasing legal awareness among national public opinion and the need for concerted efforts to reduce this crime.

Key words: Penal policy, combating, crimes, human trafficking, developments, Law 23/04.

الملخص:

إن موضوع الوقاية من الاتجار بالبشر ومكافحته يعد من الموضوعات القانونية الجديرة بالبحث والدراسة الأكاديمية، كونه يتعلق بالإنسان من حيث حماية حقوقه وسلامة جسمه وحصانته من كل اعتداء قد يلحق به، وذلك من منطلق أن الاتجار بالبشر يشكل جريمة منظمة عبر الوطنية تستغل من خلاله عصابات الإجرام المنظم هذا النشاط بهدف تحقيق أرباحا طائلة على حساب حقوق الإنسان وكرامته وإيذاء جسمه وشرفه، والذي بدأ في وقتنا الحاضر موضوعا مدار الاهتمام والدراسة لدى الكثير من الهيئات الدولية والإقليمية والوطنية. وتكمن أهمية الدراسة في تسليط الضوء على ظاهرة الاتجار بالبشر التي أصبحت في السنوات الأخيرة تؤرق الضمير الوطني والعالمي على حد السواء، حيث انتشرت بشكل كبير في الكثير من دول العالم، وذلك من منطلق دراسة وتحليل الجوانب القانونية الواردة بموجب القانون الجزائري الجديد (04/23) المؤرخ في 07 مايو 2023 وبيان أهم السياسات الجزائية والآليات القانونية الوطنية والدولية للحد من جرائم الاتجار بالبشر من خلال إذكاء الوعي القانوني لدى الرأي العام المحلي والوطني بضرورة تكاتف الجهود الوطنية من أجل الوقاية من الاتجار بالبشر ومكافحته.

الكلمات المفتاحية: السياسة الجزائية، مكافحة، جرائم، الاتجار بالبشر، مستجدات، القانون 04/23.

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Introduction:

The crime of human trafficking is considered one of the most serious crimes because it results in a violation of human rights protected by international agreements. In addition, this crime is a violation of the human right to life, bodily integrity, and other rights guaranteed by the divine religions.

There is no doubt that the crime of human trafficking has received great international attention with the aim of urging countries to enact national legislation criminalizing human trafficking in all its forms, in addition to urging countries to intensify efforts and take the necessary measures to combat this crime.

Interest in this crime was not limited to Western countries, as Arab legislation kept pace with interest in it. The laws of the Arab countries have witnessed tremendous development in this regard, reaching the enactment of laws criminalizing all acts related to human trafficking as an organized crime.

The legislation of Arab countries regarding the crime of human trafficking is divided into two parts, The first category includes most countries that have issued complete legislation to combat the crime of trafficking in persons, and the second category includes countries that have not issued independent legislation prohibiting human trafficking, but have contented themselves with criminalizing it at the Penal Code.

As for Algerian law, it followed the approach of the first category, as it issued independent legislation to combat the crime of human trafficking, and not only that, but also criminalized all acts and practices related to the crime and punished them with separate penalties.

Regarding the Algerian interest in the crime of human trafficking, it is through developing the legal and institutional environment to prosecute the perpetrators of the crime and enacting laws that make it easier for the Public Prosecution to take prompt and appropriate measures to search, investigate and investigate.

Perhaps evidence of the national interest in this crime and the acceleration of efforts to combat it is that Algeria has joined a number of international agreements and protocols and signed many memorandums of cooperation with many international organizations related to combating the crime of human trafficking.

In addition to the above, there is local Algerian cooperation between the Human Rights Commission, government bodies and civil society institutions in order to strengthen efforts and strive to combat the crime of human trafficking. With the aim of taking national measures and procedures to confront these crimes.

Therefore, the importance of the study lies in focusing on the crime of human trafficking, which is considered one of the crimes that pains the national and global human conscience as a result of attacks on human rights, freedoms, and bodily integrity.

Therefore, measures and procedures must be intensified to ensure prevention of this crime, in addition to examining legal methods that can be taken to protect victims of

human trafficking. Ensuring their protection from the discovery of their existence until the perpetrators are brought to justice

Study objectives

The study aims to

- Combating and preventing the crime of human trafficking
- Participate in preparing educational programs on the dangers of human trafficking, and conduct research and studies in cooperation with academic institutions in the field of that crime.
- The study also aims to provide the public and the media with the opportunity to obtain information about the crime of human trafficking, while committing to protect the confidentiality of that information of a personal nature, especially information related to human dignity and the requirements of public order.
- Preparing sensitization and awareness programs and activities with the aim of identifying and preventing the crime of human trafficking, its dangers
- Proposing measures that support civil society activity in the field of assisting victims of human trafficking
- Developing national expertise in the field of combating and preventing human trafficking

The Research problem

The problem of the research lies in the fact that the phenomenon of human trafficking has worsened in recent years and has exceeded the capabilities of governments and international organizations and has become a real threat to the security and safety of countries. Therefore, we focus on it through research and study of questions that are of interest to scholars of international and comparative law. So we can ask:

What is meant by the crime of human trafficking? What are its pillars? How can it be combated and its risks reduced? What is the appropriate security and criminal scenario to put an end to the repressive controls to contain this crime?

We also ask : could the United Nations and its branches concerned with combating crime able to take sufficient measures to reduce human trafficking?

Section one :

The conceptual framework of human trafficking crimes

There is no doubt that the crime of human trafficking was known in ancient societies and was limited to slave trafficking, and ancient societies considered it one of the most dangerous crimes that threaten the entity of society. It was committed in ancient times against people regardless of color, gender or age, In those societies, humans were bought and sold in global auctions devoted to selling slaves, like any commodity, and the price of a slave varied according to age, color, and physical strength ⁽¹⁾.

In the past, women were the most popular commodity in slave markets, and perhaps the reason was their exploitation in prostitution and sometimes as domestic servants.

But recently, the forms of human trafficking have changed, due to technological development, globalization, the communications revolution, and the emergence of the Internet. This contemporary technological development has led to the development of crime images and becoming difficult to identify.

The statistics conducted indicate that human trafficking has spread in all countries of the world without exception, The country may be a source of crime, a transit area for it, or a stability area for crime, Since human trafficking has crossed international borders, it has become impossible for any country to deny the existence of the crime on its territory⁽²⁾.

The heavenly religions have paid attention to human rights and have been keen to protect his body, dignity and honor from any attack.

The evidence for honoring man is the Almighty is saying in Surat Al-Isra, verse 70 (**((We have honored the children of Adam, and we provided them with the means of transportation to carry them on land and sea and we provisioned them with good, wholesome things, and we graced them above many of our creatures, and we endowed them with distinguished attributes))**)

International charters and agreements also guaranteed human protection and safety, and penal legislation in many countries has moved in the same direction. At the forefront of these laws is the Algerian law, which criminalized human trafficking and specifies the forms of assault, its severity and danger, and the punishment for it.

The first part: Definition of the crime of human trafficking in comparative legislation

I explained previously that the crime of human trafficking was known in ancient times and that it affected countries of the world economically and socially, Especially after it has spread to all countries and threatens the lives and dignity of millions of people. In addition, human trafficking has become a popular trade in the financial market and international business that seeks to achieve criminal goals such as promoting prostitution and sexual practices, restoring slavery, and harming the human being, his dignity and honor⁽³⁾.

Internationally, the international community has made strenuous efforts to combat the crime of human trafficking, Through conferences and seminars that sought to set international standards to reduce this crime.

The international community also sought to conclude multilateral international agreements that criminalize human trafficking, including the United Nations Convention against Transnational Organized Crime and the three protocols attached to it. Which was implemented in September 2003

Regarding the Algerian interest in this crime, it has joined many conventions and protocols that criminalize the trade in slavery, including the Supplementary Conventions

for the Abolition of Slavery and the Abolition of Similar Practices of 1965., Algeria also acceded to the Protocol to Punish Trafficking in Women and Children of 2000, and also joined the Convention on the Prevention of Forced Labor concluded in 1930.

Because Algeria is keen on international obligations, it has made fundamental amendments to the Penal Code and added Section Five, which specialized in criminalizing trafficking in persons, and added Section Five bis, which specialized in criminalizing trafficking in organs, in addition to criminalizing illegal immigration.

Perhaps the motivation behind these amendments is due to Algeria's awareness of the seriousness of the crime of human trafficking and its violation of human values, those values guaranteed by the divine religions.

Therefore, the crime of human trafficking falls under the general concept of the crime of slavery and the exercise of the right of ownership over a human being who is not a commodity to be bought and sold.

Human trafficking is not a contemporary term, but it has been linked to ancient times, when the strong controlled the weak, The result of the division of humans into masters and slaves⁽⁴⁾.

Part one A: Definition of the crime of human trafficking

The crime of human trafficking is the third largest illegal trade in the world after arms trade and drug trade, This classification is according to official reports, including the report of the Human Trafficking Monitoring Office of the US Department of State, and those statistics were published between 2004 and 2015⁽⁵⁾.

1-The concept of human trafficking in international treaties

The term human trafficking is an obstacle to the efforts exerted internationally and nationally in the field of combating this crime and arresting and prosecuting its perpetrators. Perhaps the reason for this is the lack of agreement on a specific concept of the term, Especially since crime ranked third in terms of profits after arms trafficking and drug trafficking

The International Slavery Convention of 1926 defined human trafficking as "any person over whom the right of ownership may be exercised, in part or in whole."

The Supplementary Convention on the Abolition of Slavery and Trafficking in Persons of 1956 defined human trafficking as "every act involving the detention, sale, exchange, abandonment or transportation of a person, whatever the means of transportation, with the intention of enslaving him".

The Protocol to Punish Trafficking in Persons, supplementing the United Nations Convention against Transnational Organized Crime, defines human trafficking in Article (3/A) as "the recruitment, transportation, or harboring of persons by threatening them with force and coercion, or kidnapping or deceiving them. Or receive money from a person who has control over them for the purpose of exploiting them in prostitution, forced service, slavery, or removing their body parts."⁽⁶⁾

The 2005 European Council Convention against Human Trafficking adopted in Article 4, Paragraph A, a definition identical to the previous Protocol.

Amnesty International defines human trafficking as “a violation of human rights, including the right to physical and mental integrity, a violation of the human right to freedom, dignity and security, and the human right to movement, health and housing.”⁽⁷⁾

2-The concept of the crime of human trafficking in comparative legislation

In 2003, Egypt joined the United Nations Convention against Transnational Organized Crime, and then the Egyptian Anti-Human Trafficking Law No. 64 of 2010 and its executive regulations were issued. Article 2 of it stipulates that human trafficking is “dealing with a person by selling, buying, offering for sale, transporting, harboring, receiving, or delivering him within the country or across its national borders.”⁽⁸⁾

The French law defined human trafficking in Article 225 of the Penal Code as “an act that aims to recruit, transport, harbor, or receive a person with the intention of placing him at the disposal of others, with the intention of committing crimes against him such as prostitution, violence, and sexual assault, or exploiting him in begging, or forcing him to commit a felony or misdemeanor.”⁽⁹⁾

American law defined human trafficking in Article 1 of the Protection of Victims of Violence and Human Trafficking Act of 2000, with the same definition contained in the Protocol for the Suppression of Trafficking in Persons, supplementing the United Nations Convention against Transnational Crime of 2000.⁽¹⁰⁾

It is noted that Algerian legislation transcended these differences and adopted the definition included in Article Three of the Protocol to Suppress and Punish Trafficking in Persons, supplementing the United Nations Convention against Transnational Organized Crime of 2000.

Therefore, the Algerian legislator defined this crime as “recruiting children, transporting them, harboring them, receiving them by threat or use of force, kidnapping people, defrauding and deceiving them, or giving or receiving sums of money to a person who has control over them.”

Exploitation includes prostitution and all forms of sexual exploitation, forced labor, enslavement of people, or the removal of their organs.

One of the acts of forced labor is receiving sums of money or benefits in exchange for selling or handing over a child to others⁽¹¹⁾

It is also noted that Algeria, in accordance with Law No. 4 of 2023, adopted a broad criminal policy towards this crime and specified the criminal acts, which include recruitment, transportation, harboring and receiving, and required that the crime be proven by specific means such as the threat or use of force, kidnapping, deception, or giving or receiving sums of money, and required the necessity of exploiting the victim.

Jurists defined this crime as all legal and illegal actions that turn a person into a commodity, disposed of by professionals across national borders with the intention

of exploiting the person in low-paid work or sexual acts, whether the victim consents or is forced⁽¹²⁾.

Part one B: Distinguishing the crime of human trafficking from similar crimes

The crime of human trafficking is one of the organized crimes, It is a threat to the developed and developing countries of the world, Perhaps this crime was not very serious in the past, but its seriousness increased and expanded due to technological progress and political, social and economic changes. The freedom of trade and the expansion of the of transporting goods and people between countries across borders led to the development of crime from a national crime to a transnational crime.

A) The difference between the crime of human trafficking and migrant smuggling

First, the crime of migrant smuggling is the smuggling of people against the will of the state without complying with legal immigration requirements, In a more precise sense, it is facilitating the exit of people from their country and their entry into other countries illegally for the purpose of material or moral benefit⁽¹³⁾.

Comparing the two crimes, they differ in terms of their regional scope, The crime of smuggling migrants is always a crime that crosses national borders, In contrast, the crime of human trafficking may cross state borders and may be committed within the state⁽¹⁴⁾.

In addition to the above, the smuggling of migrants takes place with the consent and consent of people to leave their country and enter another country Illegally, But the crime of human trafficking is based on coercion, threats, and circumvention of the law with the aim of assaulting the victim, wasting his dignity, and attacking his honor.

To summarize the above, people smuggling operations are carried out by transporting them from one country to another illegally for the purpose of profit. This smuggling is not human trafficking, although it often takes place in extremely dangerous conditions, but it requires the migrant's consent to illegal immigration, Unlike the crime of human trafficking, which does not require the consent of the victims, they are often unaware of their fate and that they will be forced to work in prostitution, forced labor, etc. Therefore, the smuggling of migrants may turn into a human trafficking crime if it is combined with fraud, deception, and coercion⁽¹⁵⁾

B) The difference between the crime of human trafficking and kidnapping

The crime of kidnapping is considered one of the means of committing the crime of human trafficking and one of its element, Although they are similar in terms of the victim, which is the human being.

Perhaps what distinguishes the two crimes from each other is the moral element, This is because the crime of kidnapping requires only a general criminal intent, which is to transport the victim from one place to another, unlike the crime of trafficking, which requires a special criminal intent, which is the intent to exploit the victim.

Perhaps what distinguishes the crime of kidnapping is that it is a compounded crime, meaning that it is a means to commit other crimes such as kidnapping, recruiting,

and harboring people. If any act is accompanied by threats or exploitation in forced labor or prostitution, then the crime becomes human trafficking. The transfer of the victim is completely independent of human trafficking, and deportation is also independent of it⁽¹⁶⁾

Q) The difference between the crime of human trafficking and illegal immigration:

The crime of human trafficking is a type of illegal immigration, because the crime is committed by forcibly transferring people from one country to another without an entry visa.

It is noted that the crime of illegal immigration is always transnational, while the crime of trafficking may be committed inside or outside the country Provided that its elements are available⁽¹⁷⁾

Despite comprehensive international cooperation and continuing efforts to combat crime, countries still suffer from an increase in the number of victims of human trafficking, especially women and children. The purpose of this is to exploit them physically in forced labor in factories and farms, or exploit them sexually in prostitution and forced marriage.

I would like to emphasize that it is difficult to measure the extent of the crime of human trafficking because its perpetrators are keen on its secrecy. However, the Lamash Foundation and the International Labor Organization were able to give preliminary estimates of the number of victims of forced labor and sexual exploitation in 2016, and that the statistics amounted to 25 million victims.

Part two: Characteristics of the crime of human trafficking

1- Human trafficking is an organized crime:

It is an organized crime because it is committed by organized international criminal gangs that have become professional criminals and whose activity and has become source of livelihood.

Therefore, the United Nations, when it defines human trafficking, has emphasized that it is a crime and complex criminal acts that include a broad activity carried out by gangs with a wide degree of technical expertise and organization, with the aim of achieving wealth, and they often threatening the lives of people and the security of society.

It is known that organized crimes are those that are prepared and implemented in more than one country, and perhaps the most prominent examples are human trafficking crimes, illicit arms trafficking crimes, drug trafficking crimes, terrorism crimes, crimes of sexual exploitation of children, theft of intellectual property, and other crimes that It is committed in one country and its effects extend to another

Therefore, the United Nations Convention against Transnational Crime of 2000 specified the cases in which the crime is transnational, namely:

- a) If the crime was committed in more than one country.
- b) If it was committed in one country but was planned in another

c) If it is committed in one country, but it is committed by an organized criminal gang that operates in more than one country

International studies, statistics, and reports have proven that the majority of victims of human trafficking are women and children. Although human trafficking is an international crime, it is sometimes committed within the country ⁽¹⁸⁾

2) Planning and organizing:

One of the characteristics that distinguishes the crime of human trafficking is that it is often committed by organized groups with the aim of committing one of the crimes stipulated in international agreements, the protocols attached to them, and national laws, in pursuit of a material benefit ⁽¹⁹⁾.

3) Human trafficking is a compounded crime:

The crime of human trafficking is characterized by being compounded because the criminal activity that constitutes its material element consists of more than one act, and it also consists of several acts, each of which can be a crime. For example, human trafficking is a crime that includes kidnapping, threats, coercion, and deception

4) Human trafficking is an ongoing crime:

The component of the criminal activity of human trafficking takes time, because the victim is transported, sheltered, recruited, and physically or sexually exploited, whether in forced labor or prostitution. Therefore, the element of time is essential in this crime ⁽²⁰⁾

5) Intentional crime:

Because it is an intentional crime, for the offender to be punished, it is required that the moral element be present, that is, general and specific criminal intent. The perpetrator must realize that he is recruiting people and transporting them with the intention of forcing them into forced labor, prostitution, or...

6) Profit seeking:

I said previously that human trafficking is the third most profitable trade after arms and drug trafficking. Human traffickers commit this crime by transporting, harnessing and exploiting humans like any other profitable commodity

i would like to pointed out that advanced technology helped speed up the transfer of people, open global markets, expand the activity of international criminal organizations, and transform national crime into international organized crime. ⁽²¹⁾

Section Two

Criminal policy efforts to combat human trafficking

Algeria has paid great attention to the crime of human trafficking, through legal and institutional development, and the enactment of special laws that facilitate the prosecution of perpetrators of the crime. It has also developed procedures for investigation, research, and law enforcement.

Punitive policy in Algeria occupies an important place legally and judicially, especially in the field of reviewing comparative laws, applying the best ones internally, and benefiting from the experiences of various successful organizations internally and internationally.

Part one: The nature of the criminal behavior of human trafficking and mechanisms to confront it

A) Elements of the crime of human trafficking:

The crime of human trafficking is one of the most serious crimes, and therefore three elements must be present for this crime, which are: the legal element, the material element, and the moral element.

The legal element: The Algerian legislator criminalized human trafficking under Law 4/2023, which contained 77 articles that included all acts and practices that are considered human trafficking.

The material element:

It is the criminal activity and physical behavior committed by the perpetrator in committing the crime, which is deceiving people, transporting them, and offering them to work in prostitution or forced labor. In other words, it is the outward appearance of the crime⁽²²⁾.

I believe that the Algerian legislator's keenness to enumerate the forms of criminal activity is the desire to expand the scope of criminalization to include all cases involving human trafficking. The legislator did not require that all the acts that constitute the crime be committed, but rather one act is sufficient.

Therefore, the material element of the crime of human trafficking is criminal behavior to harm a living human being through means specified by law.

Criminal activity.

It is, transporting, deporting or harboring people.

Means of criminal activity.

This crime is committed by several means, including the threat or use of force, fraud, deception, exploitation of one's position, or fraud and the provision of assistance by a person who has authority over the victim.

The subject of criminal activity.

The subject of criminal activity is the benefit that the offender seeks to obtain, whether it is a material or moral gain.

One of the methods used to commit the crime is to exploit economic, social and health conditions for the purpose of human trafficking. For example, the perpetrator may take advantage of the victim's inability to resist, Or the victim becomes ill or becomes incapacitated and becomes a victim of human trafficking perpetrators, and these circumstances become a means for receiving or giving sums of money to another person who has control over them.

The husband may force his wife to engage in prostitution, and the perpetrator may resort to giving money to another person who has control over the victim to convince him to exploit the victim and traffic her⁽²³⁾.

The Moral Element:

Criminal intent has two forms:

General intention consists of knowledge and will:

knowledge means : The perpetrator must be aware of the legal elements of the crime, and realize that he is violating a human right ⁽²⁴⁾.

Will is the psychological desire to achieve an illegal goal. Examples include:

- Infringement of honor and sexual assaults
- Begging, slavery, assault on freedom, and forced service
- Attacking a person's soul, removing his body parts, and performing medical experiments on them

Special criminal intent:

The laws stipulate, in addition to the general criminal intention, that there be a special intention. The private criminal intent, is committing the crime exists in one of the forms specified by law ⁽²⁵⁾.

Regarding the forms of human trafficking in accordance with the Balramwa Protocol: forced labor, servitude, the removal of body parts, prostitution and sexual exploitation.

All national legislation has emphasized the need for private criminal intent in the crime of human trafficking, which takes two forms: intent for sexual exploitation and intent for medical exploitation. ⁽²⁶⁾

B) Means of criminal behavior of human trafficking:

The law specified means without which the crime of human trafficking cannot be committed, It includes coercive and non-coercive means⁽²⁷⁾

First: Coercive means of human trafficking : According to Algerian law and international agreements, we can be limited it to two means: coercion and kidnapping.

1- Coercion through which the victim's will is lost, whether the coercion is physical or moral

Definition of coercion: It is every coercive act committed by the perpetrator to thwart the victim's resistance, and it is also every threat to the victim when he resists the crime, and therefore Algerian law defined it as the use of force or the threat of using it.

Kidnapping: It is a method of human trafficking mentioned in the International Protocol, Algerian legislation, and comparative legislation

Definition of Kidnapping: Kidnapping: According to the Algerian Penal Code, it is every kidnapping or deportation of a minor under the age of eighteen with the intention of removing him from his guardian or his guard.

Second: Non-coercive means of human trafficking:

Algerian law and the International Protocol specify several non-coercive means of human trafficking, including:

Trick and deceive the victim and exploit his personal, social and economic circumstances to force him to commit certain criminal behaviour. The perpetrator of the crime aims, through deception and trickery, to achieve huge profits.

The deception may be complete: when the perpetrator seduces his victims with

1- false promises that he will provide them with jobs and financial gains and completely misleads them, an example of which is illegal immigration.

The coercion may be partial when the victims are partially misled into convincing them of a job opportunity and after hiring them, they are forced into other illegal work⁽²⁸⁾.

2-abuse of authority: This is when a person seeks to exploit his power to coerce others to commit criminal behavior that violates the requirements of his job.

3- Exploiting illness and weakness: The victim may be physically, mentally, psychologically, or... so he becomes prey to human traffickers and commits a crime imposed on him because of his illness.

4- Giving or receiving sums to gain the consent of a person who has control over the victim, Meaning that the perpetrator seeks the mediation of another person who has control over the victim to force him to engage in an act of human trafficking in violation of laws, customs, and social customs.

The laws exclusively specify the actions that would control the victim physically or morally

Part two: Legal mechanisms to address human trafficking crimes

A) National mechanisms

I will seek to clarify the measures Algeria has taken to implement its strategic plan to combat human trafficking in Law 4 of 2023 issued on May 7, 2023.

1- Criminalization

Algeria is committed to taking the necessary legal procedures and measures to criminalize acts of human trafficking, such as trafficking in children, women, and men, as well as criminalizing their attempt.

Hence, Algerian legislation adopted a broad criminal policy to confront these crimes, by listing the criminal acts, which are recruiting, transporting, or harboring the victim, or coercion and forced labor.

Algerian law requires specific means to prove the crime, such as the threat or use of force, trickery, deception, kidnapping, exploiting the victim's weakness and illness, or receiving or paying money. All of these actions are just examples

From the above, the law criminalizes every behavior or action that leads to harm to the human body or disrupts the function of any of its organs, and therefore everything that leads to harm to a person physically, mentally, or psychologically is a crime.

According to Algerian legislation, human trafficking is a compounded consisting of several acts, and each act is considered an independent crime

2-Measures to prevent human trafficking:

These measures are policies, strategies and programs regulated by Algerian law for the purpose of combating crime and protecting victims of human trafficking from the perpetrators returning to harm them. These efforts are achieved in cooperation with non-governmental organizations and civil society elements

3-Helping and protecting victims of human trafficking:

It is necessary to take measures and assist them medically, financially, and judicially by facilitating and accelerating investigation procedures and obtaining compensation for damages.

4-Article 8 of the Protocol stipulates that the victims be returned to their countries

5-International cooperation in the field of crime investigation, providing information and providing training

6-Border measures: Border cooperation to detect human trafficking crimes without compromising right of movement, And take border measures to prevent crime.

As a result of the above, the Convention and the Protocol regulated the legal issues of the crime of human trafficking, especially the scope of criminalization and international cooperation to prevent the crime.

7-Cases of aggravation of the penalty stipulated in Law 4/2023:

- If the crime is committed by an organized group
- If the crime is committed against a sick or infirm woman
- If the crime is accompanied by the use or threat of a weapon
- If the crime is committed by more persons
- If the perpetrator uses drugs and psychotropic substances to control the victim
- If the crime is committed by threatening the victim with death and torture
- If the crime results in the victim being permanently disabled
- If the crime is across national borders
- If the criminals are employees of legislative, executive or judicial bodies
- If the crime was committed by the victim's husband, son, or one of his ascendants or descendants
- If criminals use information and communication technology to commit crime

8-Pardon of punishment in Law 4 of 2023

The Algerian Penal Code regulated amnesty through general provisions, obligating the offender to notify the executive or judicial authorities of the potential crime early and to assist in rescuing victims and arresting criminals. If he reported the crime and helped uncover it, he would be exempted from punishment

B) International mechanisms to combat human trafficking:

The escalation of the crime of human trafficking has led to concerted international efforts to combat it with the aim of eliminating it. It is impossible to combat this crime without international cooperation⁽²⁹⁾

Perhaps the reason for this is the diversity of this crime and the rapid technological progress that may make it difficult to prove it, and national laws are often unable to prosecute criminals due to their ease of movement from one country to another⁽³⁰⁾.

International cooperation cannot affect state sovereignty, but rather joint cooperation between states to pursue perpetrators of crimes whose elements exceed the borders of one state⁽³¹⁾

International cooperation is a condition for the success of international efforts to combat this crime in all its forms, including trafficking in women and children across state borders, and it is impossible to confront it without joint efforts. Since international gangs operate across national borders, judicial systems must be like them.

The United Nations General Assembly has made clear that the crime of human trafficking is one of the most serious challenges that must be addressed. Therefore, it issued the Additional Protocol to supplement the United Nations Convention against Transnational Crime.

Perhaps her interest in this crime is that human trafficking is part of the slavery trade in its contemporary form, This is confirmed by the United Nations Human Rights Committee, which has classified trafficking in women and children as a type of slavery⁽³²⁾

Because international cooperation is an effective mechanism for combating human trafficking, this cooperation requires rapprochement between national penal systems, because the criminal will search for the most tolerant legal systems.

Therefore, many international agreements were concluded to combat crime, which allowed the delegation of jurisdiction to investigate, collect evidence, extradite criminals, and accept criminal judgments without compromising the sovereignty of the state.

According to international law, prevention is the main element in combating human trafficking and commercial sexual exploitation, although prevention depends on addressing other issues such as racism, sexism and poverty, and these factors help human trafficking groups to exploit the poor classes in society⁽³³⁾.

In addition, international human rights treaties oblige states to protect those rights, and require the state to take the necessary measures to protect victims and arrest and prosecute perpetrators.

Cross-border human trafficking requires joint cooperation in investigations and information, which is included in the Transnational Organized Crime Convention for the purpose of combating crime⁽³⁴⁾.

The United Nations and its agencies have sought to combat crime in general and organized crime in particular, and combat human trafficking, and have established several

subsidiary bodies to combat it, including the United Nations Crime Prevention and Criminal Justice Programme.

In this context, the United Nations held the Eleventh Crime Prevention Conference in Bangkok on April 18, 2005, which included many recommendations to prevent trafficking in women and infants, prevent the smuggling of migrants, and combat trafficking in human organs.

The General Assembly, in its final report in Resolution No. 58/137, urged participating countries to follow a comprehensive approach to combating human trafficking, which includes implementing the law, protecting victims, confiscating the proceeds of crime, and taking preventive measures.

It also urged countries to cooperate technically, organize media campaigns to raise awareness of the dangers of crime, and organize social skills training programs to help victims of human trafficking. It also urged countries to prepare programs to integrate crime victims who have been subjected to sexual assaults, as well as those whose organs were removed and sold for money.

Therefore, international cooperation within the framework of the United Nations is based on the following mechanisms:

1- Exchange of legal aid

Organized crime gangs follow a dangerous and effective approach that relies on penetration, centralization, control and control by taking advantage of countries' borders. With this approach, these gangs can impose their conditions and increase their gains by violating national and international laws.

Because the crime crosses borders, the problem is that national governments find it difficult to trace or arrest the perpetrators, and sometimes they are unable to prove the crime.

Countries on whose territory the crime was partly committed must provide assistance because the perpetrators can move easily between countries using modern technological means.

In practice, many countries have enacted laws committing themselves to providing international cooperation to track down and punish perpetrators, in addition to treaties that encourage mutual legal assistance⁽³⁵⁾.

2-Establishing jurisdiction

According to the principle of territorial jurisdiction, the state's law applies to a crime that occurs wholly or partially on its territory regardless of the nationality of the perpetrator. This principle applies to all crimes, including human trafficking, but we must note that this crime differs because it crosses national borders.⁽³⁶⁾

Therefore, the United Nations Convention against Organized Crime encouraged extraterritorial jurisdiction and emphasized the right of governments to exercise their authority beyond their territorial borders.

3-Extradition:

Extradition of criminals, according to international legal jurisprudence, is a form of international cooperation to combat crime and protect societies from criminals who threaten their security and stability.

As previously mentioned, organized crime gangs are not limited by borders and commit their crimes in the territory of more than one country. Thus, countries are unable to pursue them, and therefore it has become necessary to take measures to help extradite criminals fleeing outside the country's borders ⁽³⁷⁾.

The purpose of extraditing criminals is to avoid the criminal escaping punishment, as he may commit the crime in one country and escape to another, so the country on whose territory he committed the crime cannot prosecute him.

4-Ensuring strict control of the country's borders and the security of documents

The Anti-Trafficking in Persons Protocol affirmed the commitment of each country to tighten control over its national borders and secure its documents to the extent necessary to prevent the crime and detect its perpetrators, and obligated countries to take the necessary legislative measures to tighten border control, in addition to tightening control over commercial vehicles that may be used in the crime.

Article Five of the Protocol adopted what was stated in Article One and listed the criminal acts, which are recruiting, transporting and harboring people, in addition to attempting to commit them or directing others to commit them.

Conclusion:

There is no doubt that the crime of human trafficking is considered one of the most serious crimes because it violates the basic principles of protecting human rights and preserving human dignity guaranteed by Algerian law.

It also violates the principles of the divine religions because it is an assault on human dignity, which Islam is keen to protect. It also violates international standards stipulated in conventions and protocols, including the Protocol to Prevent and Suppress Human Trafficking, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

It is also a violation of the Optional Protocol attached to the Convention on the Rights of the Child to prevent the sale and exploitation of children in prostitution and pornographic materials.

Given the seriousness of this crime to the security and stability of countries and its threat to women and children, international efforts have come together to combat it and develop mechanisms to reduce it and prosecute its perpetrators, and Algerian Legislation No. 4 of 2023 was at the forefront of these laws.

Algeria is making continuous efforts to combat crimes of trafficking in persons, especially women and children, in implementation of the principle of international legality, in addition to Algeria's keenness to implement its international obligations regarding the criminalization of everything that affects a person or undermines his honor and dignity.

Algeria was not satisfied with issuing laws, but was keen to make efforts and put in place the necessary mechanisms to implement them in accordance with what was stated in Law No. 4 of 2023.

In addition to the above, Algeria deals with the crime of human trafficking in a sharp and decisive manner, due to Algeria's awareness that this crime is a blatant violation of human rights and human, religious and cultural values, not nationally but globally.

Recommendations

- Activating the tasks of civil society in combating and preventing the crime of human trafficking
- Raising awareness of national measures and procedures to combat the crime of human trafficking across national borders
- Addressing the social, economic and cultural factors that help make people prey to human trafficking criminals
- Media awareness of the dangers of illegal immigration and human trafficking
- Developing awareness programs in educational institutions and cultural centers to raise awareness of the dangers of kidnapping women and children
- Encouraging research and academic studies in the field of human trafficking crime and mechanisms to combat it
- Strengthening international legal, judicial and security cooperation mechanisms in the field of combating human trafficking

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