

DETECTING THE VALID CONSENT IN HUMAN TRAFFICKING CRIMEHeracles Moskoff¹ & Angeliki Serafeim²**Abstract**

The consent of the adult victim of human trafficking to their exploitation is one of the fundamental notions that may blur the exploitative condition. Therefore, it is not the core element in the perpetrators' defense line by chance. Given that the Greek legal framework adequately complies with the EU and international instruments on human trafficking, the Greek case law has gradually developed a harmonized approach. *De lege lata*, the adult victim's consent, is considered irrelevant when it has been extracted by any coercive or deceptive means listed in the legal framework. In practice, however, the validity of consent is a matter of legal interpretation (i.e., a process that analyses the real facts, to apply the respective legal provision). This focus on reality recruits unavoidably a prism of social representations. However, the context analysis, such as the business analysis of human trafficking crime in the urban context, may provide valuable input. Instead of

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sharing the concern on laws' alleged ambiguity, the article addresses the need for more interpretative tools and approaches.

Keywords: human trafficking, trafficking in persons, consent, social representations, legal interpretation

Introduction

Trafficking in human beings is a complex and multifaceted phenomenon that seems to be spread worldwide: even if global data are lacking. Estimates cannot be completely reliable. The testimonies of many victims trafficked nationally or transnationally by individuals or organized groups for various purposes confirm its existence as a well-established illegal business (Scarpa, 2008:206).

Human trafficking is often confused with illegal immigration, and while there are similarities between the two, there are just as many differences. The absence of consent in the case of the human trafficking victims' travel or movement (Turek, 2013:83) is noted as a core difference between the two phenomena. However, as analyzed below, this assumption may not be an absolute indication. The consent is easy to be regarded as totally absent in abduction, violence, and other coercive circumstances, but what about the real-life constrained agency and what about cases of taking advantage of the victim's trust towards the perpetrator when the latter is a family member or a partner? Would the possibility of consenting be excluded at all? And what should the legal implications of partial consent be?

The above concerns crucially affect the judicial proceedings, as they determine the very establishment of the human trafficking crime. We examine the argument that attributes to the letter of law part of the responsibility for failing to apply a harmonized and clear approach on the issue of consent, resulting in the under-reporting of the crime and to the perpetrators' impunity. We argue that the focus should be placed on interpreting the law, which is quite relevant with the social representations and the stereotypes about the victim and the crime, rather than the letter of the law

itself. We propose a broad view of the circumstances, including the dimensions of structural nature, overcoming the legal positivism, and considering the findings of various disciplines, such as psychology, sociology, and anthropology, being constantly aware of our perceptions and stereotypes.

Legal framework and fundamental notions

Trafficking in human beings is defined as³ "the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, using threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation."

The UN Palermo Protocol⁴ defines exploitation as "the exploitation of the prostitution of others, or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." The consent of the human trafficking victim to their exploitation, intended or actual, is irrelevant if the following means have been used for its insuring: threat or use of violence or other force, kidnap, deceit, abuse of power, exploitation of the victim's vulnerable position or paying a person holding power over the victim.

³ Article 2 par. 1 Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims and replacing Council Framework Decision 2002/629/JHA. A similar definition is contained in the Palermo Protocol (2000), as well as in the Convention on Action against Trafficking in Human Beings (2005).

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

All the above-mentioned legal instruments align with the principle that the victim's consent is "irrelevant" if the trafficker has used any coercive or fraudulent tactics described above. It clarifies that, even if no fraudulent or coercive tactics are used, a child who "consents" to exploitation is a trafficked child, thus having no capacity to consent. ("Child" is defined as a person below 18.) (DiNicola 2007:49)

To sum up, according to the international legal framework (with which both the EU and the national one is aligned), to establish the crime of the trafficking in human beings, at least one action must have occurred, with at least one means and with the purpose of exploitation. Means as one of the three key elements that annul the genuineness of the extracted consent, "involve threats (the promise to harm), the use of force (using violent means to reduce the ability to resist), coercion (any other means that reduce the victim's ability to resist), abduction (deprivation of liberty), fraud (deceiving the victim into believing in a false situation and, consequently, into giving an invalid consent), deception (taking advantage of a misconception of the victim without inducing the error), abuse of authority (moral coercion based on a relationship as a superior), abuse over a position of vulnerability (exploring the fragility of a person that lacks survival opportunities or sufficient cognitive development), and paying of benefits to a person with authority over the victim (usually taking advantage of a situation of misery)" (João Martinelli, 2015:31).

Therefore, glaring coercion is not always for the traffickers to bend the victim's will; more disguised ways to extract their consent may give an impression of a "contractual" relationship not only to the consumers, clients, or authorities to the victims themselves. Thus, the state-parties of the Trafficking in Persons Protocol have intended to capture the more subtle means of control that could be masked by apparent consent (UNODC, 2014:9).

Human trafficking, including labour trafficking, was first established in the Greek legal order as a self-standing crime in 2002, following sharp international criticism on the country's inadequate response to a growing phenomenon. Since then, Greece's anti-trafficking legislation has undergone a series of revisions in line with global developments. Today, Greece is a party to all primary international human rights instruments, including the Palermo Protocols and the Council of Europe Convention on Action against THB (CoE Convention). It has also transposed Directive EC/2011/36. In 2013, Greece appointed its first National Rapporteur on THB (Law N.3064/2002; Presidential Decree 233/2003; Law N. 4251/2014; Law N.4198/2013; Law N.4216/2013) (Angeli, 2017:188). The Greek National Centre keeps official statistics on THB for Social Solidarity (EKKA), the managing authority of the National Referral Mechanism.⁵

Conceptualization of the Means of Control

To elaborate on the interpretation of the notion of consent, it is essential to understand the factors that shall annul this consent, i.e., the means of manipulating the victim, controlling them, or bending their will. Therefore, a precious and reliable source is the UNODC Model Law, which has incorporated provisions of multiple international legal instruments and the travaux préparatoires discussion and assumptions regarding adopting the UN Trafficking Protocol (UNODC, 2009).

'*Coercion*' shall mean (UNODC, 2009:11) the use of force or threat thereof, and some forms of nonviolent or psychological use of force or threat thereof, including but not limited to:

- i. Threats of harm or physical restraint of any person.

⁵ Semi-annual and annual reports for the years 2019 and onwards are available on EKKA's site: <https://ekka.org.gr/index.php/el/ethnikos-mixanismos-anaforas>

- ii. Any scheme, plan or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person.
- iii. Abuse or any threat linked to the legal status of a person.
- iv. Psychological pressure.

‘*Deception*’ shall mean (UNODC, 2009:12) any conduct that is intended to deceive a person.

or

‘*Deception*’ shall mean any deception by words or by conduct [as to fact or as to law], [as to]:

- i. The nature of work or services to be provided.
- ii. The conditions of work.
- iii. The extent to which the person will be free to leave their place of residence; or
- iv. Other circumstances involving exploitation of the person.

“*Abuse of a position of vulnerability*” shall refer to any situation in which the person involved believes they have no natural and acceptable alternative but to submit.

or

“*Abuse of a position of vulnerability*” shall mean taking advantage of the vulnerable position a person is placed in as a result of:

- i. Having entered the country illegally or without proper documentation; or

- ii. Pregnancy or any physical or mental disease or disability of the person, including addiction to the use of any substance; or
- iii. Reduced capacity to form judgements by virtue of being a child, illness, infirmity or a physical or mental disability; or
- iv. Promises or giving sums of money or other advantages to those having authority over a person; or
- v. Being in a precarious situation from the standpoint of social survival; or
- vi. Other relevant factors.

Referring to sexual violence, but not irrelevant to the notion of consent, is Rule 70 of the International Criminal Court Rules of Procedure and Evidence,⁶ which foresees that:

(a) Consent cannot be inferred because of any words or conduct of a victim where force, threat of force, coercion or taking advantage of a coercive environment undermined the victim's ability to give voluntary and genuine consent.

(b) Consent cannot be inferred because of any words or conduct of a victim where the victim is incapable of giving genuine consent.

(c) Consent cannot be inferred by reason of the silence of, or lack of resistance by, a victim to the alleged sexual violence.

⁶ Available at: <https://www.icc-cpi.int/iccdocs/pids/legal-texts/rulesprocedureevidenceeng.pdf>

(d) Credibility, character, or predisposition to sexual availability of a victim or witness cannot be inferred because of the sexual nature of the prior or subsequent conduct of a victim or witness.

On that account, it is essential to consider using the means above to manipulate the victim's will and eventually obtain their consent. The use of these means constitutes the basis of the negation of a "genuine consent". The concept analyzed below.

Exceptionally enlightening is the relevant UNODC research (UNODC, 2017) on how the concept of consent has been interpreted in several jurisdictions. The concept ranges; from "totality of circumstances" to considering cultural beliefs and psychological mechanisms (UNODC, 2017:139); the judicial authorities have been trying to determine the validity of the victim's seeming consent diving deep into their experienced reality.

The spatial dimension of the risk factors

Nevertheless, it is a common ground, that the urban environment constitutes a fertile ground for the rise of this crime, as the demand for cheap labour and sexual services in the urban context is higher- at least in terms of absolute numbers. The general principle that criminal activities tend to agglomerate in larger markets (T. Mahmoud et al., 2009:8) is valid for human trafficking, too. In addition, migrants are regarded by the traffickers as a pool for potential victims; while internal migration is directed to urban areas (OSCE, 2010:24), the traffickers themselves often choose to move their victims to urban areas to increase their profits (OSCE, 2010:30). The finding that the spatial dimension of the sex trafficking is explicitly relevant to the intersection of these three necessary elements: an individual vulnerable to sexual exploitation, a customer willing to purchase a sexual service (or a trafficker looking to recruit a new victim), and the absence of capable

guardians to prevent the criminal act (D. Mletzko et al., 2018:88), should be considered as applicable to all forms of exploitation. Of course, this would not mean that rural areas are safer or inhospitable regarding human trafficking; the agricultural sector has been identified as a risk factor for labour exploitation. However, the contextualization of the crime analysis is a precondition for the design of well-targeted and efficient response.

The notion of consent in the Greek case-law

The defence line from the perpetrators' side in the courtrooms often focuses on the existence of the victim's consent: "They agreed", "They knew", "They could go if they wanted". This "trend" is not new, nor a Greek phenomenon; the UNODC analysis suggests a well-targeted summary of the most common factors for that: "*victims may be accustomed to working long hours in bad conditions. The apparent consent may also reflect cultural factors, including emphasis on the family head or unit as a decision maker or accepted gender roles that discourage women and girls from expressing their views. Psychological factors may also be relevant - including fear, shame, and inability to face what has happened. Moreover, victims may be labouring under a misapprehension that if they initially consented, they had agreed to the entire process and thus failing to consider themselves as victims of crime.*" (UNODC, 2014:96)

In L.E.'s ECHR case, the Greek Prosecutor had initially rejected the applicant's allegation for having been a victim of sexual trafficking. The justification of his rejection was because she had travelled alone after her arrival in Greece and that she had contacted the trafficker of her own volition at some point. The Prosecutor also consider the fact that she was prostituting herself in front of a hotel without any physical surveillance, ignoring the impact of the juju ritual that had been carried out before she departed from her home country.

In another case of labour trafficking,⁷ the Greek Court had found that the workers' freedom of movement was not restricted because they were free to leave their work and had, therefore, failed to establish the crime of human trafficking. However, the workers who lacked legal documents and recourses were at risk of arrest, detention and deportation, and the expectation that only if they continued working would they have a chance to receive the owed salary⁸ was found to be sufficient to establish a position of vulnerability. The fact that they could go and visit the nearby town for shopping or play cricket during their leisure time has been therefore considered irrelevant by the European Court of Human Rights (and the Greek Supreme Court subsequently).

The Greek Supreme Court's decision n. 2/2019⁹ functions as a case-law compass for all Greek penal courts about the interpretation of the respective legal framework on human trafficking: "It is obvious (...), that the extraction of the victim's consent, using deceptive means and his/her luring to consent, with the exploitation of his vulnerable position (...) are (...) individual means for completing the trafficking acts. (...) Therefore, the abovementioned crime is not precluded when the victim can dispose freely the time when not working, can leave his/her work in search of a new one and in general his/her ability to oppose to the perpetrator's domination and try to overthrow the exploitation, since these possibilities do not refute the decisive element of labour exploitation, on account of the above mentioned coercive or fraudulent means that he used to succeed his aim..(...) Furthermore, the perpetrator's attitude, by which he affects the victim's will at such a grade that the victim consents to provide himself, namely his freedom, in the sphere of the perpetrator's power, experiencing exclusion from the external world, equal with that of the victim

⁷ Chowdury and Others v. Greece (2017), available at <https://hudoc.echr.coe.int/eng?i=001-172701>

⁸ Ibid., para. 97

⁹ Available in Greek at:

http://www.areiospagos.gr/nomologia/apofaseis_DISPLAY.asp?cd=47ITH6RZJMX54ROTWHSPMF02N7FZWW&apof=2_2019&info=%D0%CF%C9%CD%C9%CA%C5%D3%20-%20%20%CF%CB%CF%CC%C5%CB%C5%C9%C1

of coercion, is considered as luring. As a result, the core of the increased disvalue of this specific means of performing the trafficking acts is the abuse of the victim's freedom, which leads to the voluntary "subordination" to his use by the perpetrator as an object, without needing to use any coercive or deceptive means." Regarding the position of vulnerability, the Supreme Court focuses on the lack of choices: "It can be any vulnerability, physical, psychic, emotional, gender, social, economic (...) To sum up, all of the dangerous conditions that may lead a human being to accept his exploitation."

The arguments above are crucial for victims who are controlled in an urban environment; the apparent proximity and availability of various services, alternatives and protection actors could be considered as refuting the lack of freedom or the victim's feeling that there is no alternative (and this feeling is adequate, according to C.N. and V. v. France judgement of the European Court of Human Rights).¹⁰ Thus, understanding the mental/psychological mechanism through which a person may be manipulated is the basis of testing the existence of the means element.

Relativity of the free consent

Challenging the validity of the victim's consent is required on the one side to establish the crime of human trafficking and reveal the perpetrator's control and power over the victim; on the other side, it has been criticized as a factor that constructs the image of a victim lacking agency and self-determination; the latter has a two-fold consequence: the failure to understand the reality of the victims' survival strategies and agency and the construction of an ideal victim stereotype. The ongoing relevant discussion has been enriched with arguments that regard the constrained

¹⁰ <https://hudoc.echr.coe.int/fre?i=002-7230>

agency and the (possibility of) existence of free will in each context, as well as the inalienability of fundamental rights, to the deprivation of which no person may consent.

The respective ongoing debates focus on the consent to the exploitation and the consent to distinct, separate trafficking acts (such as transfer). It seems easier for scholars to recognize voluntariness in the act of movement in terms of migration (Suchland, 2015:81), clarifying that this finding would not necessarily annul the possibility of being a victim of trafficking. The term ‘voluntary victim’ has been proposed (Vijayarasa, 2015:85).

The International Labour Office (ILO) supervisory bodies have concluded that the worker’s right to free choice of employment remains inalienable (Gallagher, 2010:36). Additionally, according to a long-standing principle of international human rights law, the intrinsic inalienability of personal freedom renders consent irrelevant to a situation where personal freedom is taken away (Gallagher, 2010:28). In that sense, narrow margins are left for cases regarded as voluntary work when the overall conditions amount to labour exploitation.

It is not inexplicable because the area of sexual exploitation remains instead a “privileged” field of the evolvement of the discussions on consent than the removal of organs or domestic servitude, for example. However, issues become tenser and more complex when it comes to sexual acts/services, as obviously several concerns of moral nature underly in these debates and favour polarization, being connected to broader questions of fairness, values, and justice (Askola, 2007:186). During the drafting of the UN Protocol on Trafficking in Persons, debates focused on the definition of trafficking and its relationship to prostitution. Hotly contested was whether the document should state that trafficking could occur “irrespective of the person's consent.” Abolitionists argued that including this phrase in the Protocol would ensure that traffickers could

not claim consent as a defence against trafficking complaints. The other side argued that the rest of the definition specifying coercion, force, abduction, fraud, etc., made it clear that consent was not a viable defence to trafficking and would blur the distinction between trafficking and people smuggling (Outshoorn, 2015:16).

What is proposed is a social model of consent (Pearce, 2013:52) related to the contextualization of each discussion (Suchland, 2015:84).

Due to intellectual postures, the ratio between agency and victimization is nevertheless impossible to measure. For adults, how to determine if migration is voluntary or involuntary if both options are often confused in the same trajectory (Lainez, 2010:147)? And to what extent does the consent free of fraud or coercion represent an actual exercise of autonomy (João Martinelli, 2015:33)?

Social representations: The victim archetype

But would the contextualization approach solve all interpretative issues? Would it be a safe choice to broaden a positivist approach to the direction of grounding on real life?

Trafficking in Persons is sometimes closely associated with strong moralizing stigmas supported on social representations of specific behaviours (sexuality/prostitution), xenophobia (immigration/the stranger), and the issue of consent (legally irrelevant to prove the crime, but not from the perspective of the individual and the community) (Daniel-Wrabetz, Penedo, 2015:5). When “real facts” come to the forefront, we must be conscious of the various perceptions of reality; the social representations may constitute that altering prism, through which the cases that fail to fit in the “ideal case” stereotype will be practically excluded from the scope of the anti-trafficking legislation at the stage of its implementation.

Given the complexity of this crime, media coverage has traditionally offered an oversimplified treatment of the issue, over-focusing on female victims of sexual exploitation. The media tends to consolidate the ideal victim in the popular imagination, a young, innocent, and vulnerable woman passively waiting to be rescued by a western man (Daniel-Wrabetz, Penedo, 2015:3-4).

Thus, those who were previously engaged in prostitution may also be perceived to lack 'real' victim status, as they have consented to the illegal border crossing and to working in the sex trade (Shelley, 2010:26). These elements may "marre" their innocence and subsequently annul their victimization. This focus on a simplified scheme of a helpless victim waiting to be rescued (either by a man or by the state) obscures the whole spectrum of the economic and social circumstances and thus fails to capture the complexity of the decisions of potential migrants that might lead to a situation of their exploitation. Male vulnerability is also obscured (Rodríguez-López, 2018:6).

The issue of the migrant women's initial consent to their movement, (even more their initial consent to work in prostitution) contributes to the perception that the women trafficked are actually 'migrant prostitutes,' the abuse of whom is taken less seriously - even if this consent should in principle be regarded as irrelevant for women who have been trafficked and deprived of their basic human rights. This distinction between 'innocent' and 'guilty' victims is complicated to make (as women may be conscious that involvement in prostitution was to be expected, etc.), but it is also a problematic reflection of sexual double standards (Askola, 2007:40).

A grave side-effect of the prevalence of the above stereotypes is the risk for other forms of human trafficking, including labour-trafficking to be tolerated and overlooked. This is due to the

authorities' reluctance to identify factors of control and coercion and the self-underreporting of men, who may less often identify themselves as victims.

It is safe to say that trafficking for labour exploitation is the 'poor cousin' of the anti-trafficking cause (Wylie, 2016:131).

Is the letter of the law to blame?

So, is finally the allegation about the vagueness of the legal framework well-founded and justified, blaming the alleged inadequate wording for the failure to apply the law efficiently?

During the negotiations around the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons (2000), a dichotomy arose around the possibility of voluntariness in prostitution, which resulted in a wording that intentionally left room for separating non-coerced or voluntary prostitution and some voluntary sex trafficking (Walker et al., 2018:10). The balances had been different previously; the 1949 UN Convention had called on all states to suppress not only trafficking, but also prostitution, regardless of whether they occur with the consent of the woman involved (Outshoorn, 2015:9).

While the Palermo Protocol's intention to end trafficking is clear, the meaning of key terms utilized (i.e., exploitation, vulnerability, and consent, amongst others) is not self-evident, resulting in debate and contestation (Ahmed, Seshu, 2015:169). Second, definitions of human trafficking have coalesced around contested positions on issues of prostitution, individual agency, and consent (Lee, 2007:19).

Questions of consent and coercion were vital to the debate (Segrave et al., 2009, 16), with disputes over the legitimacy of prostitution threatening to prevent the creation of a Trafficking Protocol with widespread international support. To date, 117-member states have signed the

Protocol, and 178 are parties to it (United Nations, 2021).¹¹ This suggests the Protocol has been widely accepted in the international community. However, it has also perpetuated debate over the relationship between prostitution and trafficking, mainly due to the ambiguity of the definition of trafficking (O'Brien et al., 2013:7), as argued.

Though numerous aspects of human trafficking reflect 'voluntary' or non-coerced decisions on the part of victims, the Trafficking Protocol requires that the consent of an adult victim is ignored from a legal perspective when any of the means listed, such as force, abduction, or abuse of power, are used in the victim's movement. As a result, the Trafficking Protocol defers attention away from those aspects of victim voluntariness that are central to human trafficking. This includes pre-migration planning, the voluntary pursuit of opportunities for betterment abroad and voluntary acceptance of risk. Also relevant is the possibility that a victim may voluntarily flee situations of abuse, exploitation, or inequality at home (Vijayarasa, 2015:84).

It has been argued that the Trafficking Protocol's approach requires a victim's narrative of total involuntariness and thus fails to recognize the spectrum of trafficking experiences from voluntary to entirely coerced; in that way, particular victims of exploitation may be excluded and left without redress (Vijayarasa, 2015:45).

We would not agree with this approach, nor with the above-mentioned critical approach of the Protocol; the wording depicts the imbalance of power between the trafficker and the victim, which annuls the validity of the extracted consent.

¹¹ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18

The opinion that such an approach drives to a “moral panic” (Zheng, 2010:2) could be regarded as prerequiring a specific reading and interpretation of the Protocol and is not deriving directly from the mere letter of the law.

Clarity of the legal wording has been regarded as incompatible with the variety and complexity of the actual circumstances, attributing to that - perceived as – conflict the implementation deficiencies.

For example, it has been argued that the possibility of a woman simultaneously being a victim of trafficking and an agent seeking economic or social betterment is ignored (Vijayarasa, 2015:8). This promotes the conceptualization of consent on two different levels, within the legal framework and outside of legal circles, to bring attention back to the process of autonomous decision-making engaged in by the victim and encapsulate the socio-economic factors relevant to trafficking. (Vijayarasa, 2015:44).

Since we admit that a variety of legal interpretation problems emerge from the distance between the law and real life, from the – let’s call it as - legal compartmentalization, from the legal procedures’ sterilization in other words, how the enhancement of such a mentality would be part of the solution? On the contrary, the notion of consent could not have a dual meaning – inside and outside the courtroom. The judiciary and law enforcement bodies must get familiarized with considering the totality of the actual circumstances instead of de-constructing an experienced continuum. Of course, legal science, especially it's positivist tradition, cannot provide adequate tools for such a process; disciplines like sociology, psychology, and anthropology must feed the criminal proceedings with their tools and findings. For example, an Italian court that examined the

case of two Nigerian women, whose manipulation was related to a voodoo rite had asked for an anthropologist expert's opinion¹² to understand the nature of this control process.

The Greek Jury Court in the above-mentioned *Chowdury and others v. Greece* case (widely known as the "Manolada case", because of the location of the crimes) had oppositely interpreted the law compared to the Greek Supreme Court. In discussing the judgment, one independent expert attributed the difficulty to frame labour exploitation in terms of THB to social perceptions about the presumably less cruel nature of the abuse involved. Compared to the suffering experienced by sex workers, the economic exploitation of domestic workers, considering the financial crisis, appears less severe (Angeli, 2017:21). It is thus characteristic that it is not a matter of legal phrasing. It has no luxury to apply any positivist approach; the positivist approach is incompatible with ECHR's very nature of combination, balancing and focusing on universal understandings and norms. So, it is instead an issue of interpretation, then a matter of wording.

Conclusion

Law does not exist in a vacuum. Law does not constitute an autonomous system of speech and action but is part of a social action defined in space and time. The function is to receive pre-formed perceptions and attitudes, and representations to translate them into its context (Rethymiotaki et al., 2016:16) and feed the conceptualization of those social constructions.

Thus, the symbolic legal language and terminology serve the scope of inclusiveness and flexibility that a legal wording shall have. At the same time, classification is unavoidable in

¹² https://milano.corriere.it/19_giugno_20/obbligate-prostituirsi-rito-woodoo-condannata-intera-famiglia-a0d7dba6-936d-11e9-ba7a-83e003df18c5.shtml?fbclid=IwAR3z2jNNMiW5D7_Se8DHbyYOacE5k_8IeCU3yFPPqewIVBccYh6akSYxGa8

inducing material facts to legal notions; this does not preclude the discussion between the law and reality.

The international instruments constitute a reasonable minimum of convergence, which shall embrace all jurisdictions, legal orders, and various approaches; most of the time, the proper phrasing leaves this margin.

Furthermore, the interpretation of legal concepts is fed by social constructions. It is thus much more than a matter of the letter of the law - and the interpretative issues that arise require an interdisciplinary endeavour to be solved. In Greece, the trafficking cases are trailed by jury courts¹³ (i.e., courts where most judges are citizens, bringing the unfiltered and unprocessed in principle social representations in the judicial process). Even the court's seat may be crucial as there have been allegations that an urban-based court would possibly have judged the "Manolada" case differently (Angeliki, 2017:21). The implication is that the context, meaning the local economic structure, may affect the jury's legal standards.

Angeli (2017:19) puts it aptly (while researching domestic labour conditions): The limitations of Greece's anti-trafficking framework towards THB in domestic work do not lie in the letter of the law itself. She focuses further her research on the oppressive employment relationships as a structural phenomenon; it is that osmosis between legal science and sociology that may reveal the total dimensions of the phenomenon. It is the same direction as when UNODC recommends for the criminal proceedings: "Increase attention to and examination of the role of abuse of a position of vulnerability as the "means" to recognize the structural aspects of the crime and coercive control" (UNODC, 2020:111).

¹³ Except for the trafficking cases where criminal groups are involved.

In our opinion, this chosen legal wording balances in the best way the abolitionists' approach, as well as the pro-sex workers' rights one. Law has – and should have - by its function a vivid nature; it is relatively efficient to defend that nature than blaming the wording (which is the most inclusive possible in our case). Each case that is brought before justice is examined on an individual basis. This means that the contextualization of the interpretation of consent is inherent to the judicial process.

In criminal proceedings, handling a specific case as a crime does not exclude its character as part of a complex and multi-dimensioned phenomenon; revealing or examining this dimension does not mean absconding from an individualized examination.

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