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HUMAN TRAFFICKING UNDER THE VEIL OF SEX TOURISM IN THAILAND – REACTIONS OF THE EU

Abstract : The statistics shows that considering the total amount of people trafficked in the world; approximately 79% of them are women and children.¹ That fact has prompted the European Union to get involved in to solving this issue, especially in the countries of the Southeast Asia. Sexual exploitation of women and children in Southeast Asia, which is also closely related to sex tourism, represents a big issue in today's world. By connecting the definition of sex tourism and trafficking in persons, this paper wants to show the bond between sex tourism, which can be, and in most cases is a part of wide branch of human trafficking, but also the reactions of the European Union to that. The paper is also trying to make a distinction between free willing prostitution in those countries and forced prostitution of women and children by sexual exploitation and also which factors had the crucial role in making those countries a potential market for sex tourism and on which bases we can make assumptions about involvement of trafficking in all of that. The paper will also emphasize the problem within law regulations which strictly ban prostitution, human trafficking and any type of sexual harassment, and still women and children become victims of trafficking for the purpose of sexual exploitation. Methods that were used for this paper are mainly based on collecting and researching written materials on related matters, field survey and documentary study. Trafficking for prostitution is becoming a major concern of human rights organizations and feminist activists as the size of the problem and its grievous effects on the lives of women and children are becoming better known and the number of trafficked persons is growing rapidly every year.

Keywords: sexual exploitation, trafficking, Southeast Asia, sex tourism, EU

INTRODUCTION

Sexual exploitation is defined as a practice by which person(s) achieve sexual gratification or financial gain or advancement through the abuse of a person's sexuality by abrogating that person's human right to dignity, equality, autonomy, and physical and mental well-being.² On

¹ "Sex trade, forced labor top U.N. human trafficking list", Available at: <http://edition.cnn.com/2009/WORLD/asiapcf/02/16/un.trafficking/index.html?iref=24hours>, (accessed 10th May 2014).

² Jeffreys, Sheila, „Globalizing sexual exploitation: sex tourism and the traffic in women“, *Leisure Studies*, No. 3/1999, p. 193.

the other hand, trafficking in persons is defined as the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.³

By connecting the definition of sex tourism and trafficking in persons, this paper wants to show the bond between sex tourism, which can be, and in most cases is a part of wide branch of human trafficking, but also the reactions of the European Union to that. Sexual exploitation of women for the purpose of trafficking in Southeast Asia is mainly shown in the increase of more and more popular sex tourism in those countries. The author wants to show which factors had the crucial role in making those countries a potential market for sex tourism and on which bases we can make assumptions about involvement of trafficking in all of that.

There is also a problem within law regulations which strictly ban prostitution, human trafficking and any type of sexual harassment and abuse of women and children in any way. All of them become victims of trafficking for the purpose of sexual exploitation both voluntarily and under duress. The reasons for the above mentioned cases lay in a poor economic situation in the countries they come from.⁴ Stimulated by search for work and being affected by high rates of unemployment and bad economy in their country, the migration of people is practically inevitable. All of that leads to trafficking and exploiting them by violating their basic rights, psychological and physical diseases and taking away their fundamental rights which are often followed by abduction, coercion, fraud, deception, etc. The author will try to give an answer to all burning issues and upon them replicate reasoned conclusion.

1. THE CONCEPT AND DEFINITION OF TRAFFICKING

To fully understand the concept of Trafficking the author will define it and describe the types that occur. So according to Article 3 "Trafficking in persons" shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of 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.⁵ There are many forms of trafficking, but one consistent aspect is the abuse of the inherent vulnerability of the victims. There is trafficking in women and children for sexual exploitation, trafficking for forced labor, commercial sexual exploitation of children in tourism and trafficking in organs.⁶ Accord-

³ „Human Trafficking”, *United Nations Office on Drugs and Crime*, Available at: <http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html> (accessed 10th May 2014).

⁴ Mazur, N., Lulić, M., "Trafficking in women for the purpose of sexual exploitation on the territory of the former Yugoslavia", *Pravni vjesnik*, No. (3-4)/2007, p. 160.

⁵ "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime", Article 3: Use of Terms, Available at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCbook-e.pdf> (accessed 09th May 2014).

⁶ "Types of Human Trafficking", INTERPOL connecting police for a safer world, Available at: <http://www.interpol.int/Crime-areas/Trafficking-in-human-beings/Types-of-human-trafficking> (accessed 09th May 2014).

ing to the Report on Trafficking in Persons in February 2012, the most common form of human trafficking, around 79%, is sexual exploitation.⁷ The victims of sexual exploitation are predominantly women and children. "Surprisingly, in 30% of the countries which provided information on the gender of traffickers, women make up the largest proportion of traffickers. In some countries, women trafficking women is the norm. The second most common form of human trafficking is forced labor, which is around 18%, although this may be a misrepresentation because forced labor is less frequently detected and reported than trafficking for sexual exploitation. Worldwide 20% of all trafficking victims are children."⁸ However, in the Mekong region children are the majority. Although trafficking seems to imply people moving across continents, most exploitation takes place close to home. Data show intra-regional and domestic trafficking are the major forms of trafficking in persons.⁹ Human trafficking consists of three elements: firstly - there is the act or what is done, secondly - the means or how it is done and thirdly the purpose or why it is done. In the third element of trafficking the sexual exploitation is included, the same as prostitution, which is also relevant for this paper. Although trafficking is criminalized according to the Trafficking in Persons Protocol, it is also required criminalization of: attempts to commit a trafficking offence, then participation as an accomplice in such an offence and finally organizing or directing others to commit trafficking.

2. THE INTERNATIONAL PROTECTION - THE EMPHASIS ON THE EU FRAMEWORK ON COMBATING TRAFFICKING

International protection of human rights and human trafficking as violation of them are one of the crucial problems of 21st century. It gives indeed a remarkable profit to the exploiters but it also put the victims in the status of a slave. Since it relates to illegal activity it is hard to make concrete conclusions. Some of the numerous documents which are brought in the field of protection of human rights are: Anti-Slavery Convention 1927, The Universal Declaration of Human Rights 1948, and Convention for the Protection of Human Rights and Fundamental Freedoms 1950, Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others 1951, International Covenant on Economic, Social and Cultural Rights 1976, International Covenant on Civil and Political Rights 1976, The Convention on the Elimination of All Forms of Discrimination against Women 1979, United Nations Convention against Transnational Organized Crime and the Protocols Thereto 2000 etc. All those Acts were brought in hope to help a better development of human rights in the world.¹⁰ Trafficking in human beings is a crime under international law and many national and regional legal systems. As in the other regions of the world, Europe is also deeply affected within the problem of human trafficking and has started taking some initiatives in the 1990's. The first legal framework on combating trafficking in human beings was brought in 1990's within the Treaty on European Union which created the structure with three so-called pillars: the first being the Community pillar, the second pillar was

⁷ "Global report on trafficking in persons", United Nations Office on Drugs and Crime, New York, 2012, Available at: http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf, (accessed 15th May 2014).

⁸ "Global report on trafficking in persons", United Nations Office on Drugs and Crime, New York, 2009, Available at: https://www.unodc.org/documents/Global_Report_on_TIP.pdf, (accessed 15th May 2014).

⁹ "UNODC report on human trafficking exposes modern form of slavery", Available at: http://www.unodc.org/documents/Global_Report_on_TIP.pdf (accessed 07th May 2014).

¹⁰ Andrassy, J., Bakotić, B., Seršić, M. et al, "Međunarodno pravo", Školska knjiga, Zagreb, 2010, pp. 363-403.

relating to common foreign and security policy and in the third pillar, justice and home affairs were included.¹¹ Although the third pillar is the most effective pillar when it comes to fight against human trafficking, the best results would be achieved by connecting the first two pillars in the conjunction within the third pillar. There have been several actions taken by the EU in compliance within the third pillar, but the success of them is not dependent only on the EU but on the Member States too. The EU Resolution on combating child sex tourism which was brought in 2000 collected all the relevant documents and emphasized them in an effort to win the battle against all forms of trafficking in human beings. When the Treaty of Amsterdam was adopted, some parts of the third pillar were incorporated in the first pillar and the Article 34 TEU was revised by the Treaty of Amsterdam. In the year 2000 a Proposal for a Council Framework decision on combating trafficking in human beings was put forward. The problem within all existing anti-trafficking acts was mainly in impossibility of Member States to implementation in their national regulations. So, the main reason of bringing that Framework was bettering the implementation in national law regulations of Member States and to promote a common EU approach on trafficking.¹² The opinion of the EU is that the 4 P's need to be satisfied; prevention, protection, prosecution and partnership in combating trafficking in human beings.¹³ Which means that the EU policy-makers should put some more efforts in realizing adopted acts and that by prosecuting offenders, especially citizens of the EU Member States for criminal acts done by neglecting the anti-trafficking acts (prosecution), then to make assure the existence of good governance which follows all the acts brought by the EU but also brought by the other international organizations (prevention and protection). And finally there is a partnership which works on bringing all efforts of each country together in achieving the common goal – to win a war against trafficking in human beings. All the political, legal, economic and social solutions need to be considered, because the trafficking problem origins from them. Trafficking arises from socio-economic transformation, lack of employment opportunity, political and social dislocation but also from the failure of the countries to enforce the existing laws in its national legal systems.¹⁴ The statistics show that many of the EU Member States are putting some efforts in combating human trafficking, but still not enough because they lack partnership, combating the problem all together. The EU collaborates closely with United Nations, Council of Europe and many other international organizations but still with the lack of a full partnership. The Lisbon Treaty from 2009 is the latest milestone in the decades-long evolution of comprehensive EU law. In the Lisbon Treaty border, issues and inter-judicial cooperation are the most salient to human trafficking. Chapter two of the Treaty deals with asylum, immigration and border checks in the European Union and Title V, "Area of Freedom, Security and Justice," concerns criminal law.¹⁵ The Lisbon Treaty gives new competences to the European authorities and advocates in the protection of human rights. This Treaty actually improved chances for winning by creating the basis for

11 Obokata, T., "EU council framework decisions on combating trafficking in human beings: A critical appraisal", *Common Market Law Review* 40, 2013, pp 917-936.

12 Ibidem.

13 Sheldon-Sherman, Jennifer A.L., "The Missing 'P': Prosecution, Prevention, Protection, and Partnership in the Trafficking Victims Protection Act", *Penn State Law Review*, No. 443, 2012, available at: <http://ssrn.com/abstract=2207760> (accessed on 18th May 2014).

14 Berman, J., Friesendorf, C., "EU Foreign Policy and the Fight against Human Trafficking: Coercive Governance as Crime Control", *European Foreign Affairs Review* 13, 2008, pp 189-209.

15 Kukhianidze, K., "European Union in combating human trafficking", *European Scientific Journal*, pp 33-42, Available at: <http://ejournal.org/index.php/esj/article/viewFile/40/42>, (accessed on 24th May 2014).

the protection of victims of trafficking. This Treaty gives the EU more power to strengthen police co-operation between Member States and to develop a minimum common standards for defining crimes and punishments cross-border human trafficking crimes. "Until April 2011, EU Anti-Trafficking law was made up of 3 instruments of EU law, which were Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking who co-operate with competent authorities, then Council Framework Decision 2002/629/JHA on combating trafficking in human beings and finally Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings.

With the entry into force of the Treaty of Lisbon in December 2009, Article 34 of the Treaty on the European Union was repealed and Framework Decisions can no longer be adopted. Any legislation must now be adopted in the form of either Directives or Regulations. Therefore, the EU took steps towards codifying its trafficking law into a binding Directive 2011/36/EU, which incorporates and replaces Framework Decision 2002/629/JHA.¹⁶ „The EU Directive on Preventing and Combating Trafficking in Human Beings and Protecting its Victims sets out minimum standards to be applied throughout the European Union in preventing and combating trafficking in human beings and protecting victims.“¹⁷ In the questionnaire made by INRA (EUROPE) in July 1998 one of the questions addressed to respondents was "How do Europeans think their national legislation stands towards child sex tourism?" And the answer was devastating. "At the European level, almost 9 citizens out of 10 consider that acts of child sex tourism are forbidden by their national legislation if they are committed on their national territory. About seven people out of ten believe that child sex tourism is forbidden by their national legislation even if these acts are committed outside the national boundaries. This lower proportion is more than likely due to a higher degree of uncertainty felt when it comes to passing a verdict on subtler aspects of the national legislation. This hypothesis is supported by the higher level of people answering "I don't know" (18% for the European average, but 30% of the Irish, 25% of the Spanish and 24% of the Germans)."¹⁸ In that same questionnaire on the question about satisfaction of European citizens with measures taken to fight sex tourism, only 20% of Europeans declared themselves either very or quite satisfied with what public bodies have set in train. That 20% Europeans are mainly from the northern European countries such as Sweden, Finland, Netherlands, and Denmark etc. Next common goal not only for European Union but for all international organizations and for every country in the world is to accomplish common view which shows that if something is wrong and against any moral, legal, social, religious or any other reason it is wrong everywhere and not only inside the borders of your own country. Trying to work out on that unification, EU is closely working with United Nations, Council of Europe and others. It is important to mention the Convention of Council of Europe; the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, so called Lanzarote Convention from 2007. The problem within that Convention which was pointed out was that some Member States are yet to transpose the EU Directive on Combatting the Sexual Abuse of Children into their national legal systems.¹⁹ Given the complexities of the issue, a multitude of strategies are nece-

16 "Directive 2011/36/EU on Preventing and Combating Trafficking in Human Beings and Protecting its Victims", Protecting children everywhere, Available at: <http://www.ecpat.org.uk/content/directive-201136eu-preventing-and-combating-trafficking-human-beings-and-protecting-its-vict>, (accessed on 24th May 2014).

17 Ibidem.

18 INRA (EUROPE), "Europeans and their views on child sex tourism", *European Commission*, 1998, Brussels, available at: http://ec.europa.eu/public_opinion/archives/ebs/ebs_118_en.pdf (accessed 20th May 2014).

19 Zappone, K., "Council of Europe's Report on Child Sex Tourism", Council of Europe, 2013, available at: <http://senatorkatherine-zappone.ie/index.php/entry/council-of-europes-report-on-child-sex-tourism/debate/> (accessed on 20th May 2014).

sary at a range of all levels in order to reduce the problem. The leading operator in resolving the current problem is EUROPOL. "Europol is the European Union's law enforcement agency whose main goal is to help achieve a safer Europe for the benefit of all EU citizens. They are doing it by assisting the European Union's Member States in their fight against serious international crime and terrorism. Large-scale criminal and terrorist networks pose a significant threat to the internal security of the EU and to the safety and livelihood of its people. Among the biggest security threats that come from terrorism, international drug trafficking and money laundering, etc., is also a new danger in the form of trafficking in human beings. This is a multi-billion euro business, quick to adapt to new opportunities and resilient in the face of traditional law enforcement measures."²⁰ There is also a well developed INTERPOL's secure global police communications system which includes the human smuggling and trafficking message. It provides a standardized format for reporting cases of trafficking between member countries and to INTERPOL's database.

3. TRAFFICKING IN SOUTHEAST ASIA

Poverty as a top one reason for trafficking is present all around the world and especially in countries of Southeast Asia, also known as Mekong region countries. The other reason is a gender-based discrimination and a history of sexual and physical violence which all represent factors that can make women and children vulnerable to traffickers. Some are abducted and sold, some are deceived into consenting by the promise of a better life or a better job, and some feel that entrusting themselves to traffickers is the only economically viable option. Once trapped, they are held and exploited in slavery-like conditions, and because of that sex trade industry of nowadays is usually called modern slavery.²¹ Many historical factors affected the sex trade industry in Southeast Asia. The problem within explanation of human trafficking and sexual exploitation of women and children in Southeast Asia is a lack of distinction between trafficking and well developed branch of voluntary prostitution. Many families force their children in to prostitution and many grownup women decide to enter the world of sex industry because of good economics which can provide them a "decent life" instead of a life filled with lack of money, food and full of illnesses, suffering and hard working. For them it is just choosing a bad life instead of no life at all. The problem about trafficking in Southeast Asia for the EU is shown not only in global consideration for those countries but in the fact that a high percent of people that come looking for sex services are European citizens. European citizens who are well aware that trafficking, prostitution and sexual exploitation of children are forbidden by European laws, but are neglecting them because of the opinion that those laws don't count outside Europe. That is how the problem of trafficking in Southeast Asia became global, not mentioning that many of the victims brought to Southeast Asia are also trafficked from European countries, mainly to serve the sex trade industry in that part of the world.

²⁰ EUROPOL, European Union, available at: <https://www.europol.europa.eu/content/page/about-us>, (accessed on 21st May 2014).

²¹ "Trafficking for sexual exploitation", *UN Global Initiative to fight Human Trafficking*, Available at: <http://www.ungift.org/knowledgehub/en/about/trafficking-for-sexual-exploitation.html> (accessed 07th May 2014).

4. THAILAND

Thailand is a country in the region of Mainland south-east Asia and is officially known as Kingdom of Thailand. The country is a constitutional monarchy and has around 62 million people.²² The capital is Bangkok, with over 10 million people. Bangkok is famous for its international air traffic, tradition, popular tourist destinations and it is Thailand's political, commercial, industrial and economical center. There is a colorful scale when it comes to Thailand's population. Around 80% of people are ethnic Thais, 10% are Chinese, and 4% Malay and 6% of population belong to Khmer, Lao, Vietnamese, hill tribes and others.²³ Thailand is a growing economy and it is known as a newly industrialized country. Thailand exports fishery products, rice, textiles, cars, computers and technology, rubber, jewelry and many other products. Prostitution in Thailand is also considered a *de facto* part of the economy. Approximately 60% of the country's National Income comes from tourism, and sex tourism encompasses a large part of Thailand's tourism industry. Each year, around 10 million tourists arrive in Thailand. It is estimated that approximately 60% of the tourists who visit Thailand are males, and of those, 70% come specifically for sex. That means that in the past few years, approximately 4,200,000 men came to Thailand for the sex industry.²⁴

4.1. THE BEGINNING OF THAI SEX INDUSTRY

Because of the bad economic situation in the country and low BDP, Thailand is relying on the sex industry as a highly appreciated income. But how is it possible that sex tourism showed up even in Thailand? How did sex industry in Thailand blossom and made Thailand a center of sex tourism? To explain the complexity of these two questions we need to explain something called 'military sexual complex'.²⁵ It is derived from historical sexual exchanges between Western military men and Asian women during Korean and Vietnamese wars. During those wars American military personnel was looking for a way to escape the monotonous, stressful and disturbing everyday life and saw a way of escaping in Philippines, Thailand, Cambodia, Laos, Vietnam and other countries of Southeast Asia, where they could enjoy beautiful Asian women to take their worries away.²⁶ Bad economic situation and poverty in those countries made more and more impoverished local women migrate to these cities to offer sexual services to these servicemen. As wars ended, sex services rapidly decreased and country was actually missing that steady flow of income every month. Even though prostitution in Thailand is banned today by Laws it still exists. Large numbers of illegal migrant workers in Thailand give traffickers numerous opportu-

²² Hoskin, John, "Thailand – travel guide", *Globetrotter*, 2010, p. 6.

²³ Ibidem.

²⁴ "Prostitution in Thailand", Available at: http://www.wouk.org/rahab_international/pdf_files/Prostitution%20in%20Thailand.pdf (accessed 02nd May 2014).

²⁵ Military Sexual Trauma (MST), which includes rape, sexual assault, and sexual harassment, is devastating to victims. Many women who experience MST leave the military and experience post-traumatic stress disorder, but are denied treatment or support from the VA because they can't prove they were abused. They are more likely to experience health problems, depression, substance abuse, and homelessness. Anecdotal evidence suggests sexual assault rates in the military are high, with as many as one in three women being sexually assaulted during their service. Available at: <http://prospect.org/article/military-sexual-complex> (accessed 10th April 2014).

²⁶ Garrick, Damien, "Excuses, Excuses: Rationalizations of Western Sex Tourists in Thailand, Current Issues in Tourism", *Macquarie University, Australia*, No. 6/2005, p. 501.

nities to force and coerce them into labor or sexual exploitation. Women and children are mostly trafficked from Burma, China, Cambodia, Laos, Uzbekistan and Russia for commercial sexual exploitation. On the other side, many women and children from Burma, Vietnam and Cambodia are transited through Thailand to Malaysia. The poorest of them all and without any rights are women and children from hill tribes who are trafficked from poor South-east Asian countries to Canada, United States, Europe, Japan, Russia, South Africa, Australia and Singapore for sexual exploitation.²⁷

4.2. THE LEGAL FRAMEWORK AND LEGISLATION OF PROSTITUTION AND TRAFFICKING IN THAILAND

Anti-prostitution laws were strengthened in 1986 with severe penalties for customers, procurers, brothel owners and even parents (TAT, 2003), but to date this has not led to the cessation of erotic tourism on an industrial scale in Thailand. The image of Thailand as an erotic destination has grown, although prostitution is illegal.²⁸ The Thai government has enacted anti-trafficking in persons legislation. The United Nations Inter-agency project on human trafficking lists the major laws for Thailand. Thailand enacted the Anti-Trafficking in Persons Act (B.E. 2551 / 2008) in June 2008. Besides this Act, there are several other laws which criminalize human trafficking activities and offences, including: Labor Protection Act (2008), Child Protection Act (2003), Anti-Money Laundering Act (1999), Penal Code Amendment Act (1997), Criminal Procedure Amendment Act (1997), Prevention and Suppression of Prostitution Act (1996), Amendments to the Securities and Exchange Act (1992) and Immigration Act (1979). These laws allow for severe penalties for individuals found guilty of charges relating to forcing people into prostitution, exploitative labor, forced begging and other inhumane acts.²⁹ The government disbursed the equivalent of approximately \$3.7 million for anti-trafficking efforts in 2012 and reported investigating 305 trafficking cases, compared to 83 cases in 2011, but initiated prosecutions in only 27 cases during the year and obtained only 10 convictions. In order to incentivize victims to testify, the government issued more temporary work permits to victims who participated in prosecutions. The government registered more than 800,000 undocumented migrants over the course of the year, but it failed to regulate brokers adequately, reduce the high costs associated with registration, or allow registered migrants to change employers. Pervasive trafficking-related corruption and weak interagency coordination continued to impede progress in combating trafficking.³⁰

27 Jamil, S., Caballero, Mely, A., Yasir, M., "Human trafficking in South-east Asia", S. Rajaratnam School of International Studies, NTU, Singapore, Sep 2007/1, p. 1.

28 Prideaux, B., Agrusa, J., Donlon, J., etc., "Exotic or erotic – contrasting images for defining destinations", *Asia Pacific Journal of Tourism Research*, No. 1/2004, p. 10.

29 Martin, Phillip, *Special Report: Human Trafficking* "Underground Trade: From Boston to Bangkok", 17th Jan 2013, Available at: <http://www.schusterinstituteinvestigations.org/#human-trafficking-boston-to-bangkok-4/c1zn> (accessed 11th April 2014).

30 "Trafficking in Persons Report 2013", *U.S. Department of State*, Available at: <http://www.state.gov/documents/organization/210742.pdf> (accessed 19th April 2014).

4.3. DEVELOPMENT OF SEX INDUSTRY IN THAILAND

Thailand is a center of sex tourism both free willing and forced prostitution connected to trafficking for the whole part of Southeast Asia. Best known hot spots in Thai sex industry are Bangkok, Pattaya and Phuket. Those places are often called "the Heaven" for traffickers because there comes the largest number of trafficked women and even children. Women brought to Pattaya³¹ are brought there for sex tourism services but there are a large number of women who are after some time transported all around the world for the same reasons. As the new inflow of women comes, the women brought some time before are then transported to some other places to offer their services again. Usually they are sent to USA and Europe and promised a better salary, better lifestyle and of course freedom. All of that is just a disguise to deceive those women. When they reach those new work places they are not free and many of them succumb to drugs and suicide.³² The agencies working in opposition to sex-trafficking span a broad spectrum, ranging from the arms and agencies of international governmental organizations, such as the EU, UN, the International Labor Organization (ILO) and the International Organization for Migration, and international non-governmental organizations (NGOs), such as Amnesty International, Human Rights Watch, and Anti-Slavery International, to national governments and NGOs working in areas such as human rights and women's issues, as well as a number of committed individuals. Despite their common goal to eliminate or diminish the sex trafficking industry and assist the victims, these actors have strongly disagreed about a variety of issues, including a basic definition of sex trafficking and the appropriate strategies for fighting it.³³ The Thai sex scene that is known in the world is actually a performance for the world, such as go-go bars, parlors, massage salons, ping-pong shows and Karaoke bars. It is only a disguise for tourists. A real Thai sex scene is in the basements, attics and not popular streets. On the popular places such as bars, streets and beaches like Patong and Kata beach³⁴ there is a show for tourists in which women from very poor rural parts of Thailand are involved, mostly from Isaan province on the northeast of the country. Many of them are from the south of China or Malaysia too. All these women chose to work as prostitutes free willingly or were pressured to do that by their families. Even the case when a young girl is forced to take care about her whole family working as a prostitute can be discussed: is it a free willing prostitution or some sort of a forced prostitution which can be placed under definition of trafficking or even slavery? Can it be explained through the state of mind of those women who are raised to be prostitutes? So all those years growing up in families like that made them believe that that is what they are meant to be. In those cases it is hard to talk about whether that is their choice or not. In one way it is their choice if we look at the state of mind they do have about prostitution as their obligation to their families, but on the other hand it is not if we consider the fact that someone else created that state of mind in their heads. Rou-

31 The seaside resort town of Pattaya is about a two hour drive from Bangkok and well-known as a destination for sex tourists. Many outsiders, including Thomas Fuller for the New York Times, describe it as the ultimate city of sleaze. Originally a fishing village, Fuller says, American soldiers fighting in the Vietnam War discovered Pattaya, and "armed with dollars [they] sought respite from the war in a country of relative poverty, lax law enforcement and historically tolerant attitudes toward prostitution." Martin, op. cit., available at: <http://www.schusterinstituteinvestigations.org/#human-trafficking-boston-to-bangkok-4/c1zn> (accessed 11th April 2014).

32 Peach, L., "Sex Slaves' Or 'sex Workers'? Cross-cultural and Comparative Religious Perspectives on Sexuality, Subjectivity, and Moral Identity in Anti-sex Trafficking Discourse", *Culture and Religion: An Interdisciplinary Journal*, No. 1/2005, p. 108.

33 Cf. *Ibidem.*, p. 109.

34 Hoskin, op. cit., p. 110.

ghly 80% of the girls working in the sex-tourist industry come from the entire Northeast (Isaan) region. The majority have only four years of primary education while only 25% reach the 7th grade. Some have no formal education. In the local flesh-trade, statistics reflect that 40% of the girls enter voluntarily while the remaining 60% are forced, coerced, or tricked into it. But the real tricky part is actually the one that is hidden. The real sex industry is the one that is offering sex services of women who are brought from all around the world and who are forced to do something they don't want to do. They are deceived and abducted from their homes for the purpose of serving the overgrowing sex industry of the world. Those women haven't chosen to be a part of it. They were cheated and brought from their countries non-willingly, sold to the best buyers who are most often known as pimps³⁵. Those girls are brought from all around the world but the ones who are reputed as the best are girls with white skin from Russia, Belarus, Balkan and other European countries. Whereas on the tourist spots there is business cooperation between prostitutes and the owners, trafficked girls are only properties of their pimps who are at the same time titled as their owners. For trafficked girls force and deception goes hand to hand. Thai policy makers are very often two minds. Firstly - is the problem prostitution or secondly - is the problem trafficking? Southeast Asia is the intersection of the huge inflow of women. In the most cases girls from Burma, China and Laos are feeding the Thai sex industry, while Thai women are feeding sex industry of Japan and the West. Many girls are also brought from Burma and Laos to China and then transported to Thailand. Trafficking as it is consists of three elements. Primarily there is transportation, secondly deception and thirdly coercion.³⁶ Most of those girls are trafficked from their villages or even along the way. Sex industry in Thailand contributes almost 22 billion \$ per year to Thailand's gross domestic product.³⁷ Girls are usually trafficked from very poor hill tribes of Thailand, China, Cambodia, Vietnam, Laos etc. In most cases girls are kidnapped and transported from their villages to Thailand. There are always two to five local traffickers who are connected to a larger network of traffickers. Those girls suffer domestic violence, abuse, trafficking and even child abuse because many of those girls are under age. When traffickers take their freedom (and by that the author means taking their passports and all personal identification), they tell them that they are their property from now on and that they need to earn their freedom again. That is a straw on which those girls are desperately holding to without understanding that freedom is their fundamental right and that they do not need to earn their freedom. The traffickers will always find a way to make sure that those girls remain their property. Even if those girls "earn" their freedom again which is often in connection with unexpected pregnancies or diseases, they are becoming a big problem for the society. Many of them caught a disease and then upon their return to tribe they spread them to the whole tribe.³⁸ So it may sound like the problem is poverty, because on one side there are families that are raising their oldest daughters to become prostitutes and earn money for whole family and on the other side there are traffickers who see a great opportunity by trafficking young girls from poor hill tribes

35 A pimp is a man who controls prostitutes and arranges clients for them, taking a percentage of their earnings in return. It dates from the late 16th century. Available at: Oxford Dictionaries, <http://oxforddictionaries.com/definition/english/pimp> (accessed 05th April 2014).

36 Feingold, David, A., "Trading women" – documentary, *Documentary Educational Resources*, 2003, from minute 11:17 to 11:50.

37 Blackburn, A., G., Taylor, R., Davis, J., "Understanding the Complexities of Human Trafficking and Child Sexual Exploitation: The Case of Southeast Asia", *Women and Criminal Justice*, No. (1-2)/2010, p. 107.

38 Kammerer, C., "AIDS IN ASIA: Hill Tribes Endangered at Thailand's Periphery", *Cultural Survival*, 10th March 2010, Available at: <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/thailand/aids-asia-hill-tribes-endangered-thailands-periphe> (accessed 17th April 2014).

because they know that police and government would show no interest if they were missing. Origin of poverty of the hill tribes is hidden in disorganized legal system which didn't regulate the citizenship of tribe people. Nearly half a million hill tribe people are never recognized as citizens.³⁹ Without citizenship and ID's those people are doomed to live without education, because they can't get diplomas, they can't get married, they can't own anything, they can't participate in any political or state activity. It is encouraging that we have many conventions, laws and other acts concerning putting an end to trafficking and prostitution but in the reality they do so little for trafficked women. They had to be implemented and conducted to make some positive outcomes in the battle against trafficking. Women are crossing borders for sex work and domestic work while on the other hand men travel to be exploited for agricultural work.⁴⁰ Mae Sai⁴¹ is the best known border between Thailand and Burma. But the question still remains: why is trafficking so easily done in Thailand? And how it can be so safely kept covered by prostitution if the prostitution is also illegal? First of all it is easy to cross Thai borders so it means it is easy to bring in trafficked girls. Many girls crossing Thailand borders are passing without papers. Borders are hardly controlled. There are also many wild entries such as canals, rivers, forests, etc. There is also the part about keeping the trafficked sex industry safe in the shadow of prostitution in Thailand which is also illegal. First of all the government is aware that approximately about 60% of the country's National Income comes from tourism and sex tourism encompasses a large part of Thailand's tourism industry.⁴² That is the crucial reason why public officials close their eyes if it comes to question about legality of prostitution in Thailand. Prostitution in Thailand has been illegal since 1960, but the existing laws are poorly enforced. The ban of prostitution was actually pressured by United Nations. The Anti-Prostitution Law of 1960 made procurers and prostitutes subject to a fine or a jail sentence, but did not impose a penalty on customers. And this kind of formulation is really wrong also according to UNICEF. One shouldn't hit the victim twice, by penalizing the victim who is already a victim of trafficking. The 1996 Prostitution Prevention and Suppression Act re-oriented Thai law from outflow penalty for prostitutes towards punishing pimps, procurers, brothel owners, and certain customers.⁴³ The Thai law imposed harsher penalties on clients found violating girls under 18 (and increases more substantially for girls under age 15) and also introduced penalties on parents who sold their children into the sex trade, because all of them are still children and they are protected by Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. However, all those laws are poorly enforced and there lies the answer to our second question. The Thai police and public officials are often involved with mafia who run drug operations, especially poppy opium operations, and sex trafficking operations. Establishment owners such as brothel, karaoke bars or massage saloons owners pay regular protection fees to the police who give them open hands in the situations of prostitution and even trafficking.⁴⁴ The final outcome is a combination of the widespread corruption among

39 Blackburn, A., G., Taylor, R., Davis, J., op. cit., p. 110.

40 Consultant-Hemingway, S., "The impact of tourism on the human rights of women in South East Asia", *The International Journal of Human Rights*, No. 3/2004, p. 292.

41 The border towns of Tak and Tha Khi Lek – Mae Sai (Myanmar-North Thailand) are teeming with sex workers who stream in daily via motorcycles, buses, trucks and even on foot. Once they are in Thailand, make shift visas are ready for the passage to Japan, Europe, Bahrain, South Korea and Singapore.

42 "Prostitution in Thailand", Google Books, Available at: https://docs.google.com/document/d/1oMJxz8rELRhPriSQwoG_7yozvdCnUHGJ7z4czxmJt8/edit?hl=en&pli=1 (accessed 10th April 2014).

43 Ibidem.

44 "Thai police", Available at: <http://www.thailandguru.com/thailand-tourist-police.html> (accessed 20th April 2014).

public officials and the lack of enforcement of laws concerning the Thai sex industry which means that sex workers in Thailand are often exploited by their employers but also by the police.

4.4. THE REASONS WHY TRAFFICKING IS STILL PRESENT

Although poverty and bad economic situation of Thailand and whole south-east Asia region is a big reason why trafficking is present there, it is important to emphasize some other factors which are patronizing the whole event. Risk of HIV infection for sex workers is associated with a variety of factors. Structural factors include poverty, migration status of customers as well as sex workers, low access to health care, and presence of sexually transmitted disease infection. Social and demographic factors such as country of origin of customer and sex worker and age of sex worker also impact HIV risk. Easily transmitted diseases are also one of the crucial outcomes of trafficking, due to a big percentage of sex tourists from western countries, especially from Europe, those diseases are gradually rendered to Europe and by that became even bigger concern of EU authorities. Political factors including sex tourism, political awareness of stakeholders in the sex worker's country of origin, feministic involvement of sex workers, as well as availability and structure of social and medical organizations share the outcome of risk. Moreover, the relationship between these variables and risk of HIV/AIDS in sex workers is not always a direct one and can involve indirect factors such as interactions between harsh working conditions and bonding behavior of customers and complex sex trafficking practices of women and girls between and within countries.⁴⁵ There are many international organizations, NGO's which are fighting against trafficking but still holding good relations with brothel, bar and parlor owners. Anti-trafficking staff needs to be on good terms with them because they need to think about welfare of those women despite the fact that they want to stop their business. The other problem about stopping the trafficking and sexual exploitation of women in Thailand is that if sex industry stopped, police and immigration would be the first to lose. One part of them is playing according to the rules and is filling prisons and fighting against trafficking and prostitution while other half is seriously corrupted and bribed by traffickers all the time.⁴⁶ There are also a big number of civilians who expect some profits from sex industry. And here we have to mention the family members who sell their daughters, sometimes even children only to achieve some profit from that. In order to solve the problem with police corruption it is needed to bring some changes from the top. So the starting point would be to choose deputies, generals, directors, ministers who are not corrupted and who are willing to fight against human trafficking. If the people who run the country manage to eradicate those who are corrupted and stop taking bribe in trafficking women and children, it would be easier to solve the problem. The encouraging fact is that there are many NGO's, private organizations who are willing to act and try to eradicate trafficking and prostitution not only in Southeast Asia but also in the whole world. The problematic thing about acting in the battle against traffickers is that in many cases those women don't want to be saved. The lack of education is one of the reasons why they don't think the saving is the best thing for them.⁴⁷ The second reason is related to many shelters that exist and where the girls caught "in fla-

45 Land, H., Prabhughate, P., "Sex Work in Asia: Update on Issues, Treatment, and Prevention of HIV/AIDS", *Journal of HIV/AIDS & Social Services*, No. 2/2012, p. 101.

46 Feingold, op. cit., from minute 51 to minute 53.

47 Ling, D., Wong, W., Halroyd, E., etc., "Silent Killers of the Night: An Exploration of Psychological Health and Suicidality among Female Street Sex Workers", *Journal of Sex & Marital Therapy*, No. 4/2007, pp. 287-289.

grante" are taken.⁴⁸ They think that saving is as a punishment and not their salvation. If the police take them to custody during the raid they think of it as an act of punishing them for what they are doing, and they consider their pimps their rescuers. Because of the existence of corruption among police staff it is not rare that women who are already a victim of trafficking, sexual exploitation and violence is becoming a victim one more time while they are in custody. All these reasons made them hard to believe in honest intentions of police and government. Those trafficked women all around the world are listed nowadays as slaves, making it modern slavery of 21st century. Slavery refers to the state of being under the domination and control of another person or institution. It is a practice of forced labor in which people are considered the property of others. Human trafficking, primarily for women and children prostitution, has become the largest slave trade in history and one of the fastest growing criminal industries. Sex tourism involves forced or involuntarily prostitution wherein sexual activity is performed in exchange for cash or drug. Thus, it is a form of slavery. It is also a grave violation of generally accepted human rights, the basic standards without which people are deprived of dignity.⁴⁹ The other problem in connection with trafficking of women in purpose of sexual exploitation is trafficking girls from 7 to 16 to be sold to growing sex industry. In many cases those girls are sold to the best buyer voluntarily from their families. The virginity is highly sought and families often think that agreement is as a rescue plan for the whole family. The excuse for these deeds is a wish for their children to have a better life or they are blaming the lack of opportunities in everyday life. Because of all previously mentioned reasons, CST (Child sex tourism) is becoming the main issue to be solved in Southeast Asian sex industry. CST refers to a particular kind of tourism organized to satisfy the needs of certain customer segments for establishing commercial sexual relationships with children. It is an expression of contemporary slavery and a major human rights challenge facing our generation. CST is a form of tourism motivated by the need to victimize children sexually. Sometimes it occurs when otherwise normal individuals, while on leisure or business trips, opportunistically use the sexual services of children. Despite minor differences in definitions world over, CST is considered a crime. According to World Vision (2010), children as young as five years of age are pushed to the trade to help pay off family debts or are forcibly recruited on the street to work in brothels, where they are required to have sex with as many as 30 men each day.⁵⁰ Although Thailand has signed and ratified United Nation Convention on the Rights of the Child (CRC), The Hague Convention on the Civil Aspects of International Child Abduction and The Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption International they are still not legalized and implemented in Thailand legislation because cases like selling young girls virginity are available in every day newspapers without any sanctions.⁵¹ We can't defend girls who freely chose to work as prostitutes, but we have to defend those who are involved involuntary. Especially those who were brought in to sex trade business on the basis of poverty, manipulation and deception.

48 "Sex slavery/trafficking", *Soroptimist – Best for women*, Available at: <http://www.soroptimist.org/trafficking/faq.html#top> (accessed 20th April 2014).

49 Panko, T., George, B., "Child sex tourism: exploring the issues", *Criminal Justice Studies: A Critical Journal of Crime, Law and Society*, No. 1/2012, p. 68.

50 Cf. ibidem., p. 67.

51 George, B., Panko, T., "Child sex tourism: Facilitating conditions, legal remedies, and other interventions", *Vulnerable Children and Youth Studies: An International Interdisciplinary Journal for Research, Policy and Care*, No. 2/2011, p. 139.

4.5. FUTURE EXPECTATIONS AND POSSIBILITIES IN THAILAND

All the efforts from worldwide NGO's, international organizations and other activists made some positive impact on Thailand's government. Thailand is showing some effort in improving its legislature considering human trafficking and its commitment towards finding the solution to the existing problem. Current legislature in Thailand only encompasses sexual exploitation regarding the human trafficking but it doesn't criminalize bonded labor or trafficking against men. However, drafts of anti-trafficking acts were approved and implemented in Thailand's legislation. Thailand also considers signing these agreements the near future: Protocol to Prevent, Suppress and Punish Trafficking in Person, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000)⁵² and Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and on the Sale of Children, Child Prostitution and Child Pornography (2000)⁵³. The Constitution of the Kingdom of Thailand provides basic principles of human rights, liberty and equality which are included in anti-trafficking acts.⁵⁴ Government policies, initiatives and programs against trafficking are complex but doable. The National Committee on combating trafficking in children and women under the National Youth Commission, Ministry of Social Development and Human Security (MSDHS) has recently developed a six year national policy and plan to address trafficking and children and women (with Cabinet's endorsement on 1 July 2003). The author wants to emphasize that the help should be given to all trafficking victims regardless of their gender or nationality. The discrimination shouldn't be done even if a person is stateless, because many of the hill tribe people are exactly that, stateless. The seriousness of the whole situation should become public hoping to attract more people in to this fight. If Thai women can earn 2000 baht/62 \$ per month working in some factory, seven days a week, 12 hours a day, or work in the fields 10 hours/day and fight off malaria or other health problems for 2 500 baht/ 78 \$ per month it is hard to have a decent life. Washing floors in a hotel for 3 000 baht/ 94 \$ per month or working as a waitress 10 hours/day with only 2 days off each month for 5 000 baht/ 155 \$ is not enough for decent life that month. Even if that money was enough to survive the standard of living is very low and job offers are really rare. The problem in South-east Asia is not only bad economy but also a disproportionate ratio of population in the area. Because the economy is so bad, consequently the salaries can't be higher and even worse is that there are no job offers at all. On the other hand girls who decide to work as prostitutes and who offer themselves to sex tourists earn in average from 16 000 baht/ 500 \$ to 30 000 baht/ 935 \$. If a girl is really determined to earn she can earn up to 80 000 baht/ 2 500 \$ per month.⁵⁵ This comparison is a good indicator why trafficking and prostitution is a growing industry. Everyone needs to be educated so they would be aware of diseases, dangers and bad effects of trafficking, prostitution and violation of human rights. Education would make them more aware of all dangerous diseases such as AIDS, tuberculosis and

would decrease their appearance. But also they would be more competitive on the labor market. Appropriate salaries for everyone should be secured. If the economy of the country is increasing the standard of living is proportionally increasing too. All of that is making trafficking not profitable in that country and is lowering the number of women participating in that branch and the number of traffickers is rapidly decreasing too. Next step is to implement and conduct all the conventions, laws and conferences, because so far they have done so little to better the lives of women and children of Southeast Asia.

5. CONCLUSION

Human trafficking for the purpose of sexual exploitation is one of the crucial issues in nowadays world while trafficking in women and children is one of the extremist forms of violating human rights. As for the countries of Southeast Asia but also for other developing countries which are mainly poor, trafficking seems pretty rational for them. Those countries have seen the financial effect which trafficking and prostitution give to their economy and they are not open to let it go. All those factors are becoming challenging to discern and understand who is trafficked and who is participating by choice. Many acts, conventions, laws and conferences were implemented but none had the immediate impact on the problem, so some time is also needed when they could be reinforced in specific countries and totally implemented and fully executed. EU is concerned about trafficking in human beings in Southeast Asia not only because it represents a global problem but also because the majority of tourists which are customers in sex trade industry are Europeans. That is the main reason why the EU is indirectly dubbed in to solving this 2nd largest nowadays issue. Not only that European citizens and other tourist are committing a crime but also being the source of infection, spreading easily transmitted diseases such as HIV/AIDS, tuberculosis etc. The project of EU and other organizations concerned within this problem should be implementation of anti-trafficking acts in national laws of each country and to act according to them. That means to prevent and protect by prosecuting the customers and traffickers and setting a role model for others by doing that. The impact of EU on tackling human trafficking is not too much orientated on finding the solution. The author considers that EU Member States can contribute more in solving this problem as member states of the UN and its organizations, when it comes to combating trafficking in human beings, especially sexual exploitation and sex tourism, then by doing it alone. The crucial key is partnership showed in common action of countries acting together but firstly abdicating the economic profit obtained from sex trade industry. Because only if every country decides to disclaim financial gain from trafficking and if there is no customers to buy services from traffickers, only then trafficking in human beings will be eradicated in its roots. Trafficking for prostitution is becoming a major concern of human rights organizations as the size of the problem is becoming better known. As the author mentioned in the chapters above, nowadays prostitution and trafficking is equal to the historic view of slavery. So it can be rightly called "modern slavery" or "slavery of the 21st century". It would be wrong to say that trafficking only exists in poor countries and that the poverty is trigger which runs trafficking. Although the gap between rich and poor mainly estimates rich countries as providers of customers of sex industry and poor countries as providers of sex workers it is wrong to believe that there is not opposite direction, too (rich countries as providers of sex workers and poor of customers). The branch of human trafficking is well organized criminal network which

52 Status of ratification of the Protocol. Thailand has signed it on 18th December 2001 but the date of ratification and acceptance is still open. Available at: United Nations, Treaty collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&lang=en (accessed 17th April 2014).

53 Status of ratification of the Protocol. Thailand has ratified and accepted the Protocol's 1st version on 11th January 2006. Available at: United Nations, Treaty collection, http://treaties.un.org/Pages/ViewDetails.aspx?mtdsg_no=IV-11-c&chapter=4&lang=en (accessed 17th April 2014).

54 Human trafficking organization – Thailand, Available at: <http://www.humantrafficking.org/organizations/229> (accessed 19th April 2014).

55 Manzanares, J., Kent, D., op. cit., pp. 80-84.

doesn't exist only on the national level but also on the international worldwide level. Exactly because of that the world is finding a global solution to the problem within conferences, acts, NGO's and any other bilateral, multilateral cooperation. There is also an issue within trafficking of children in purpose of sexual exploitation which is strictly prosecuted in every country in the world, but still exists in every country of Southeast Asia. The poverty of those countries but especially poverty in the rural areas of them is so high that families have no other option but to sacrifice one female child for sex trade industry in order to provide a better life for other children and the rest of the family. Because of the lack of education, not knowing their rights, high rate of unemployment and many other factors, those families and the victims trafficked that way do not know that trafficking is illegal and that by selling their female underage children they are making a breach into violating all invented laws all around the world. The countries in Southeast Asia should definitely rethink about their way of leading the country. They need to begin with reform of education which will potentiate more beneficial labor force and increase the country economy. The statistics showed us that considering the total amount of people trafficked in the world; approximately 79% of them are women. The countries of Southeast Asia which are in every official literature known as sex tourist destinations should consider taking positive examples from other countries in the world which are winning in their fight against human trafficking, prostitution and sexual exploitation. The education about dangerous diseases such as tuberculosis, AIDS, etc. should also be included in the education program in order to prevent them. On the other hand, officials when executing their obligations should not penalize the victim of trafficking, but should assure her that they will provide all necessary help. It is wrong to penalize the victim twice and discriminate her upon her ignorance, social and economic status and put in the better position the customer, who has actually committed a crime, because of his/her bank account or country of origin. In order to make changes in countries of Southeast Asia which will help them to win in the war against trafficking, they need to start from the top. Corruption and taking a bribe among state officers should be eradicated in its roots. When the police officers, immigration and all others who can make an impact on stopping trafficking and sex trade industry, are clean and honest, not taking their personal benefits on the account of others. One thing is eminent, the changes need to be done and they need to be done fast. Number of trafficked persons is growing rapidly every year. If the countries of Southeast Asia but also other countries in the world succeed in erasing the corruption and taking bribe among their officials at all levels it would be easy to amend the education and public awareness of the dangers of trafficking along with all the consequences that follows it. Only then the world and human community can *stand up* some real chances in winning this war. The time will be needed to succeed, but "even the longest journey begins with a single step".⁵⁶

⁵⁶ It is a variation of a famous quotation of Lao Tze which says that even "journey of a thousand miles began with a single step". Available at: "Journey Quotes", *Brainy Quotes*, <http://www.brainyquote.com/quotes/keywords/journey.html> (accessed 30th April 2014).

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TRGOVINA POD KRINKOM SEKS TURIZMA U JUGOISTOČNOJ AZIJI – REAKCIJE EUROPSKE UNIJE

Sažetak:

Statistika pokazuje da od ukupnog broja trgovine ljudima u svijetu, otprilike 79% otpada na žene i djecu. Ta činjenica je potaknula Europsku Uniju da se uključi u rješavanje tog problema posebno u zemljama jugoistočne Azije. Seksualno iskorištavanje žena i djece u jugoistočnoj Aziji koje je također usko povezano sa seks turizmom, predstavlja veliki problem u današnjem svijetu. Povezujući definiciju seks turizma i trgovinu ljudima, ovaj rad želi pokazati vezu između seks turizma koji može biti a u većini slučajeva i je dio široke grane trgovine ljudima, ali i reakcije Europske Unije na to. Rad također pokušava napraviti razliku između dobrovoljne prostitucije u tim zemljama i prisilne prostitucije žena i djece seksualnim iskorištavanjem i koji faktori imaju bitnu ulogu što te zemlje čini potencijalnim tržištem za seks turizmom i na osnovu čega možemo pretpostaviti uključivanje trgovine ljudima u sve to. Rad će isto tako naglasiti problem u zakonodavstvu koji strogo zabranjuje prostituciju, trgovinu ljudima i bilo koji tip seksualnog uznemiravanja a ipak žene i djeca postaju žrtve trgovine ljudima u svrhu seksualnog iskorištavanja. Metode koje su se koristile za ovaj rad, se uglavnom baziraju na skupljanju i istraživanju relevantnih pisanih materijala, rada na terenu i dokumentiranju. Trgovina ljudima za prostituciju postaje glavna briga organizacijama za ljudska prava i feminističkim aktivistima budući da veličina problema i njihove teške posljedice na živote žena i djeca postaju poznatiji a broj ljudi s kojima se trguje, raste sve brže svake godine.

Ključne riječi: seksualno iskorištavanje, trgovina ljudima, jugoistočna Azija, seks turizam, Europska Unija

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MENSCHENHANDEL UNTER DEM SCHLEIER VON SEX-TOURISMUS IN SÜDOSTASIEN – REAKTIONEN DER EUROPÄISCHEN UNION

Zusammenfassung:

Statistische Daten bestätigen, dass ungefähr 79% des Menschenhandels in der Welt auf Frauen und Kinder entfällt. Diese Tatsache war eine Anregung für die Europäische Union zu versuchen, dieses Problem zu lösen, insbesondere in Bezug auf die Länder der Südostasien. Sexuelle Ausbeutung von Frauen und Kindern in der Südostasien, die eng mit dem Sex-Tourismus verbunden ist, stellt ein großes Problem in der Welt dar. Durch einen Vergleich der Definitionen von Sex-Tourismus und Menschenhandel wird in diesem Beitrag versucht, die Verbindung zwischen dem Menschenhandel und Sex-Tourismus, der in vielen Fällen ein Zweig des Menschenhandels ist, sowie die Reaktionen der Europäischen Union auf diese Phänomene zu zeigen. Die Autorin versucht auch einen Unterschied zu machen zwischen der freiwilligen Prostitution in jenen Staaten und der gezwungenen Prostitution der Frauen und Kinder durch sexuelle Ausbeutung. Es wird auch überprüft, welche Faktoren wesentliche Rolle bei der Umsetzung dieser Länder in potentielle Märkte des Sex-Tourismus spielen und welche Gründe bestehen für die Annahme über die Verbindung von Sex-Tourismus und Menschenhandel. In der Arbeit werden auch gesetzliche Bestimmungen zum Ausdruck gebracht, die die Prostitution, Menschenhandel und alle Arten der sexuellen Ausbeutung streng verbieten. Trotzdem werden immer mehr Frauen und Kinder Opfer des Menschenhandels zum Zweck der sexuellen Ausbeutung. Die Methoden, die in dieser Arbeit benutzt werden, gründen sich meistens auf einem Überblick über die zu diesem Thema veröffentlichten Arbeiten, einer Feldstudie und der Analyse der relevanten Dokumenten. Menschenhandel zum Zweck der Prostitution wird zum Hauptgegenstand der Organisationen zum Schutz der Menschenrechte und der feministischen Organisationen in der Welt, weil der Umfang des Problems und seine Auswirkungen auf die Leben der Frauen und Kinder immer bekannter werden und die Anzahl der gehandelten Personen von Jahr zu Jahr größer wird.

Schlagwörter: sexuelle Ausbeutung, Menschenhandel, Südostasia, Sex-Tourismus, die EU

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OBVEZNO CIJEPLJENJE DJECE - KRŠENJE LJUDSKIH PRAVA RODITELJA ILI ZAŠTITA PRAVA DJETETA?

Prema definiciji Svjetske zdravstvene organizacije zdravlje je stanje potpunog tjelesnog, duševnog i socijalnog blagostanja, a ne samo odsustvo bolesti. U Republici Hrvatskoj, Zakon o zaštiti pučanstva od zaraznih bolesti regulira područje zaštite građanstva od zaraznih bolesti taksativno navedenih, kao i načine njihovog sprječavanja. Koje su to zarazne bolesti određuje ministar zdravlja, a tijela države i lokalna samouprava dužne su osigurati provođenje mjera za zaštitu pučanstva od zaraznih bolesti, sukladno propisima. U radu autor analizira zakonske odredbe koje nalažu obveznu imunizaciju djece, sukladno Programu obveznog cijepljenja djece školske i predškolske dobi. U ovom radu analiziraju se mjerodavna pravna pravila koja se primjenjuju u Republici Hrvatskoj, s posebnim osvrtom na suglasnost tih pravila s Ustavom. Razmatra se pitanje je li ovakva zakonska regulativa protuustavna, kao i problematika potrebe države za zakonskom regulativom zaštite svog građanstva od zaraznih bolesti, a koja ujedno podrazumijeva i obvezno cijepljenje djece. Slijedom prethodnoga, razmatraju se i pitanja je li zakonsko određivanje obveznog cijepljenja djece suprotno odredbama Konvencije o zaštiti ljudskih prava i temeljnih sloboda, odnosno, primjeni Konvencije o pravima djeteta u konkretnom tumačenju važećih zakonskih normi, opravdava li zaštita djeteta, odnosno djetetova zdravlja, utjecaj i miješanje države u odluku roditelja? Svrha rada je analizirati opravdanost zakonskog reguliranja cijepljenja djece, odnosno problematike pitanja mora li država zaštititi posebna prava djeteta, pa u duhu definicije zdravlja mora omogućiti pravo djeteta na zdrav život, a sve u okviru zaštite svih građana od zaraznih bolesti.

Ključne riječi: pravo na zdravlje, prava roditelja, cijepljenje djece, prava djeteta, ljudska prava

1. UVOD

Nedavno je odluka Ustavnog suda Republike Hrvatske¹ podigla određenu „medijsku prašinu“ te su je novinari interpretirali na sebi svojstven način, navodeći u svojim naslovima kako je

¹ Odluka Ustavnog suda RH U-I-4386/2011, U-I-463172011 i U-I-5418/2008 od 30. siječnja 2014.god., Narodne novine 12/14.