


Between the hidden and the silenced: human trafficking in Costa Rica and the challenges for academic research

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SUMMARY

This article reflects on the nature, scope and challenges of academic research on human trafficking, in light of the documentary review of national production, as well as the reflections generated within the framework of the project "Support for research on human trafficking in Costa Rica", developed at the Center for Research on Women's Studies (CIEM), attached to the Latin American Observatory on Human Trafficking, Costa Rica Chapter. The most important critical points in the study of this problem are highlighted,

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The main focus is on the particular dynamics of the crime of trafficking in persons. It reflects on the role of public universities in the face of this serious human rights violation.

Key words: human trafficking, human rights, gender studies, action-research, challenges for academia.

Introduction

In Costa Rica, trafficking in persons is defined as "promoting, facilitating or favoring the entry into or exit from the country or the movement within the national territory of persons of any sex to perform one or more acts of prostitution or to subject them to exploitation or servitude, whether sexual or labor, slavery or practices similar to slavery, forced labor or services, servile marriage, forced begging, illicit extraction of organs or irregular adoption.

Human trafficking has been conceptualized as a manifestation of power and gender-based violence, which acquires particular characteristics if the victim is a man, woman or minor². This manifestation of violence originates in the social structure of patriarchy, which assigns a differentiated and unequal social status to men, women and minors. However, this conception is not sufficient to understand trafficking in persons, as it is affected by the combination of other factors of a social, political, economic and cultural nature.

As stated by Adriana Rodríguez and Alberto Rojas, the understanding of human trafficking must be situated in the capitalist system and the expansion of the neo-liberal model that generates social exclusion, poverty, unemployment and global demand for cheap labor³. On the other hand, the existence of organized criminal networks, the existence of laws and policies that make migrants vulnerable, as well as the systematic impunity in the justice systems must be recognized.

In the last decade, national reports and statistics have indicated that Costa Rica is a country of origin, transit and destination for human trafficking, both at the international and national levels. Numerous cases of trafficking in persons for different purposes have also been identified, especially trafficking for labor exploitation, sexual exploitation, servitude, servile marriage and organ trafficking⁴.

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1. Law Against Trafficking in Persons No. 9095, Article 5.
 2. International Organization for Migration, *Guía de intervención psicosocial para la asistencia directa con personas víctimas de trata* (Costa Rica: IOM, 2007), 13.
 3. Adriana Rodríguez and Alberto Rojas, *Trafficking in Persons for Labor Exploitation in Central America. Informe Costa Rica* (Costa Rica: OIM, 2011), 33-38.
 4. International Organization for Migration, *La experiencia de las mujeres víctimas de trata en América Central y República Dominicana y la actuación de las instituciones. Costa Rica Chapter* (Costa Rica: IOM/AECID/COMMCA/SICA, 2008), 37-40. *Trata de personas con fines...*, 57-60. Coalición Nacional contra el Tráfico Ilícito de Migrantes y la Trata de Personas. "Informe atención a víctimas. Periodos 2011-2017" (Costa Rica, unpublished).

At the same time, there has been a growing interest in research on this problem. In recent years, national studies have made it possible to delve deeper into the scenarios of human trafficking victimization, as well as to account for the social, economic and cultural factors that generate vulnerabilities, which contribute to its re-forcing and extension⁵.

These research contributions have made it possible, in turn, to recognize the needs of victims of human trafficking and to determine the main obstacles to their access to prompt and effective justice. Likewise, it has been possible to identify the progress, challenges and challenges in the inter-institutional response for the prevention, attention and punishment of this scourge.

Despite the above, it is important to note that, although human trafficking has been considered a problem to be investigated, very little academic research has been produced on the subject in the country⁶. It should even be noted that most of the knowledge produced on this subject is due to final graduation projects in the area of Social Sciences and Law, as well as institutional studies and reports. In this sense, the publication of scientific articles on human trafficking at the national level is practically non-existent⁷.

The purpose of this article is to reflect on the main scopes and challenges involved in academic research on human trafficking in Costa Rica and, in particular, to identify the challenges faced by public universities in this area.

Progress in the investigation of human trafficking at the national level

According to official data from the National Coalition against the Smuggling of Migrants and Trafficking in Persons (CONATT), from 2011 to the first months of 2017, a total of 95 victims of human trafficking have been identified in the country, of which 86% correspond to women and 14% to men. Of the total, 19 victims are minors and the rest are adults. In turn, 64 are foreign nationals and 31 are nationals.

The above information reveals that human trafficking is of significant magnitude in Costa Rica; however, as Rodríguez and Rojas state, its recognition and understanding as a social problem has been quite recent⁸. Undoubtedly,

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5. *The experience of women victims...*, 47-62. Ingrid Chávez and Verónica Muñoz, "La trata de personas menores de edad: esclavitud moderna en un mundo globalizado" (law thesis, University of Costa Rica, 2009), 53-62. *Trata de personas con fines...*, 61-101. Fabiola González, Adriana Miranda and Daniela Mora, "Trata de personas: situación de las mujeres. Reality and challenges in Costa Rica / 2002-2013" (undergraduate thesis in Social Work, University of Costa Rica, 2015), 224-240.
 6. UPO-IDESPO, *Trata de personas, dignidad y derechos humanos* (Costa Rica: ArCiBel Editores, 2012), 1-156. "Trafficking in persons: situation of women...", 100-101.
 7. It is important to clarify that this paper focuses specifically on existing research at the national level, and therefore does not consider the production of knowledge on human trafficking in other Latin American contexts.
 8. *Trafficking in persons for the purpose of...*, 39.

Currently, one of the main advances has been the awareness of its existence, magnitude and impact, as well as the recognition of institutional responsibility in combating and eradicating it⁹.

Since the ratification of the Palermo Protocol in 2002, the State of Costa Rica has been obliged to deploy a series of efforts aimed at legislation and punishment of the crime of trafficking in persons, as well as comprehensive protection for victims and survivors. The criminal legislation that contemplates the crime of human trafficking has undergone constant modifications during the last two decades¹⁰; likewise, there have been changes in the conceptualization and understanding of trafficking as a social phenomenon, especially in light of the study of the existing casuistry.

However, as a complex, multi-causal and multidimensional phenomenon, addressing it is no easy task. The vicissitudes of trafficking and the pressing needs of the victims demand increasingly diligent and specialized action on the part of the State and its institutions; it is here, then, that academic research acquires special relevance and pertinence.

The progress in the recognition of human trafficking as a violation of human rights, as well as the progress in the State's response and the increase in the production of knowledge based on research on this problem, have been parallel processes and, to a certain extent, have been nurturing each other. This means that research has not only played a transcendental role in the deepening of the dynamics of human trafficking, its particular characteristics and its impact, both at the individual and social level, but also in the generation of the necessary knowledge to strengthen the institutional response and advance in the protection of the human rights of the surviving victims.

Thus, it can be said that there has been a greater interest in the national research production on human trafficking, whose production has represented a valuable contribution to the actions of the State, in terms of prevention, punishment and attention to this problem.

At this point, however, it is worthwhile to ask ourselves what is proposed to be known through the research carried out and what aspects related to human trafficking have been studied.

9. *Human trafficking, dignity...*, 96.

10. Prior to 1999, this crime was linked only to prostitution. In 2009 this situation changed, because as part of a series of reforms in criminal and criminal procedure, and victim and witness protection, article 172 of the Penal Code was again reformed, bringing the crime of trafficking more in line with the wording of the Palermo Protocol. Among other aspects, the purposes of human trafficking were expanded to include servile marriage, slavery or practices similar to slavery, forced labor or services, begging, illicit extraction of organs and irregular adoption. Finally, in 2012, Law No. 9095 Against Trafficking in Persons was approved, which constitutes a great advance for the attention, punishment and prevention of the problem, while consolidating the creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons, an entity that was created under an executive decree issued in 2005.

Existing studies in this area are mainly oriented toward understanding the origin of trafficking in persons, the social, economic and cultural factors that influence this phenomenon and the conditions that generate vulnerability for victims to fall into its networks. The research is also aimed at delving into the dynamics of the crime itself, the functioning of criminal networks and the process of victimization in human trafficking¹¹.

In addition to the above, the research conducted has questioned the impact of this problem by reconstructing and analyzing the critical routes that lead to the trapping and exploitation of trafficked persons. In this sense, the damage caused by this severe violation of human rights has been confirmed.

On the other hand, studies have been carried out to analyze the response to human trafficking, including the regulatory, state-institutional and social spheres. These studies make it possible to identify the most important advances and challenges in addressing human trafficking in the country. It should be noted that their research purposes or scope are primarily aimed at strengthening the response of the state and civil society to the problem of trafficking in persons¹².

In general terms, one of the most significant contributions of research on human trafficking in the country has been the deepening of the dynamics of victimization based on the analysis of the existing casuistry. In this line, it has been pointed out that the main victims have been men and women from different countries of Central America, South America, Asia and Eastern Europe, coming from social contexts marked by social exclusion and economic poverty; the most common means of recruitment being deception by acquaintances, intermediaries, "trustworthy" companies and/or migrant smugglers¹³.

In turn, previous research has shown that the dynamics of human trafficking are characterized by the abuse of the vulnerability of the victims, their uprootedness, the total or partial limitation of their freedom and the limitation of their self-determination. In this regard, the consequences suffered by victims in the individual, family and social spheres have been widely noted¹⁴.

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11. *The experience of women victims...*, 35-54. "Trafficking of underage persons..." 65-153. *Trafficking in persons for purposes...*, 61-106. "Trafficking in persons: situation of women...", 133-181.
 12. Raquel Segura, "La trata de mujeres y el tráfico ilícito de migrantes mujeres: una cuestión de derechos humanos a la luz de la perspectiva de género" (Law thesis, University of Costa Rica, 2007), 10-237. Luis Centeno, *Estudio regional sobre la normativa en relación a la trata de personas en América Central y República Dominicana y su aplicación: Costa Rica* (Costa Rica: International Organization for Migration, 2008), 81-96. Silvia Artavia, "Revisar Ley contra la Trata de Personas y Creación de la Coalición Nacional contra el Tráfico Ilícito de Migrantes y Trata de Personas, desde el enfoque de Derechos Humanos" (Master's thesis in Human Rights, Universidad Estatal a Distancia, 2013).
 13. *The experience of women...*, 35-54. *Trafficking in persons for purposes...*, 61-106. "Trafficking in persons: situation of women...", 133-181.
 14. *Trafficking in persons for the purpose of...*, 61-106.

Another important element of the existing national research is the identification and characterization of the mechanisms used to hold victims of trafficking in conditions of exploitation, among which kidnapping and ransom payment, debt bondage, retention of documents, threats to integrity, including the threat to denounce migration, the promise of payment to the family and the general condition of uprooting have been highlighted¹⁵.

Likewise, as a research contribution, a series of barriers to access to prompt and complete justice for survivors of human trafficking have been detected, among which the threatening and intimidating dynamics of human trafficking prevails¹⁶. According to Rodríguez and Rojas, this is compounded by the vulnerability of the victims, also expressed in their lack of information regarding their right to denounce, the absence of specialized training in judicial instances, as well as the lack of collaboration of victims and witnesses in judicial processes¹⁷.

As mentioned above, the contributions of the research conducted in the country have made it possible to glimpse the main challenges with respect to the State's response, which are considered to be related to three fundamental levels.

The first is access to justice and the non-impunity of perpetrators of the crime of human trafficking. Given the low number of enforceable sentences in the country, the need for greater specialization in the judicial investigation of the crime has been raised¹⁸.

The second level lies in the comprehensive attention to human trafficking, where challenges such as the increase of material resources for the protection of surviving victims (specialized shelters, interpreters in different languages, among others), as well as the strengthening of existing models of attention to the specificities of the different purposes of human trafficking (labor, sexual, organ trafficking, etc.) and the particularities of male and underage victims are highlighted. In addition, the need to improve institutional and transnational follow-up and monitoring mechanisms for the repatriation, reintegration and resettlement of victims is recognized¹⁹.

Finally, a third level is oriented towards information and prevention of human trafficking aimed at the general population. According to IDESPO²⁰, despite the efforts developed in recent years, the general population does not have clear, reliable and sufficient information about human trafficking.

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15. *The experience of women victims...*, 47-69. *Trafficking in persons for the purpose of...*, 57-106. International Organization for Migration. *Trafficking in women: a manifestation of violence against women* (Costa Rica: IOM, 2012), 49-56.
 16. *Regional study on the normative...*, 81-96. "La trata de mujeres..." (law degree thesis, University of Costa Rica, 2007), 5-237.
 17. *Trafficking in persons for the purpose of...*, 83-85.
 18. *Regional study on...*, 81-96.
 19. *Trafficking in persons for the purpose of...*, 107-108.
 20. IDESPO, "Presentación de análisis de resultados de la encuesta: Percepción sobre la Trata de Personas en Costa Rica", Universidad Nacional, 2016.

Critical knots in human trafficking research

Research on human trafficking is not a simple task. On the contrary, previous studies have pointed out the difficulties involved in approaching this phenomenon as a research problem: "...it is difficult to determine exactly the real state of human trafficking in our country and in the world. This is mainly due to the fact that the way trafficking networks operate makes it difficult to detect and quantify their victims"²¹.

In this regard, it is important to refer to the methodological strategy used in the various studies carried out, which mainly correspond to exploratory or descriptive studies based on documentary review (statistical data, institutional reports, previous studies, among others), normative analysis, interviews with experts and key informants in institutions and civil society organizations, and case studies. There are fewer studies that recover the direct experience of survivors of trafficking, which is understandable in light of the difficulties involved in accessing them; this makes it more feasible to reconstruct the dynamics of victimization based on the testimony of institutional personnel who deal with trafficking in persons at different levels or by interviewing key informants.

Based on the above, the main barriers or so-called "critical knots" in academic research, whose object of study is human trafficking, are introduced and will be developed below.

- a. The dynamics of the crime. The greatest difficulties in the investigation of human trafficking are related to the particular dynamics of this crime, which, in order to favor and sustain impunity, acquires its own characteristics, such as the specialization of criminal networks, clandestinity, manipulation, threats and the imposition of secrecy and silence. This dynamic limits access to information and has repercussions above all in the little or no access to the victims of trafficking as primary sources of such information.
- b. Statistical underreporting. It is necessary to consider that most victims of trafficking are neither detected nor rescued; that is, they are not recorded in any institutional registry. On the other hand, some of the victims manage to escape or leave the situation of exploitation, but they are not identified by the institutions and do not receive support. A small number of victims are detected and are attended to by the corresponding institutions; only this small number is visible in the statistical records. Undoubtedly, the underreporting of trafficking in persons - explained from the particular dynamics of the crime - represents one of the most important barriers to determining the national casuistry and determining with greater accuracy the magnitude of this problem. In this regard, Rodriguez and Rojas state that updated, systematized and reliable statistical information is not enough to determine the magnitude of the problem.

21. *Trafficking in persons for the purpose of...*, 57.

continues to be one of the main gaps in the current context²². In addition, it is not always possible to find disaggregated data in official statistical sources that would allow us to recognize aspects such as the age of the victim and his or her place of origin, the type of trafficking and the place where the complaint was filed, among others.

- c. The risk of over-registration or the absence of a single registry. It is common for those who undertake the task of investigating the problem of human trafficking in the country to find a series of inconsistencies or contradictions in the statistical information provided by the different institutions responsible for victim assistance and prosecution of the crime²³. These inconsistencies are observed depending on the institutional source, or are related to the different stages of the process (for example, "potential" victims, accredited victims, reported cases, cases under judicial investigation, criminal cases entered into the judicial system, sanctioned cases, etc.). In other words, considering the variety of institutions and nongovernmental organizations involved in the approach to victims and the different stages in the process of care and sanction, it is quite possible to find a number of different types of cases.
- "over-registration" of cases. However, this does not call into question the massive increase in human trafficking cases, but it does point to the challenge against a single registration system on human trafficking in the country, which is still lacking.
- d. Custody of information. This knot is related to the lack or non-availability of confidential information that must be safeguarded by the institutions involved. For example, information related to cases under judicial investigation, protection of victims and witnesses, etc. While this is clearly understandable, it represents another limitation in access to information that could be useful for academic research on human trafficking.
- e. Ethical aspects of research. Finally, it is recognized that the study of human trafficking must necessarily respect a set of criteria for the protection of the people involved (victims, institutional personnel in charge of care, witnesses, among others). Thus, rather than a knot or difficulty, this refers to the ethical guidelines that should guide research on human trafficking, which may raise ethical dilemmas to be resolved. For example:
- How to ensure the confidentiality and protection of participants?
To what extent does participation in the research imply a risk to the physical or emotional integrity of the persons involved? How to ensure the necessary support for the participants in the event that the research involves any emotional impact? These questions cannot be ignored; on the contrary, the researchers must give the appropriate ethical answers based on human rights.

22. *Trafficking in persons for the purpose of...*, 32.

23. Currently, the statistics provided by CONATT are recognized as official statistics on cases handled (accredited victims).

Finally, it should be noted that despite the various critical points mentioned above, national research on human trafficking has made gradual progress, including valuable contributions already mentioned throughout this text. However, it is essential to recognize the shortcomings and challenges currently facing scientific-academic production on this issue.

A necessary balance: challenges in academic research on trafficking in persons.

UPO-IDESPO24 points out that the presence of academia in the production of information on human trafficking has been scarce in recent years; it points out the need for universities to join the corresponding specialized research efforts. In this regard, it is important to recognize that academic research must necessarily be committed to the fight against human trafficking and not only to the production of scientific knowledge on the subject. This requires the development of research with an ethical-political commitment.

This research exercise also implies critical reflection on the problem and the socioeconomic roots and the political and cultural conditions that generate it. It is essential that the study of human trafficking recognizes the capitalist-patriarchal structure in which it is inserted, as well as the neoliberal policies that promote it. In this regard, among the conditions that generate human trafficking, inequality and social exclusion, the policy of dispossession, the deregulation and ~~flexion~~flexion of labor conditions, the precariousness of work and the feminization of poverty must be recognized. Undoubtedly, this in turn represents the challenge of an interdisciplinary approach in researching the problem.

Along with the above, there are other important general challenges to be considered at the academic research level, which are pointed out below:

- Strengthening of a unified registry system on human trafficking that includes updated statistical information and specific characteristics on casuistry.
- Systematization of lessons learned and good practices in the State's approach.
- In-depth study of the particular dynamics of victimization in the different purposes or manifestations of human trafficking and, specifically, the situation of male victims and minors.
- Study on the impact of human trafficking on the social fabric and the family and community sphere.
- Impact of the processes of care and protection for survivors of human trafficking in the country.

24. *Human trafficking, dignity and...*, 100-102.

Challenges of the public university

The spirit of the public university is oriented towards critical reflection on the national reality and the transformations necessary for the construction of a more just, egalitarian and supportive society. There is currently a growing consensus and social awareness of human trafficking as a problem that threatens the social fabric and the dignity of the human person. In this context, universities cannot be indifferent, but rather must occupy a privileged place for the generation of knowledge and the development of reflective academic spaces around this reality. Since research is one of the main pillars of the public university, it is necessary to focus on human trafficking as a priority topic in the research agenda, especially if we consider the challenge of having systematic, updated and reliable scientific information.

From a university model with social commitment, it is essential not only to incorporate this issue in the agenda, but also to assume a critical and proactive stance that allows the generation of useful knowledge applicable to reality. Also, as stated above, the academic gaze should be directed towards the impact of the capitalist system and the logic of neoliberal accumulation in the reproduction of human trafficking.

In addition to research, universities have the challenge of training professionals who are increasingly sensitive and aware of this reality, with the necessary specialization to respond in the most appropriate way at the level of prevention, care and punishment of trafficking. In this sense, it is essential to incorporate this content in the curriculum of professional careers and to offer other possibilities of specialized training through extension courses.

In summary, it is clear that these efforts to address the problem of human trafficking must integrate the three substantive activities that characterize the public university in Costa Rica: research, teaching and social action or outreach. The challenges in these three substantive areas of university work are described below.

Research challenges

- To deepen the research gaps on human trafficking and generate more knowledge on its dynamics and particular expressions.
- Follow-up and monitoring of state actions, the application and enforcement of current regulations, the development of public policies, the processes of care and protection of victims, and the punishment of crime.
- Generate relevant and useful research to provide recommendations to the political-institutional framework, aimed at improving the response to the problem.

Teaching challenges

- Generate awareness and understanding of the structural factors that promote and facilitate human trafficking in the country.

- Demystifying prejudices regarding the situation of trafficked persons.
- Strengthen the specialized training of future professionals of the country's institutions for an integral and effective response.

Challenges of social action

- Promote the social denunciation of labor exploitation conditions in the different socio-productive and labor sectors linked to human trafficking.
- Conduct awareness campaigns aimed at the general population, including clear, understandable and accessible information.
- Develop awareness-raising, training and prevention processes, especially targeting communities in those areas of the country where conditions are most conducive to human trafficking, emphasizing the reporting process.

Conclusions

In the last decade, reports prepared by different national agencies have shown the seriousness of the phenomenon of human trafficking in Costa Rica, pointing to the country as a place of origin, transit and destination for trafficking in its various manifestations, both nationally and internationally.

This has generated a series of national research studies in an attempt to delve deeper into the scenarios of human trafficking victimization and to account for the factors that generate vulnerabilities and contribute to their reinforcement and extension.

Studies have shown that the country's greatest obstacles to combating this phenomenon are based on the following aspects:

- The insufficient conception of human trafficking established in the law, which ignores the impact represented by the conjunction of social, political, economic and cultural factors in a capitalist-patriarchal system in which it is inserted, and the neoliberal policies that promote it.
- The impact caused by a justice system that does not guarantee compliance with the constitutional principle of "prompt and complete justice" and that appears to disregard the human rights of the affected persons, promoting impunity.
- The absence of a comprehensive approach to the phenomenon of trafficking, which prioritizes obtaining material resources for the protection of surviving victims, strengthening existing models of care and improving follow-up and monitoring mechanisms.

In spite of the importance of analyzing and generating proposals to address the obstacles mentioned above, universities seem to be the main absentees.

The number of scientific articles and academic research that have been produced on the subject in general are scarce, with the exception of a few graduate studies.

The participation of universities is essential not only because of their academic and scientific resources, but also because of the importance of training sensitive and committed professionals with the necessary knowledge to participate in the prevention, care and punishment of trafficking.

Although scientific and academic research on a subject as complex as human trafficking is an important challenge for state universities, it should not be forgotten that the spirit of the public university is oriented towards critical reflection of the national reality, in order to generate the necessary transformations for the construction of a more just, equitable and supportive society.

ABSTRACT

Between the occult and the silenced: human trafficking in Costa Rica and its challenges for academia

This article reflects on the nature, scope, and challenges of academic research regarding human trafficking under the light of the document review of local production, as well as the reflections that result from the framework of the "Support for the research of human trafficking in Costa Rica" project developed at the Centro de Investigaciones en Estudios de la Mujer (CIEM), affiliated to the Observatorio Latinoamericano sobre Trata de Personas, Costa Rican chapter. The article highlights the most relevant critical aspects in the study of the problematic, especially those related to the particular dynamics of human trafficking. Likewise, it reflects on the role of public universities in this serious violation of human rights.

Key words: human trafficking, human rights, gender studies, action research, challenges for academia.

RÉSUMÉ

Between secrecy and silence: the treatment of human beings in Costa Rica and its challenges for academic research

This article reflects on nature, and challenges of academic research in the field of human trafficking in the light of the documentary review of the production at the national level as well as reflections generated in the framework of the project "Support to the research of human trafficking in Costa Rica" developed in the cadre du projet " Soutien à la recherche de la traite des êtres humains au Costa Rica " développées dans le Centre de Recherches de la Femme (CIEM par son acronyme en espagnol) rattaché à l'Observatoire Latino-Américain sur la traite des humains, Chapter Le Costa Rica. It highlights the most important critical issues of this problem, especially related to the particular dynamics of human trafficking crimes. It also reflects on the role of public universities in the face of this serious violation of human rights.

Key words: human beings, gender studies, research-action, challenges, academia.



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