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Inside or outside: human trafficking flows and changing dimensions (The case of the Republic of Macedonia)

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Abstract:

Human trafficking, like every other appearance, has adjusted its characteristics on the conditions and opportunities in modern world. Its normal functioning is directly dependent from possibilities in community.

Starting from the fact that the phenomenon is a complicated criminal process, its research asks the crime to be analyzed from different aspects. All of those aspects refer to one side of the crime, connecting it with same or similar acts, leaving us possibilities to discuss the existence of synonyms, antonyms and homonyms. Today's form of human trafficking, gives us a possibility to connect it with other similar practices from past and search its roots. Through analyses of past and today's forms we could conclude that their content is still the same, that what changes is only the form, and to some levels the roles of subjects and objects of the crime.

The paper, starting from 2002, will draw a line and put on the surface the changes of victim's characteristics, their origin, and their demographical characteristics and all to that to show how human traffickers adapted on territorial, political, social and judiciary changes and new legal methods and tools. So we can make a difference between chronological parts, a case study analysis will be used, analyzing the case of the notorious human trafficker in Macedonia, D.B.L., which case study will directly point out the deficiencies of the legal system before the Palermo Protocol.

Keywords: Balkans, dimension, human trafficking, organized crime, Palermo Protocol.

Introduction: Lets traffick in the Balkans

Attempts of suppressing human trafficking are as old as the existence of this crime. Authorities, through its police forces have changed many methods in investigating the phenomenon, which on the other side resulted with different modus operandi of organized crime groups and individual perpetrators of this crime.

The Balkan Peninsula, because of its geographical position (for some of its countries) is a bridge between modern Europe (European Union) and the other part (still candidate countries for full membership in the European Union); and war conflicts on its soil for about 15 years, during and at the end of 1990s and the beginning of the XXI Century, were seen as solid soil for being used as territory of exploitation and transport of victims of human trafficking. Lack of control in new countries (Yugoslavian Federation was falling apart), fragile systems, corrupted politicians and the fight for

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higher material and financial benefit by elites were one of many factors leaving organized crime an open door for smooth crawling in every part of society. Human trafficking was one of many tools used for fast and easy money, using victims' dreams and necessities, organized groups used them for fulfilling pleasures of military and foreign forces (peacekeepers) and other clients. The Palermo Protocol illuminated governments, included human trafficking into legal and penal documents, finally after years made real the *de facto* difference between prostitution and human trafficking for the purpose of sexual exploitation.

Years later, legal systems, because of harmonization with European legislature were adjusted to international documents, newer methods were accepted, border controls, action against corruption, police actions and investigations, changes in legal and criminal incriminations. And such policies gave results. They decreased the level of crimes, but caused changes of phenomenon's phenomenology. The human trafficking we knew mutated and overnight changed key points in the process.

That is the main **hypothesis** of the paper. The development, new police methods, flows in migration, border changings in Macedonia, resulted with changed human trafficking (domestic victims, new kinds of exploitation, staying inside borders, etc.).

The paper using **data analysis and comparative method**, through statistical data from the Ministry of Internal Affairs of the Republic of Macedonia, will analyze phenomenological characteristics of human trafficking, its volume, dynamics, structure and structural changes, possible manifestations and the characteristics of perpetrators and their victims. So we can make a difference between chronological parts, a **case study analysis** will be used, analyzing the case of the notorious human trafficker in Macedonia, D.B.L., which case study will directly point out the deficiencies of the legal system before the Palermo Protocol.

In this way results provided will help to check how undertaken steps by Macedonian authorities influenced on operating Balkan organized criminal groups and their acts in human trafficking process. Using those results, authorities can build new strategies for suppression and most important, prevention of trafficking.

Also, conclusions based on data analysis will be used for framework of suggestions covering wider territory, accenting the need of institutional and international cooperation. Measures will be offered, measures that will cover all sides of human trafficking, all of its phases, starting from recruitment until exploitation, with one and only goal at the end of actions – to put human trafficking at the lowest rate in its existence in these countries.

Human trafficking is real? The Palermo protocol and its impact on national legislation

Being in the Balkans and having a fate of candidate and neighbor of European Union and of course being "born" in times of numerous war conflicts, it what makes you an important country of transit and destination for human traffickers. Although conflicts happened at the end of XX and beginning of XXI Century, human trafficking in Macedonian legislation was incriminated after the Palermo Protocol.

Newer researches in criminology, count trafficking in human beings into the so called "consequent crime", which indicates the crime that unites the most difficult forms of crime, physical, psychological and intellectual exploiting of every human being,

always mixed with most difficult, most cruel methods of violence and physical and psychological coercion. It's a crime that, because its wideness and the effects of human beings life and work, is difficult to be revealed and proved.¹

The Palermo Protocol was signed by Macedonian Delegation on December the 12th 2000 and ratified five years later. Human trafficking for the first time was incriminated in 2002. The first incrimination was changed in 2004 when the possible methods of exploitation were expanded and penal sanctions became more severe than before. In 2008 a new incrimination connected with human trafficking was added in the Macedonian Penal Code and for the first time trafficking in children became special incrimination with much more severe penal sanctions (minimum eight years of imprisonment).

The incrimination in its first paragraph elaborates human trafficking in its primary definition, the one taken from the Palermo Protocol. The second one is regarding the personal documents which are always taken away by traffickers. Also, there is a paragraph (3) which incriminates using sexual services from victims of trafficking. If the perpetrator is a public official, then the sanction is severe. And of course, in accordance with the Council of Europe's Convention on action against trafficking in human beings the victim's consent is irrelevant for the existence of the crime.

It is quite clear that Macedonia starting from the first incrimination in 2002 through years showed maturity, preparedness and ability to be in line with new legal recommendations given by international community. The Macedonian incrimination (both incriminations) elaborates human trafficking in its every aspect (act, means, goals) and finally after long time of victims' suffering and minor penalties for perpetrators, there is an incrimination that will help in the process of phenomenon's suppression, of course together with other preventive measures.

Police is always one step back: Phenomenology of human trafficking in the Republic of Macedonia

Phenomenological characteristics of crimes are one of most important theoretical elements, especially in researching crime or some of its types. Researching phenomenology helps us understand the bigger picture, starting with the number of crimes, their form and shape, perpetrator's and victim's characteristics, using all of it to estimate future trends of crime.

The volume of crime is defined as the total number of committed crimes in one area at a specific time. Dynamics of crime and delinquency are determent with their social character. Every period through history has its own crime. Changes in social, economic, cultural and other relations mean change in crime's dynamics. Namely, through the prism of dynamics, changes in crime's volume can be noticed, helping us to start the alarm of the possible reasons for such development of numbers. Sometimes effective and efficient police work can result with different dynamics, but sometimes it can be result of sophisticated *modus operandi* of organized crime groups or individual

¹ Љупчо Арнаудовски. "Криминалитетот "Трговија со луѓе" – проблеми во дефинирањето" Родова перспектива на трговијата со луѓе (2004): 47.

offenders. In different words individual and social development in every area of human existence can provoke changes in the criminal area.

Analyzing the number of registered crimes of human trafficking, we could conclude that this crime had its culmination in 2003. Namely, starting from 2002 when 18 crimes were committed the phenomenon had its increase for 75% in the next year. In 2004 the number decreases for 45.2% compared to the year before. This decreasing trend continues in 2005 when human trafficking declines for 63.2%. The period 2006-2012 is a period with the lowest percentage of these crimes.²

Trafficking of children until 2008 was not a specific crime, but was a part of human trafficking (art. 418-a). Starting from 2008 it is a specific crime, although basically it is the same phenomenon. In the first year of statistical monitoring 9 crimes were noted. Same as the basic form of this crime, trafficking in minors had its period of decline with only 7 crimes committed in 2009, 3 in 2010 and only 1 in 2012.³

Analyzing the total number of crimes of human trafficking we can make a conclusion that although percentage share of human trafficking in the overall crime is very low, yet we must know that these crimes destroy human dignity and does not respect basic human rights.⁴

Structure is not a mechanical sum of scattered parts, but of facts placed in a system which shows the wholeness of the phenomenon. The complexity of human trafficking as a criminal process is a sum of different and individual acts which together create the circle of modern slavery. Because of this human trafficking can be structured using different criteria, as: the method of recruitment, the method of transport, the type of exploitation, victim's age, victim's gender, the number of offenders, the territory where its committed etc. We will classify human trafficking using the type of exploitation because it is the main purpose of traffickers.

Regarding most often types of exploitation we can conclude that in the Republic of Macedonia when victims are adults they are sexually exploited and when victims are children they are sexually exploited and forced to work unpaid jobs and in inhuman conditions, at the same time.

Offenders 'gender has never existed as independent determinant but is always connected with economic, cultural and social conditions. Starting from long ago till today crime is seen as male's profession. Some authors give ratio 1:5 between female and male convicts, 1:10 for prisoners and 1:20 for juveniles. This difference is known as "gender gap" or "ratio gender-crime" which is one of the key themes of feminist criminology. Women commit fewer crimes; they give up without hesitation; they reach critical age earlier than men and rarely commit professional crimes. Maybe it is the result of different way of social upbringing of genders. Girls must be polite and calm, but boys must be strong. This is result of natural predestination of women to become pregnant. It is not only sexual education but a whole social codex.

² Известувања од Министерството за внатрешни работи на Република Македонија со рег.бр.19.4 - 490 од 28.02.2011 година и рег.бр. 22.2 - 2486 од 28.09.2012 година.

³ Известувања од Министерството за внатрешни работи на Република Македонија со рег.бр.19.4 - 490 од 28.02.2011 година и рег.бр. 22.2 - 2486 од 28.09.2012 година.

⁴ Известувања од Министерството за внатрешни работи на Република Македонија со рег.бр.19.4 - 490 од 28.02.2011 година и рег.бр. 22.2 - 2486 од 28.09.2012 година.

Table n. 1

Offenders 'gender (human trafficking ar. 418-a and 418-g) in the period 2002-2012

Year	Offenders	Women	Percentage (%)
2002	33	1	3.03
2003	78	/	/
2004	42	3	7.14
2005	6	/	/
2006	4	1	25
2007	4	/	/
2008	4	1	25
2009	1	/	/
2010	/	/	/
2011	6	2	25
2012	6	1	16.7

Source: Ministry of Internal Affairs of the Republic of Macedonia

Table n. 2

Offenders age (human trafficking ar. 418-a and 418-g) in the period 2002-2012

Year	Offenders	Age									Per-centage (%)
		18 – 25 years	Per-centage (%)	26 – 35 years	Per-centage (%)	36 – 45 years	Per-centage (%)	Above 45 years	Per-centage (%)	Unknown	
2002	33	2	6.06	15	45.4	9	27.3	2	6.06	5	15.1
2003	78	6	7.7	23	29.5	26	33.3	7	9	16	20.5
2004	42	6	14.3	13	31	20	47.6	3	7.1	/	/
2005	40	1	2.5	1	2.5	2	5	2	5	34	75
2006	4	/	/	3	75	1	25	/	/	/	/
2007	4	/	/	3	75	1	25	/	/	/	/
2008	4	1	25	2	50	1	25	/	/	/	/
2009	1	1	100	/	/	/	/	/	/	/	/
2010	/	/	/	/	/	/	/	/	/	/	/
2011	6	1	16.7	2	33.3	2	33.3	1	16.7	/	/
2012	4	/	/	2	50	/	/	2	50	/	/

Source: Ministry of Internal Affairs of the Republic of Macedonia

Regarding traffickers in the Republic of Macedonia two age groups are dominant. The first one from 26 to 35 years covers the period when ones necessities are bigger then possibilities, so crime is seen as an exit in some cases. The second one (36-45) is the period of maturity when people have stabilized life so intentional and planed crimes are reality.

On the other hand, the concept of victimization risk is connected with the possibility of someone becoming a victim of crime and is connected with predictions of potential injury. Using it we can statistically analyze which groups are vulnerable of specific type of crime. However such estimations are not always connected with special characteristics of a potential victim or with interaction and relations between the victim and the trafficker.

Table n. 3

Victims gender (human trafficking ar. 418-a) in the period 2002-2012

Year	Victims	Men	Percentage (%)
2002	41	/	/
2003	132	/	/
2004	17	/	/
2005	6	/	/
2006	4	/	/
2007	6	/	/
2008	1	/	/
2009	1	1	100
2010	/	/	/
2011	2	/	/
2012	3	2	25

Source: Ministry of Internal Affairs of the Republic of Macedonia

Table n.4

Victims' age (human trafficking ar. 418-a) in the period 2002-2012

Year	Victims	Minors	Percentage
2002	41	6	14.6
2003	132	24	18.2
2004	17	3	17.6
2005	6	/	/
2006	4	1	25
2007	6	3	50
2008	1	1	100
2009	1	/	/
2010	/	/	/
2011	2	/	75
2012	3	/	62.5

Source: Ministry of Internal Affairs of the Republic of Macedonia

Table n.5

Victims' age (human trafficking ar. 418-g) in the period 2002-2012

Year	Victims	1 – 7 year	8 – 14 year	14 – 17 year
2008	11	/	4	7
2009	7	/	/	7
2010	5	/	/	5
2011	6	/	/	6
2012	5	/	/	5

Source: Ministry of Internal Affairs of the Republic of Macedonia

High risk group are children between 13 and 18 years of age coming from poor and dysfunctional families, and children without parents' care. In their families' social and economic problems, domestic violence, socio-pathological phenomena are everyday life. Also, children with low grades at school or ones that are not part of the educational process are potential trafficking victims.⁵

Roma minors are also vulnerable group because of their tradition to enter in marriage on early age going afterwards in Western European countries where they become victims of human trafficking. Mostly adult unemployed people with no education or low level of education, between 18 and 33 years of age, accept working in the country or abroad using intermediaries not knowing the work conditions. In this way they became victims of human trafficking for the purpose of forced labor.⁶

Synonyms or mutations? The case of D.B.L.

The biggest process before Macedonian courts happened for the period between 2000 and 2001, a period when human trafficking was not incriminated. The offenders were accused for crimes incriminated in article 191 paragraph 1 and 3; procedures at the beginning were individual and later were merged into one criminal procedure which took place before the Primary Court in Bitola in the period between 2003 and 2004.

I. Prosecution act

1. D.B.L. – article 191 p.1 and p.3 from the Penal Code of Macedonia;
2. R.V – same;
3. K.P. – same;

DBL in January 2000 bought victim A from a person in Kumanovo, then he brought her in his night club in the village of Veleshta, where she was kept captive and forced to give sexual services to clients until July 2000. Afterwards he gave the victim to RV and KP who took her to the night club of the first one where she was again forced to give sexual services to clients, mostly KFOR soldiers. In November 2000 she was brought back to DBL who continued with exploiting her until June 2001, when the victim managed to escape.

⁵ National Reporter. *Yearly report*. (Skopje, 2012), p. 13.

⁶ *Ibid*, p. 14.

Statement of victim A (21, Moldova) - because she was not being possible to find employment in her country she applied for a job in Italy. She found the job in an advertisement in a newspaper. The transport was going through Romania, Hungary and Serbia; all borders were crossed legally with her original passport. Then they crossed to Bosnia and Herzegovina, where she was told that she can go to Italy, but illegally. The victim accepted the offer. The problem started when she realized that she was not transported to Italy, but back to Serbia where her passport was taken and then she was taken to Kumanovo using an illegal crossing path. The next day she was chosen by few people and was taken in Veleshta. In the night club DBL told her that she will work as a dancer, but if some of his clients ask for sexual services she will accept. The price for her services was 120 German marks for an hour or 200-300 for a night. When she tried to say no she was beaten. After a period of time she and other girls were asked if they want to go Ohrid and work there as dancers. Thinking that she will not have to give sexual services, the victim A accepted the offer. Arriving in Ohrid she realized that she will have to give sexual services to KFOR soldiers. Beatings continued. In few months' time she was taken back to Veleshta where the exploitation continued. In December 2000 after a raid in the night club where she was deported from Macedonia and she was given a ban to enter Macedonian territory in a period of two years. She and few other girls were taken to the border with Serbia where a person told them that it is not safe to cross borders walking and managed to persuade them to get into his car. Making that move victim A was taken back to Veleshta where she continued to give sexual services till the beginning of 2001 when she managed to escape and using a bus to get to the Moldavian Embassy in Skopje. During the sexual exploitation she got pregnant and had an abortion.

II. Prosecution act

1. D.B.L. – article 191 p. 1 and p. 3 from the Penal Code of Macedonia;
2. R.V – same;

The victim worked for a month and a half as a waitress in the night club, but after a period of time DBL forced her to work as a dancer and later as a prostitute. Her passport was taken away and after few months she was sold to RV and worked in his night club. In August 2000 she managed to escape.

Statement of victim B: in 2000 victim B met DBL's brother in Bulgaria where he gave her his phone number and invited her to his hotel in Struga, Republic of Macedonia. She accepted the invitation and in May 2000 came to Macedonia and started a sexual relationship with him. Few months later he offered her a job as a waitress in DBL's night club in Veleshta. Although she refused, at the end accepted to work there for a month and a half and then go back to Bulgaria. But later DBL using physical force made her to work as a dancer and later to give sexual services. During her sexual exploitation she tried to kill herself, got Hepatitis and in August 2000 was sold to RV. There saying that she will go to buy cigarettes managed to go out, enter in a cab and drive off to Ohrid where she told the police what is happening in Veleshta.

III. Prosecution act

1. D.B.L. – article 191 p.6 in connection with p. 1 Penal Code of the Republic of Macedonia;
2. Zj.N. – same;
3. R.V. – same;
4. K.P. – article 191 p.1 from the Penal Code of the Republic of Macedonia.

DBL gave employment to several number of women in his night club in Veleshta. Seven of them were foreign citizen who were forced to give sexual services. ZjN and RV did the same in their night clubs in Struga and Ohrid. KP was part of their activities.

Statement of victim C (22, Moldova): a woman who was working in Italy gave her information that she can help her to find employment as maid. The victim accepted the offer after which she was taken to Chisinau where she met another man who was supposed to take her to Romania. She entered Romania legally then Serbia and at the end Macedonia, where she entered illegally using mountain routes.

Statement of victim D (23, Moldova): same as victim C this victim was approached by a woman who supposedly worked in Italy. When victim D accepted to go and work there she was illegally taken to Macedonia using the same transit points from Romania through Serbia and then Macedonia. She was taken to DBL's night club where her passport was taken away (DBL gave her a copy so she can send money at home). She was forced to give sexual services to clients.

Statement of victim E (23, Romania): she travelled from Timisoara, Romania to Belgrade, Serbia for shopping. In the bus she started a conversation with a woman who said that is coming from Romania. Arriving in Pancevo the woman met someone and she introduced him as her close friend. Because victim E was planning to stay few days in Pancevo she accepted the offer to stay in his apartment. The next morning she found out that there are six other girls in the apartment, the man she met was called P and he took her passport and personal items. She stayed there for several days; everyday people were coming and were buying girls. The victim was sold in the Republic of Srpska in September 2000. There she managed to escape from the apartment where she was held, went to Banja Luka and informed the police. They gave her documents and money and together with a police officer sent her to Belgrade. When they arrived in Belgrade, the officer they were with took them to P. P and sold her in Macedonia where she entered legally with forged passport (her photo, but other personal information).

Statement of victim F (23, Moldavia): as many others also she was offered a job in Italy, but this time as a babysitter. Using her passport she entered legally in Romania and Serbia, but afterwards using mountain routes she was transferred in a village near Kumanovo. From there with another girl were transported in Struga where DBL forced them to give sexual services.

Statement of victim G (20, Moldova): the *modus operandi* of the organized criminal group is the same as in the cases before. But, what is interesting in this case is that the victim stated that she was not forced to give sexual services.

Statement of victim H (19, Romania): using the same methods of recruitment this girl was recruited as the one in P's apartment. Using a passport with her photo, but other personal data she entered legally on Macedonian territory. ZjN was at the border waiting for her. She was taken to Veleshta where she was sexually exploited and beaten by DBL. Her clients were mostly coming from Albania, but also they were NATO soldiers. In one period of her exploitation she was working in ZjN's night club. What it is important in her statement is the fact that during the crossing of the Serbian border she and the other girls were asked what they will work in Macedonia. When they answered that their employment is as dancers the custom officers took them in another room and made them dance.

I. Prosecution act

1. D.B.L. – article 191 p.1 in connection with article 22 from the Penal Code of the Republic of Macedonia;

2. I.F. – same.

During the month of October 2001 until February 2002 victim A was held up against her will, forced to give sexual services to clients in exchange of money which were taken by the accused.

II. Prosecution act

1. D.B.L. – article 191 p. 1 from the Penal Code of the Republic of Macedonia

During 2001 two Romanian citizens were held against their will and sexually exploited by DBL.

III. Prosecution act

1. D.B.L – article 191 p. 1 from the Penal Code of the Republic of Macedonia

All procedures coming out as result of the above mentioned prosecution acts in 2003 were merged in one procedure before the Primary Court in Bitola. DBL was accused for crime of article 191 p.1 in connection with p.2 and p.3 from the Penal Code of the Republic of Macedonia. During the criminal procedure beside the already mentioned girls two more testified against DBL.

Statement of victim I (24, Moldova): she was working in a bar in Moldova at the time when someone promised her employment as waitress in Romania. But, she never started working there. Instead she was taken to Serbia and from there to Kumanovo, Macedonia, where she was bought by DBL. She said that she was sexually exploited in his nightclubs.

Statement of victim J (26, Moldova): because of her poor economic situation she accepted an offer to work in a home for old people. But, she ended up in Macedonia where she was taken illegally. After a raid in the night club in Veleshta she was deported to her country.

At the end of the criminal procedure the accused were sanctioned with:

1. D.B.L. – three years and 8 months imprisonment;
2. Zj.N. – 1 year imprisonment;
3. R.V. – same;
4. K.P. – same.

In March 2007 the Court of Appeal in Bitola decided to free DBL six months prior the end of his punishment. The Court concluded that the prisoner has had positive behavior, understood the punishment and paid his debt towards Macedonian society.

Analyzing this case we must conclude that what was happening was human trafficking. Using promises for better life and employment as a method of recruitment is one of the many acts from the definition in the Palermo Protocol. The *modus operandi* of the organized group is similar to those of other group that committed human trafficking in years when it is incriminated as crime. The victims are foreign citizens who are sexually exploited in night clubs in the Western part of the Republic of Macedonia. They cross the border legally sometimes using their original passports sometimes using forged once. Arriving at the place where they should work as dancers, their passports are taken away, they are forced to give sexual services because they need to pay off their debt for the transport.

The punishment of three years and eight months of imprisonment does not fit the seriousness of the crime *de facto*, although *de jure* the accused was punished for different crime. The organized crime group connected with DBL was operating in a period of time when the international community knew about the existence of human trafficking, international documents were in draft versions or were opened for signing by states, but most of them still did not have implemented the obligations given with the international document.

Conclusion

The period 2004 – 2006 is marked by the transnational trafficking in human beings and all the victims are foreign citizens. From 2007 till 2011 all the victims are domestic. It is obvious that trafficking of foreign victims became too dangerous and complicated for criminal groups, especially because of the need of legal or illegal border crossing, the need for forged documents, bribing officials at the borders etc. The internal trafficking in human beings allows easier transport of the victims, also when you are inside the borders of a country it is easier to hide your tracks in it, there is no need for bribing officials during crossing borders. But, internal trafficking has a very important weakness; the victims that are exploited in their own country of origin are not so vulnerable in terms of the language spoken in the country of exploitation, which weakness is always used during a transnational trafficking in human beings.

Also, we must mention the good functioning of the law enforcement, especially in cases of proactive investigation, the many actions in the night clubs, bars, where many victims have been found, the international cooperation, greater control of the borders. This situation has also been recognized by the US State Department in its Year Reports where the actions of national governments in the process of prevention and suppression of the modern slavery are valued.

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