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Master's Program in Human Rights

Revise the Law against Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons, from a Human Rights perspective.

Master in Human Rights

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SUMMARY

This qualitative research, of a normal and socio-legal type, is based on the analysis of Law 9095, Law against Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons, published in 2013, in light of the rights enacted in the Universal Declaration of Human Rights.

In addition, I take advantage of my professional experience, during this research, my work consists in the integral attention of the victims of the crime of human trafficking, within the Management of Illicit Smuggling of Migrants and Human Trafficking of the General Directorate of Migration and Foreigners.

It presents an overview of the background, national and international regulations, definition and modus operandi of human trafficking, concrete actions of the National Coalition against the Smuggling of Migrants and Trafficking in Persons for the comprehensive fight against this crime, as well as challenges and conclusions based on a review of the Universal Declaration of Human Rights.

ABSTRACT

This qualitative research, normal type and socio-legal, it builds on the analysis of the 9095 Act, Law against Human Trafficking and the Creation of the National Coalition Against the Smuggling of Migrants and Human Trafficking, published in the year 2013, in light of the rights enshrined in the Universal Declaration of Human rights.

Also take advantage of my experience, for the realization of this research, my job is in the comprehensive care of the victims of the crime of human trafficking, within the Management Smuggling of Migrants and Human Trafficking of the Department of Migration. It offers a course of history, national and international regulations, definition and modus operandi of trafficking, specific actions by the National Coalition Against the Smuggling of Migrants and Human Trafficking for the comprehensive combat this crime, as well as challenges and conclusions from a review of the Universal Declaration of Human Rights.

CHAPTER 1

1.1. JUSTIFICATION

In 2000, the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime) was drafted and ratified in our country by Law 8302 of 12-09-02, published in La Gaceta N°123 of 27-06-03. ¹.

The Costa Rican State must guarantee what was signed in this Protocol, so part of its compliance has been to create and modify national regulations, in addition to promoting the issue within the work of the institutions and creating a budget for the comprehensive fight against the crime of trafficking in persons, as well as the National Coalition against the Smuggling of Migrants and Trafficking in Persons (CONATT) and the Immediate Response Team (ERI), which will be detailed in the chapters of this paper.

The problem of this crime is extremely complex; comprehensive attention to the victims definitely implies the incorporation of an articulated work to achieve the restitution of the human rights of the victims, such as the creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons. Part of this work implies being able to provide a platform of services to victims for access to education, work, health, confidentiality and physical and migratory protection.

I am concerned about this issue, not only because I work directly with the victims of this crime and I know this problem in depth, but also because one of the aspects that worries me the most and in which, despite the fact that the institutions have united to help this population, is that I consider that there are still missing aspects necessary to combat this crime in a comprehensive manner and that the victims are guaranteed their fundamental rights by the Costa Rican State.

¹. Ministry of Interior and Police, Modelo de atención para sobrevivientes-víctimas de trata de personas. San José, Costa Rica. 2009.

Some of the points addressed in this paper are the result of the same experience acquired in the subject and various trainings I have received. It is a normal type of research. In addition, it is socio-legal, because although it is based on a regulation such as law 9095, its interpretation is more towards human rights and not so much legal.

Definitely, human trafficking is directly related to the violation of human rights, because of the dynamics of this crime are disrespected by family networks up to organized crime. Rights that on the other hand were recognized by the Universal Declaration of Human Rights of 1948 and it is precisely in this Declaration that I use as a basis for my analysis and conclusions in this work.

"The fight against human trafficking has its origin in the universal principles of the defense of Human Rights. The annulment of these rights by traffickers who transform the human being into an object of commerce (...) which means that it is a crime that by its aberrant nature offends all humanity".²

Law 9095, Law against Trafficking in Persons and creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons, became an achievement of CONATT, due to the fact that it was created within the same, achieving that the Legislative Assembly approved it in second debate, on October 8, 2012, which was under the file 17.594.

The President of the Republic, Laura Chinchilla, signed Law 9095 on December 3, 2012, and on February 8, 2013 it was published by digital scope in the Official Gazette La Gaceta.

² International Organization for Migration. Profiling manual applied to the detection of victims and perpetrators of the crime of trafficking in persons. San José, Costa Rica. 2011, p. 30.

Law 9095 contemplates aspects for the achievement of the integral fight against crime, addresses the preventive, procedural, care and protection of victims, information management under the principle of confidentiality of the victims, makes significant reforms in criminal matters and most importantly allows to obtain a budget to finance all activities carried out to combat this crime.

According to information from CONATT's Technical Secretariat, the financing will be taken from the additional charge of one US dollar in the tax on leaving the country, which will generate revenues of approximately US\$2.5 million per year, which will be managed through a trust fund and which the agencies that make up CONATT may use to defray the expenses stipulated in the Law, its use will be through the approval of duly authorized projects.

Law 9095 opens the possibility of obtaining up to zero point twenty-five percent of weekly spaces in the mass media free of charge, to disseminate campaigns that seek to warn the civil population about this crime, which is a tool that will help the Government to inform and positively impact the citizenship about this scourge and stimulate the reporting of cases, as well as prevent possible situations of trafficking in persons.

Taking into account the above, it is important to make a tour from the Universal Declaration of Human Rights in contrast to the recently enacted Law 9095, and review in its articles the way in which it seeks to guarantee the human rights of the victims, in addition to obtain what are its strengths and weaknesses, and what could be improved, especially in chapter eight of Law 9095 corresponding to Attention and Protection of Victims.

Based on the above, the general objective is as follows:

- Review how Law 9095 guarantees the human rights of the victims of the crime of trafficking in persons, with special reference to the rights of the victim stipulated in Chapter VIII.

To achieve the above, I developed the following specific objectives:

- To carry out a theoretical review of the crime of trafficking in persons.
- Describe the national and international regulations on the crime of trafficking in persons.
- Describe specific actions that CONNAT has carried out since its creation.
- Confront Law 9095 Law against Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons, especially Chapter VIII, from the perspective of the Human Rights of the victims of this crime.

Questions were answered in each chapter:

- What is the crime of Human Trafficking?
- What are the national and international regulations on the crime of trafficking in persons?
- What are the actions taken by CONATT?
- What human rights elements are found in Law 9095 Law against Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons?

Being a recently sanctioned law, its analysis is valid, because there is nothing written about it, it is a challenge. At the moment, the respective regulations are being drafted, so I hope that this work will help to better define the regulatory framework in favor of the human rights of the victims of trafficking in persons.

1.2. HYPOTHESIS.

I propose as a hypothesis that the Law on Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons is an example of a law that seeks at all times to guarantee the human rights of the victims by systematizing their attention, protection, punishment, prosecution, having as an advantage the financing of the same, it is a law whose focal point is the victim.

1.3. DATA COLLECTION AND ANALYSIS

There will be a bibliographic review of what is trafficking in persons, its background, national and international regulations, as well as a review from the human rights perspective of Law 9095. Material provided by the Technical Secretariat of CONATT will also be used, as well as my own professional experience in the subject. The analysis will be based on the context of human rights established in the Universal Declaration of Human Rights, the challenges of the law and the country in the integral fight against this crime.

CHAPTER 2

2.1. THEORETICAL FRAMEWORK

2.1.1. WHAT IS HUMAN TRAFFICKING?

The Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime) defines trafficking in persons in Article 3, paragraph a) as follows:

According to the Regional Conference on Migration. International Conventions on Trafficking in Persons. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, cites:

"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. Such 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

³Regional Conference on Migration. International Conventions on Trafficking in Persons. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, p. 1.

However, in article 172 of the Penal Code of our country, the proposed definition is broader, since it includes begging and irregular adoption, in addition to indicating the corresponding penalty and its aggravating factors.

"Whoever promotes, facilitates or favors 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, sexual or labor servitude, slavery or practices similar to slavery, forced labor or services, servile marriage, mendicancy, illicit extraction of organs or irregular adoption, shall be punished with imprisonment of six to ten years.

The penalty of imprisonment shall be from eight to sixteen years, if any of the following circumstances apply:

- a) The victim is under eighteen years of age or is in a situation of vulnerability or disability.
- b) Deception, violence or any means of intimidation or coercion.
- c) The perpetrator is the spouse, cohabitant or relative of the victim up to the third degree of consanguinity or affinity.
- d) The perpetrator takes advantage of a relationship of authority or trust with the victim or the victim's family, whether or not there is a family relationship.
- e) The perpetrator takes advantage of the exercise of his profession or the function he performs.
- f) The victim suffers serious damage to his or her health.
- g) The punishable act was committed by a criminal group composed of two or more members.⁴

⁴ . Penal Code, Costa Rica, article 172.

One of the important aspects of Law 9095 is that it establishes definitions, which allows judges and prosecutors to have a clearer idea of the crime, defining trafficking in persons in Article 5:

"Trafficking in Persons shall be understood 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." ⁵

2.1.2. STAGES OF HUMAN TRAFFICKING.

Human trafficking involves several stages⁶:

CAPTATION: There are three forms of recruitment: forced (abduction), deceptive (offering favorable conditions: employment, studies, good pay, stable relationships, etc., that end in exploitation, i.e. the purpose for which they are going to be exploited is completely hidden), partially deceptive (the type of activity to be carried out is not lied about, but the conditions under which it will be done). Depending on how the recruitment is carried out, threats, coercion, and other types of abuses will occur or not at first (Violence and trafficking in persons in Central America: opportunities for regional intervention. 2012, p. 27).

TRANSIT OR TRANSPORTATION: It begins when the victim agrees to make the trip through the deception itself, even alone and paying for the trip with her own money or by means of loans. On other occasions the victim is forced to make the trip.

⁵ Law 9095. Law against Trafficking in Persons and Smuggling of Migrants and Creation of the National Coalition against Smuggling of Migrants and Trafficking of Persons.

⁶ Save the Children. Violence and human trafficking in Central America: opportunities for regional intervention. 2012, p. 27.

The trafficker is taken with the trafficker to the destination, the debt is discussed with them, and their identity documents are taken from them. During this process it may include multiple trips from one workplace to another, several transit points and several moments of transaction. It is a very dangerous stage since in some cases there is illegal border crossing, hiding people from security agents, living with unknown people. It is also the stage of initial trauma due to violations of their rights (repeated rapes, beatings, use of drugs, physical and sexual abuse, threats, etc.). Various means of transportation and trained people are used in order to prevent victims from fleeing or turning back.

EXPLOITATION: At this stage, tactics are used to strengthen the victims' dependence and submission. They are kept in extreme conditions, in many cases it could lead to actual death, their life is no longer in their hands, but in those of the traffickers. Due to these conditions, they are physically and emotionally exhausted for days and hours without time to rest and under the control of their captors. Traffickers guarantee their control through: intimidation, threats, lies, deception, drugs and emotional manipulation. They are also deprived of their freedom and their identity and migratory documents are taken away. The type of exploitation will depend on the purpose for which they were captured, however, the most common purposes are trafficking for sexual exploitation and labor exploitation.

DETECTION, RUN AWAY OR ESCAPE: This is a stage of anguish and confusion. Victims are suspicious of the help offered to them, sometimes they are subjected to revictimizing processes and even mistreatment and/or abuse by authorities or individuals. Victims rarely contact the police personally. In some cases, traffickers leave their victims with the authorities because they are no longer useful to them; in other cases, through operations, anonymous calls and interviews, the victims are located. It is said that behind every victim there are twenty more victims waiting to be rescued. Often, due to lack of information and awareness, cases are not reported.

REINTEGRATION: This is the stage that covers the period of physical, psychological and social recovery. The duration depends on the support network and the individual victim. The

The inability of the social environment to reintegrate them and rejection are the main causes of victims being trapped again by the networks. It is essential during this stage to ensure a dignified return, provide security, obtain documents, access to health services, social and psychological assistance networks, recreation, labor and educational insertion, which requires a whole platform of inter-institutional services.

According to the IOM, in the Manual. Profiling Manual applied to the detection of victims and perpetrators of the crime of trafficking in persons (2011), the purposes of trafficking in persons are the following: labor or sexual exploitation, slavery, servitude, servile marriage, sale of children or adolescents for the purpose of irregular adoption, or the sale of their organs, begging, illicit organ trafficking, servile marriage, criminal purposes, prostitution of others, child pornography, forced or compulsory labor.⁷

When a victim wishes to file a complaint, the Office for the Attention and Protection of Victims of Crime is responsible for the victim's protection, always referring the case to an inter-institutional team called the Immediate Response Team (ERI) for accreditation and official statistics. In cases where the victims do not wish to file a complaint, it is the ERI who assumes their protection and care.

From the experience I have gained in the interaction I have directly with the victims, as well as the knowledge and awareness that the work and different trainings have allowed me to write the following stories that relate three different purposes of human trafficking: sexual exploitation, labor exploitation and organ extraction, in which the stages of this crime are also visualized. These stories are constructed from various experiences related by the victims, changing of course aspects that could endanger any of them.

2.1.3. I MUST DO IT

⁷ International Organization for Migration. Profiling manual applied to the detection of victims and perpetrators of the crime of trafficking in persons. San José, Costa Rica. 2011,

It is hot in my country, the sun is inclement and leaves its mark on the skin, my three children play happily with the earth, the sun and the water, it is the only thing they have. I see them and I think so much about their future, their father abandoned them, I live with my poor mother who is already tired of fighting so hard. But she knows that it is necessary, she knows that I must do it, otherwise I will not get ahead with my children.

The other day I told my mother about that woman from the church, she can get me a good job in Panama, so soon I will have enough money to send my family, it is a great opportunity, here there is no way to get more out of this tired land.

I am a hard worker, I am not afraid to sweat and get exhausted so that my children eat, it is the only thing that motivates me. I have always thought that opportunities must be taken and this seems like a very good one.

Everything is ready for the trip, I owe the village moneylender, a kind man, who knows how to get interest on the bills, I know that soon I won't owe anything. I am nervous, I have never traveled and leaving my children and my mother makes me sad, but I must do it.

I am already on the plane, the woman explained the whole trip to me, she says that I must get to Nicaragua and she will wait for me there, from there we will go overland to Panama, she says that the trip is fast and safe, I feel confident, at least she will accompany me. I am afraid but at the same time I am so excited, I promised my children that I would send them the money soon.

I arrived in Nicaragua, but how strange, the woman is not there, only two men are waiting for me, they say she went ahead and is waiting for me somewhere else. I take a deep breath, close my eyes and get into the car, I must do it, I'm already here, I must go on.

Everything has changed, the woman never showed up, I have been traveling for three days in the bush, in the jungle. I am dirty, hungry and afraid, they threaten me to behave well and give them the little money I have. I wonder what is happening, what are they going to do with me, I don't understand anything, will I survive? That's the only thing that comes to my mind.

I think I am in Costa Rica, they passed me to other men to take me to another place, at times they blindfold me, I wish everything would remain dark like this without seeing and I would be left only with my silence, what will become of me, I hear my children laughing, will I never see them again?

We have arrived at the place, here they kill your illusions, your will to live, I can't even write what I have had to do here to survive. I am not alone, there are other women like me, who traveled with an old suitcase full of dreams. Here we stop being people, I no longer know what it is to smile, I forgot.

Sometimes I want to take my life, close my eyes, feel that blindfold back on them, and not see what's going on around me, I feel her dirty hands, her breaths; I wonder why I was so foolish, why I believed in that woman, but I think at the same time it's not my fault I had to do it, I just trusted.

Day and night I cry, I don't know what day it is, time passes slowly. I see all my possibilities to escape, but they took pictures of me, they know who I am, they know about my children, my mother, here the best thing to do is to finish me off and that's it. I wander around, I don't know what is good and what is bad, I feel so confused.

I don't know if it was because of my prayers, maybe because of my mother's and my children's prayers, but one of the guards is going to help me get out of here, I don't believe it myself, I will be ready when he tells me, I have to do it.

It has been a year since I escaped, I write these lines on a small sheet of paper, I need to write, I need to say and try to understand what happened to me, I do not know what will become of me, I do not know if I will return to my country, I do not know how to see my children and my mother in the eyes again, the only thing I know is that if I managed to get out of that hell, it is for something, because I must fight, knowing that they stole my body, my illusions but not my soul, I am still alive.

I don't know if I will keep this sheet, if I will leave it here in the bus, maybe someone will read it, maybe it will help someone who is walking around with a suitcase full of illusions looking for a better life, maybe it will help someone who thinks like me and is telling himself I must do it....

Now I am in therapy, I understood that life goes on, that they can steal many things from you, but not hope, we should never let them steal it from us, it is what keeps me alive now, standing, knowing that soon I will see my children.

Not only did that young man help me escape, I found angels in my life, people who have opened a world of possibilities for me, I was deceived yes, but now I don't want a blindfold on my eyes, now I want to see and live my life for what I am, a survivor, a woman with a lot of will to fight.

I decided to leave you these lines, hopefully they will help you. It was me, but it can be you or your children, it seems like one of those stories that you read out there and you feel them so far from your reality, it is not like that, it happened to me, it can happen to you, and when you say to yourself I have to do it, ask yourself if you really have to do it?

2.1.4. EVERYTHING WILL BE FINE

I wonder how many people have gone through this dreadful experience; it makes me angry to know that I fell into the hands of such unscrupulous people, I can't explain how a human being can do this to another human being, I don't even have words to describe it.

In my country the situation is very difficult, our land is not only hit by poverty, but also by wars and by the weather that sometimes does not forgive. You have nothing and the little you have is taken away from you or does not even give you enough to eat.

I got married with the hope of having a family, of getting ahead, we are very close. I was happy with my wife and children, but I could not bear to see them get sick and I could not take them to a hospital, to know that they asked me for food and I could not give them more than rice. And my poor wife looked at me without saying a word, without complaining, but in her eyes I could see her anguish and suffering.

That is why I embarked with a cousin to work at sea as fishermen, I did not have much experience, but I felt it was not a difficult job and the pay was very good, that money would be sent to my family and I would keep a small percentage, just in case I needed things for personal care, or to cover necessities. The plan was very good, my wife Lu was afraid but I sat down with her, we talked and we saw that it was our only way out.

I sold some tools I had and gathered the little money I had, it was a few months' reserve from a job I had done, but I thought my family would receive the money almost immediately upon my departure as part of the contract and I didn't worry, I thought - everything would be fine.

I remember as if it were today when I arrived at my cousin's house to start the trip together, we had never been on a plane and we had to take three, then they were waiting for us at the airport and from there they would take us to our destination and show us what the job would consist of, a little preparation and that was it, to the ship and to work.

When we arrived everything was different, yes we had to work on a boat, but the nets were meant not only to catch the fish, they were cast over us, those who were caught were us with our hopes for a better future. We spent up to six months on that boat, overcrowded, there were people from everywhere, people you didn't know but who had the same yearnings and the same frustration at being deceived. We were beaten, we were hungry and thirsty, there were no schedules, we simply had to work however and in whatever conditions.

I always kept calm for my family, if I complained I knew they would beat me, if I fought with my companions they could even kill me. The only thing that comforted me was a small faded photo of my family that I had managed to keep very well, I felt that it was my only protection, because everything was taken from me, even my passport, they left me a few clothes and nothing else.

Sometimes I felt disconnected from the world, how to escape or have a space for yourself, when you lose even your name, you are just one more, your only value is a price, something that can be marketed.

I survived that experience, I had the possibility of staying in that country or returning with the shame of not having fulfilled the dream for my family, but I thought what did my children need, that money or their father?

Now I work from sunrise to sunset, but my roof is no longer that rusty ship, my roof is the sky, my blanket is my home, my food is my family. I hug my son, raise my eyes to the horizon, and tell him in his ear, everything will be all right.

2.1.5. IF I HAD KNOWN

You know, if I had known, if I would have realized everything. I come from a family with a lot of money and a good family name, we were taught that with money everything in life is solved and I realized that it is not so, on the contrary for a bad decision you can lose everything you have.

I am looking at the picture of my daughter, so jovial, so full of life; excellent in everything, and I am not saying this because I am her mother, I am saying it because she was like that, in every challenge that came her way in life, she assumed it with courage. She was not afraid of anything, she quickly began to ride a bicycle, she was an innate leader and came up with every joke... She had a zest for life, a curiosity for everything, life for her was a great playground. She gave me every lesson and of course she had everything, she lacked nothing, even though it was the smallest and most insignificant thing that made her happy.

That is how eleven years of her life went, until suddenly her health began to deteriorate and we began the ordeal of hospital life, tests came and went, but in spite of everything my daughter did not lose her impetus. I remember that afternoon the whole family was together waiting for the results. Everything came to me, my daughter needed an urgent kidney transplant.

None of the family could give her the kidney, and there was no money that could move the waiting lines, meanwhile my daughter was losing her light, every day that passed was one day less of life, I was desperate. I went into the hospitals strutting my money and my last name and nothing, everything was useless, I had to wait.

In my despair, I burst out in one of the corridors of the hospital, I screamed with all my strength, it was such a strong pain, I felt helpless. At that moment a woman approached me, I unburdened myself to her, I told her everything I was going through, and at that moment I thought she was an angel fallen from heaven, she gave me a solution and I did not think twice.

She told me that she knew how to help me but that it cost a lot of money, to which I replied that money was not a problem. The woman knew a group that would get you the organ you needed for a considerable amount of dollars. At that moment I only thought of her, of my daughter; if I had money it must have been of some use to me.

I agreed everything with the woman, they don't give you much information and the truth is I didn't want to know it, I wasn't interested, the only thing I wanted was that it would give life back to my daughter. The only thing I know is that they have a clandestine clinic and there are doctors and everything necessary to perform the transplant.

Meanwhile, my daughter had her good days and bad days, when she was well, I let her enjoy whatever she wanted. At the end of the year she had an upturn in her health and you don't know how she enjoyed riding her bike, laughing, watching her as she felt the sun's rays on her pale face, everything was funny to her.

Her best friend lived only two houses away from mine, in our elegant neighborhood of people with respectable last names, where everything was quiet, so it was normal to let my girl go in search of her friend on her bicycle. I watched her through the window where she happily went to look for her, she turned and smiled at me, that memory does not leave me in peace. Immediately the phone rang telling me that soon everything would be ready.

Minutes passed, hours passed and my daughter did not appear, I went to her friend and she told me that she never came home, I started to despair and called the police.

The investigation took its course, there was no news of her, no one had seen anything, and all I could think of was not to harm her and also in her health, she required medication and special treatments.

The doorbell rang at my house, it was the investigators of the case of my daughter's disappearance. God if I had known, if I had not made that decision.

My daughter turned up, but dead, and the autopsy indicated that she was missing a kidney. The officers told me that there were gangs dedicated to organ trafficking; they kidnapped people to remove them and left their lifeless bodies in lots or strategic places.

You see, I killed my daughter, I paid to take her life, that's what all the money and last name I have was good for. I was part of a macabre plan, I did not care how they were going to get that organ and now I understand, if only I had known....

CHAPTER 3

3.1. NATIONAL AND INTERNATIONAL REGULATIONS ON TRAFFICKING IN PERSONS.

As a result of the enactment of international agreements, Costa Rica has begun the process of establishing standards and procedures to address the problem.

As mentioned above, the international instrument most closely linked to the issue is the United Nations Convention against Transnational Organized Crime, adopted in 2000 in the city of Palermo, Italy. This Convention contains a series of provisions aimed at creating tools to enable states within and beyond their borders to combat organized crime in its various manifestations through the use of legislation, investigative methods and modern international cooperation techniques to reduce the gap between the actions of criminal networks and law enforcement agencies. The countries went further and approved three additional documents that grew out of the Convention, the Protocols to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; to Combat the Smuggling of Migrants by Land, Sea and Air; and to Combat the Illicit Manufacturing of and Trafficking in Firearms.

CONATT's Care Commission, in its Model of Comprehensive Care for Survivors-Victims of Human Trafficking (2009), indicates that the Palermo Protocol follows some of the guidelines of previous international instruments such as the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child and its Protocol on the Sale of Children, Child Prostitution and Child Pornography.⁸

⁸ Costa Rica. Ministry of Interior and Police. Modelo de Atención Integral para Sobrevivientes-Víctimas de la Trata de Personas. First Edition. San José, Costa Rica. Ministry of Interior and Police, 2009.

It is a tool that will allow the application of the law, and therefore omits specific considerations regarding the protection of victims. In May 2002, to complement the Protocol, the Economic and Social Council issued a document entitled "Recommended Principles and Guidelines on Human Rights and Human Trafficking", which offers states a series of guidelines for the effective protection of persons affected by this crime.

According to information provided by CONATT's Technical Secretariat, other related agreements and conventions include:

- 1904 International Agreement for the Suppression of the White Slave Trade, which focused only on the protection of victims and proved ineffective. League of Nations.
- 1910 International Convention for the Suppression of the White Slave Traffic, which obliges signatory countries to punish pimps. League of Nations.
- 1921 International Convention for the Suppression of Traffic in Women and Children. This Convention punishes persons who traffic in children, protects migrant women and children. League of Nations.
- 1933 International Convention for the Suppression of the Traffic in Women of Full Age, which obliged States to punish persons who trafficked adult women regardless of their consent. League of Nations.
- 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

- 1951 and 1967 Convention relating to the Status of Refugees of the United Nations
- 1979 Convention on all forms of discrimination against women.
- 1994 Inter-American Convention on International Traffic in Minors Art. 1 defines as its object the "prevention and punishment of international traffic in minors, as well as the regulation of the civil and penal aspects thereof, all with a view to the protection of the fundamental rights and the best interests of the minor".
- 1989 Convention on the Rights of the Child (CRC) Art. 35 of the CRC refers specifically to trafficking in children: "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.
- 1999 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW.
- 1999 ILO Convention 182 on the Elimination of the Worst Forms of Child Labor. This convention specifies that the term "the worst forms of child labor" covers: a) all forms of slavery and slavery-like practices, such as the sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labor.... (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances ... (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs, as defined in the relevant international treaties; and (d) work which, by its nature or by the circumstances in which it is carried out, is likely to cause serious harm to the child or to his or her physical or mental health, or which is likely to cause serious harm to his or her physical or mental health.

conditions under which it is carried out, it is likely to harm the health, safety or morals of children.

- 2000 Protocol on the Sale of Children, Child Prostitution and Child Pornography. This protocol stems from the Convention on the Rights of the Child and defines very precisely the concepts of sale, prostitution, child pornography and their purposes, as well as the respective penal sanctions.

With Law No. 8590 for the strengthening of the fight against the sexual exploitation of minors, published on August 30, 2007, there was a change in the penal type, expanding the governing verbs and purposes. All this effort is also a product of the ILO Convention 182 on the Elimination of the Worst Forms of Child Labor, the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and the Palermo Protocol against Trafficking in Persons, among others. Part of this effort also establishes the Road Map, which aims to combat the worst forms of child labor, trafficking in persons and commercial sexual exploitation, where many institutions are part of this process and also the Technical Secretariat of the Coalition against the Smuggling of Migrants and Trafficking in Persons is part of the coordinating committee.

In our country, from the penal point of view, according to article 172 of the Penal Code, due to the aggravating factors it presents, it stipulates that Human Trafficking is a crime that could have up to 16 years of imprisonment.

Part of the changes in the regulations is the new Migration and Alien Law No. 8764, published in the Gazette in 2010, which states in Article 94) "The following, among others, shall be special categories: ...10) victims of human trafficking

In addition, article 6) states: "The formulation of the migration policy shall be mainly oriented to the following:

[5] To guarantee the protection, care and defense of the victims of trafficking in persons and to coordinate with the competent institutions such guarantees".

Based on these articles, the General Directorate of Migration and Alien Affairs facilitated the process of reintegration into society by providing immigration documentation for foreign victims. Being a category free of condition allows them to work and study without any problem in our country.

On the other hand, one of CONATT's achievements is the creation of the Immediate Response Team (ERI) approved in March 2009 by Executive Decree No. 35144-MG-MTSS and elevated to Law 9095 in 2013, which is an inter-institutional team that attends and coordinates situations or suspicions of human trafficking. According to Law 9095 it cites:

"ARTICLE 20. Integration of the ERI

The ERI will be composed of one person representing the following entities, by formal designation, and two alternates:

- a) The Costa Rican Social Security Fund.
- b) The National Women's Institute.
- c) The Ministry of Public Security: General Directorate of Public Force.
- d) The Ministry of Labor and Social Security.
- e) The Public Prosecutor's Office: Office for the Attention and Protection of Victims of Crime and the Special Prosecutor's Office for the Crime of Trafficking in Persons.
- f) The Judicial Investigation Agency.
- g) The National Children's Trust.
- h) Professional Migration Police.
- i) The Technical Secretariat of the National Coalition against the Smuggling of Migrants and Trafficking in Persons.

Representatives of the different governmental organizations will also be invited to participate when requested by the ERI, as technical advisors and cooperating partners".

According to Law 9095, the Immediate Response Team is in charge of the following functions:

- a) "Receive and respond to all possible situations of trafficking in persons that are referred to it within the framework of its attributions.
- b) Identify-through a specialized technical assessment process-the situations of trafficking in persons brought to its attention.
- c) To prove -by means of a reasoned technical resolution-the condition of victim of trafficking in persons.
- d) Execute the immediate intervention actions required to guarantee attention, protection and security of persons suspected of being victims of human trafficking as well as those duly accredited as such".

Care is structured in several phases elaborated in the Model of Care for Victims-Survivors of the crime of Trafficking in Persons, according to the TS of CONATT is in a process of improvement according to the accumulated experiences, in addition to which it is integrating more what is the Internal Trafficking. However, the following stages continue to be used as a mechanism:



Source: CONATT Technical Secretariat

CHAPTER 4

4.1. ACTIONS SPECIFIC PERFORMED BY THE CONATT SINCE ITS CREATION.

Trafficking in Persons is known as the slavery of the XXI century, in the year 1900 there was talk of trafficking in white women, a scandal was created when it was known that white women from Europe were sold to Eastern countries, until it began to create awareness that it was not a problem exclusive to that group but that it extended to men, women and children. In 1904, the first International Convention was signed and the subject of human trafficking was discussed, and the mobilization of women associated with slavery for immoral purposes and border crossing was visualized. In 1910, the Internal Trade of Women was identified, but in addition, not only the trade with women began to be discussed, but also with minors of both sexes and men of legal age.⁹

By the year 2000, the Palermo Protocol (Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime) was drafted and ratified in our country by Law 8302 of 12-09-02, published in La Gaceta N°123 of 27-06-03.¹⁰

In 2004, the Protocol for the Repatriation of Child and Adolescent Victims of Trafficking in Persons was drawn up. This initiative revealed the need for the country to organize itself in order to comply with the provisions of the Palermo Protocol, and in 2005 the National Coalition Against Trafficking in Persons was created.

⁹ Costa Rica. Ministry of Interior and Police. Modelo de Atención Integral para Sobrevivientes-Víctimas de la Trata de Personas. First Edition. San José, Costa Rica. Ministry of Interior and Police, 2009.

¹⁰ Idem

Smuggling of Migrants and Trafficking in Persons (CONATT), by Executive Decree No. 32824, and elevated to law by Law 9095.¹¹ and elevated to law by Law 9095.

Four commissions were created within CONATT, the attention commission, the prevention commission, the information, analysis and investigation commission, and the justice commission, which are made up of governmental and non-governmental institutions.

At the end of 2010, the Technical Secretariat of CONATT was transferred from the Ministry of Interior and Police to the General Directorate of Migration and Alien Affairs, specifically in the Management of Smuggling of Migrants and Trafficking in Persons. According to Law 9095, CONATT is integrated by the following institutions:

¹¹ Idem

CONATT	
<ul style="list-style-type: none"> • United Nations High Commissioner for Refugees. • Legislative Assembly • Costa Rican Social Security Fund • International Center for Migrants' Human Rights • National Commission against Commercial Sexual Exploitation • Council National Council of Rehabilitation and Special Education. • Ombudsman's Office • General Directorate of Migration and Aliens • General Directorate of Transit • Address of Intelligence and Security Directorate • Defense from Children's Advocacy y Children International • Attorney General's Office • Rahab Foundation. • Scalabrinian Sisters. • Institute Institute of Tourism • Institute on Alcoholism and Drug Dependence • National Learning Institute 	<ul style="list-style-type: none"> • National Women's Institute • Instituto Mixto de Ayuda Social • Ministry of Public Education. • Ministry of Government, Police and Public Security • Ministry of Justice and Peace • Public Prosecutor's Office • Ministry of Foreign Affairs and Worship • Ministry of Health • Ministry of Labor and Social Security • Agency of Judicial Investigation • International Organization for Migration • Agency International of Labor • National Child Welfare Agency • Paniamor Foundation. • United Nations Children's Fund.

Source: Law 9095

The Coalition in plenary meets four times a year to submit progress reports, a meeting attended by senior officials and technical level, each commission meets once a month, and national plans and national guidelines for the comprehensive fight against trafficking in persons have been developed.

According to Law 9095, the objective of CONATT is the following:

"ARTICLE 9.

The Coalition will be responsible for promoting the formulation, implementation, monitoring and evaluation of national, regional and local public policies for the prevention of smuggling and trafficking in persons, the care and protection of victims, and the prosecution and punishment of those responsible, including the review of national regulations and their adaptation to international commitments made by the Costa Rican State, and the training and specialization of institutional human resources. It is also responsible for the evaluation of projects that will be subject to receive budget from the National Fund against Trafficking in Persons and Smuggling of Migrants (Fonatt), created by this law".

Costa Rica is a country of origin, transit and destination, and within this dynamic, CONATT has worked to provide comprehensive primary and secondary care to victims. Follow-up is carried out for a dignified reintegration into society with the possibility of moving forward through the reestablishment of their human rights.

As mentioned in 2000, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, was signed. Declaring "that to effectively prevent and combat trafficking in persons, especially women and children, a comprehensive and international approach is required in countries of origin, transit and destination, including measures to prevent such trafficking, to punish traffickers and to protect the victims of such trafficking, in particular

protecting their internationally recognized human rights, bearing in mind that while there is a wide range of international legal instruments containing standards and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons...." ¹²

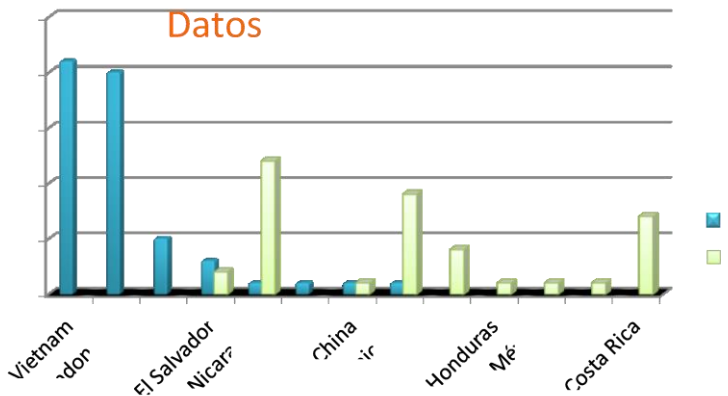
Data provided by the Technical Secretariat of CONATT - ERI, allows to know the nationality, gender of the victims, end of trafficking in persons assisted between 2010 and May 2013.



Source: CONATT Technical Secretariat

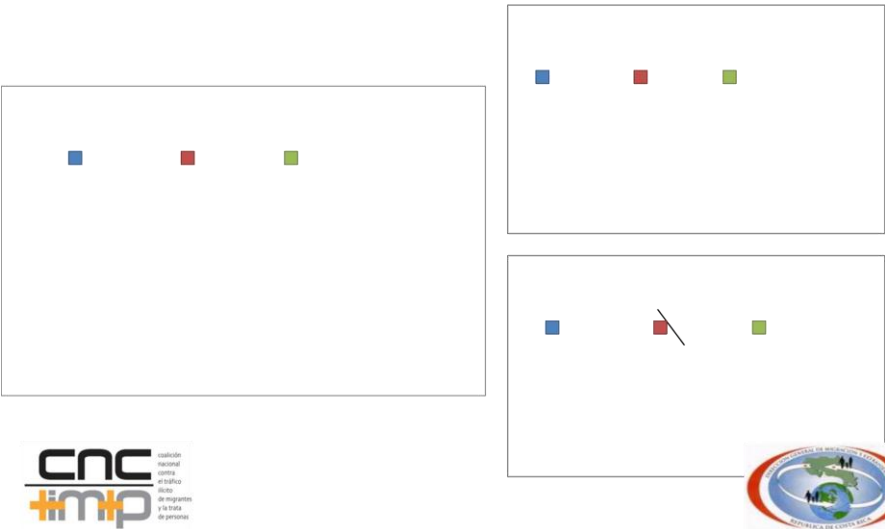
^{1 2} Regional Conference on Migration. International Conventions on Trafficking in Persons. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, p. 1.

Equipo d



Source: CONATT Technical Secretariat

Equipo d



Source: CONATT Technical Secretariat - ERI

It is important to highlight that an achievement as a country is that the Technical Secretariat of CONATT, since 2011 is the Technical Secretariat of the Regional Coalition against Trafficking in Persons, which allows and has created the establishment of Regional Guidelines for Combating Trafficking in Persons, the Strategy Plan 2012-2013, as well as the Regional Strategy for Comprehensive Care and Support for Victims of Trafficking in Central America.

Likewise, according to the brochure of the Formulation Process of the Migration Policy Proposal for Costa Rica 2012, it is stated: "The General Law of Migration and Foreigners establishes a series of basic guidelines that the migration policy must contain, always highlighting the need to ensure the integration of foreigners to the development of the country, observing economic, social, cultural, educational, scientific and sports aspects. Some of these basic guidelines that the migration policy must contain are: regulating the dynamics of immigration and emigration in order to have orderly migratory flows that contribute to national development, migratory control in accordance with the development and security of the country, directing immigration to priority development areas, protection and defense of victims of human trafficking, compliance with the rights of migrant children and adolescents (Art. 6)".

Due to the ratification of the Palermo Protocol, victims are protected at the migratory level, they are never deported, they have the possibility of returning to their country of origin (repatriation), opting for a third country (resettlement) or staying in our country (reintegration), all subject to a risk assessment.

According to CONATT's Technical Secretariat, once a person is accredited and obtains his or her migratory documentation within the free status category, he or she has the possibility of seeking employment.

The Technical Secretariat of CONNAT has been building a care route that expands the Care Model for Survivors-Victims of Human Trafficking, also built within the CONAT Care Commission, with all the services that the victim can access, such as education, health, and work.

Due to the above, meetings are being held with senior officials of the Ministry of Labor and Social Security to see if it is possible to include the victims in a scholarship system so that they can opt for more competitive job offers. In addition, the Coalition's Attention Commission is providing training in Occupational Therapy to learn about the different processes to prepare the victims for the labor market, and a consensus-based line or axis of attention is being developed.

UNHCR's agreements with different companies are being used to include victims in the employment exchanges. This allows and facilitates the victims to obtain income, to opt for decent jobs.

Some of the victims have not had the opportunity to study, so through the National Learning Institute (INA), they are provided with the necessary studies, under a personalized attention focused on an analysis of the objectives of the victims.

When the victim does not have primary and secondary education, we coordinate with Rahab Foundation to obtain these studies under a faster and more appropriate system according to the needs.

IMAS is in charge of the economic assistance of national or foreign victims while they manage to organize their lives and have access to work. Within the institution, changes have been made, such as the creation of a special code for the urgent and confidential care of victims.

All of the above, accompanied, depending on the complexity of the case, by the protection of physical and mental health, for which reason a medical care route is being created with the Costa Rican Social Security Fund (Caja Costarricense de Seguro Social). According to information from CONATT's Technical Secretariat, the intention is to provide insurance to the victim completely free of charge.

By having the migratory documentation, the victim will be able to study, work, attend health centers without any problem, in addition to not having to pay for the services offered, nor for the migratory document.

The institutions that assist victims of human trafficking have been making changes within their institutions in order to provide adequate attention to victims, safeguarding confidentiality criteria, as well as to comply with Law 9095.

The special migratory category for victims of Human Trafficking is recognized in article number 94, paragraph 10, of the General Law of Migration and Foreigners N°8764, of August 19, 2009, published in La Gaceta N°170 of September 1, 2009.

The data of the victims are kept under strict confidentiality criteria, the files are kept in the Technical Secretariat of CONATT and the systems do not show the address, much less the victim's condition, and the photo and other information is done separately. The user does not have to wait in line to protect her protection and discretion. In addition, the victim does not have to pay any fee for the issuance of the document, either for the first time or for its renewal.

Article 107 of the General Law on Migration and Aliens No. 8764 states: *"The General Directorate of Migration and Aliens may grant temporary stay to victims of human trafficking, following a technical recommendation made by the commission created by this Directorate for that purpose and in compliance with the other conditions established by the Regulations of this Law, international treaties and conventions"*. This commission is in this case the Immediate Response Team.

What is important about this accreditation is that it allows for comprehensive care for victims and avoids revictimization, facilitates access to a platform of services that guides and favors their physical, emotional, social, economic and legal recovery, seeking their reintegration into social life. This comprehensive care must be provided, without any type of discrimination or conditioning; which implies a series of inter-institutionally coordinated actions in a timely and effective manner in a coherent and logical manner, in application of the agreed protocols and procedures, in exercise of the commitment to the development of public policies, programs and services assumed by the State, as well as compliance with Law 9095.

Having ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, there is an acquired commitment, which becomes a legal mandate, for the due assistance in a comprehensive manner to the victim of the crime of trafficking in persons. Therefore, as stated in article 7.1) and 2),

"ARTICLE 7.1. In addition to taking the measures provided for in article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, where appropriate (...)".

"ARTICLE 6. Assistance and protection for victims of human trafficking

Subparagraph 3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, where appropriate, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and in particular through the provision of:

- a) Adequate lodging;*
- b) Counseling and information, particularly with respect to their legal rights, in a language that victims of human trafficking can understand;*
- c) Medical, psychological and material assistance; and*
- d) Employment, education and training opportunities".*

Based on the guidelines described in the previous paragraph, it should be considered that the recognition of a migratory status is a means by which the victim has effective protection, ensuring her physical and emotional integrity and her social inclusion.

In addition, a reasonable period of time is provided to recover and reflect on the situation experienced and the implications for the future, based on the comprehensive assistance that must be guaranteed by the different institutions.

The time that also allows them to empower themselves and make the decision to file a complaint if they wish to do so. This is how, when the effective atmosphere of trust is generated, he feels the certainty that he is being protected, gaining his trust and cooperation in the corresponding process, aimed at the criminal prosecution of the crime of which he was a victim, and his effective protection at all times.

4.2. MIGRATION REINTEGRATION ROUTES.

The General Directorate of Migration and Alien Affairs has made an effort to create the Integration Routes program as a community communication mechanism that is easy to understand and administered by the local agents themselves, with the aim of improving the levels of social integration of migrant and refugee populations living in the country, facilitating their integral incorporation into the national development processes.

It is aimed at two specific channels, the first is to provide advice and information on immigration procedures in a playful, simple and easy to understand way, both for those who explain and for those who receive the information. And the other is to provide advice and information on public resources available for integration in education, social services and employment.

According to the Directorate of Integration of the General Directorate of Migration and Aliens has considered that its role is not limited to providing a document that allows a legal stay in our country, it goes beyond, it seeks to integrate migrants into our society for national protection and development. It has created a "Toolbox" that allows under a playful system the understanding of the migratory requirements to opt for a category, about the rights and how to access them, such as study, social security, employment.

The Integration Routes program is an example of the defense of human rights, an example in Latin America, since it changes the perception of a persecutory Migration Directorate to one that seeks the integration of the population.

The project is a way of dignifying the migrant's dignity, as it is not oblivious to the impact of the migrant population on Costa Rican society.

For victims of human trafficking, it is essential to have a Migration Directorate that seeks at all times the positioning of their human rights, showing the paths, the routes for their integration.

CHAPTER 5

5.1. REVIEW OF THE GUARANTEE OF HUMAN RIGHTS IN THE LAW 9095, AS ESTABLISHED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.

Human trafficking is a crime that uses people as an object that can be sold to the highest bidder, losing their autonomy, their freedom, which goes against Article 1 of the Universal Declaration of Human Rights of 1948.

"All human beings are born free and equal in dignity and rights and, endowed as they are with reason and conscience, they should behave fraternally towards one another."

On the other hand, Law 9095, in Article 2, develops several principles, one of which has to do with the principle of equality and non-discrimination:

"regardless of the judicial or administrative process carried out for the investigation of the crime of trafficking in persons, the provisions contained in this law must be applied in such a way as to guarantee respect for the human rights of the victims of this crime, without any discrimination based on ethnicity, disability status, sex, gender, age, language, religion, sexual orientation, political or any other opinions, origin, nationality, economic status or any other social or migratory condition".

This principle complies with one of the human rights set forth in Article 2 of the Universal Declaration of Human Rights:

"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 1 of Law 9095 sets forth its purposes:

ARTICLE 1.

The purposes of the present law are:

- a) Promote public policies for the comprehensive fight against human trafficking.
- b) To promote the necessary regulations to strengthen the punishment of human trafficking and related activities.
- c) Define a specific and complementary framework for protection and assistance to victims of human trafficking and their dependents.
- e) Promote and facilitate national and international cooperation on the issue of human trafficking.

Its objectives, as can be seen, are aimed both at punishing the crime and providing comprehensive care and protection to the victim, creating a public policy on the issue related to this crime, and establishing a strategic plan to guide the comprehensive work of CONATT, in addition to always having regional coordination, which is essential as it is a crime that can occur transnationally.

The Costa Rican state's commitment to the comprehensive fight against human trafficking by establishing specialized regulations on the subject, and taking into account that its fight is constant, since it is a crime that is known as slavery of the XXI century, would comply with the articles established in the Universal Declaration: "No one shall be held in slavery or servitude, slavery and trafficking

of slaves are prohibited in all their forms". Likewise number 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".

Article 3 of the Declaration states that "Everyone has the right to life, liberty and security of person". Taking into account this right, due to the modus operandi of the crime of human trafficking, precisely life is constantly at risk for the victims due to the conditions of exploitation and the forms of coercion of the traffickers, in addition to being a crime against human dignity, the victim can decide at any time to end her life in order to end her suffering. Freedom is precisely what is deprived, physical and mental freedom, so the victim's safety must be guaranteed at all times, in addition to the fact that they become key witnesses when there is a denouncement involved.

That is why part of the national legislation seeks precisely the appropriate mechanisms to provide protection for the victim. According to the provisions of Law No. 8720, Law for the Protection of Victims, Witnesses and other Subjects Involved in Criminal Proceedings, as well as specifically in Law 9095, in article 37, paragraph a), the victims of trafficking in persons have the right to:

- a) Protection of their physical and emotional integrity.
- g) To provide an interview or statement under special conditions of protection and care according to their age, degree of maturity or disability condition, and language.
- h) Protection of your identity and privacy.

Article 6 of the Declaration states: "Every human being has the right to recognition everywhere as a person before the law". An important part of the crime is precisely that their identity documents are taken away as a way of separating them from their immediate environment, so it must be ensured that all victims have their identity documents as part of the restitution of their rights. For this purpose, the Law in article 37, paragraphs

- i) Migratory protection, including the right to remain in the country, in accordance with the migration legislation in force, and to receive the documentation proving such circumstance, in accordance with Law No. 8764, General Law of Migration and Alien Affairs.
- j) The exoneration of any fee, tax or tax burden, referred to the issuance of documents by the General Directorate of Migration and Alien Affairs, which accredits their immigration status as a victim of human trafficking.

Likewise, in Article 8 of the Declaration, "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law".

It is established in Law 9095, article 37, paragraphs d, e, f:

- d) Receive clear and understandable information about their rights, their legal and immigration status, in a language, medium or language they understand and in accordance with their age, degree of maturity or disability status, as well as access to free legal assistance and representation services.
- e) Legal and psychological assistance.
- f) To have the necessary time to reflect, with the corresponding legal and psychological assistance, on his possible intervention in the criminal proceeding in which he appears as a victim, if he has not yet made that decision. This period shall not be less than three months.

Law 9095 is a pro-victim law, and one of the aspects that has been difficult for victims during the legal process has been solved with the following reform.

"ARTICLE 81.- Amendment of Article 33 of the Code of Criminal Procedure. Article 33 of the Code of Criminal Procedure is hereby amended. The text shall read:

"Article 33.- Interruption of statute of limitations periods

Once the procedure has been initiated, the time periods established in the preceding article shall be reduced by half in order to compute them, for the purpose of suspending or interrupting the statute of limitations. The prescription periods shall be interrupted by the following:

- a) Appearance to render an indagatory statement, in crimes of public action.
- b) The filing of the complaint, in crimes of private action.
- c) The resolution convening the preliminary hearing.
- d) The appointment of the date for the debate.
- e) When the conduct of the debate is suspended for causes attributable to the defense, with the purpose of hindering the normal development of the debate, according to the declaration made by the court in a well-founded resolution.
- f) The issuance of the sentence, even if it is not final.

The interruption of the statute of limitations operates even in the event that the resolutions referred to in the preceding paragraphs are subsequently declared ineffective or null and void.

The judicial authority may not use as grounds for interruption of the statute of limitations other than those set forth in the preceding paragraphs."

Part of what is stipulated in Article 23 of the Declaration: "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment".

In addition to the provisions of the Manual of Care for Survivors-Victims of Human Trafficking used by CONATT, the Technical Secretariat, specifically the care commission, is in the process of improving it by incorporating specific guidelines for the comprehensive care of victims from each institution, which will generate and facilitate the development of internal inter-institutional protocols.

On the other hand, one of the reforms contained in Law 9095 is related to the penalty of imprisonment for Labor Exploitation, which previously remained only at the administrative level:

Article 189 bis is added to Title V, Section I of the Criminal Code. The text shall

read as follows: "Article 189 bis.- Labor Exploitation

Whoever induces, maintains or subjects a person to the performance of work or services to the serious detriment of his fundamental human rights, with or without the consent of the victim, shall be punished with a prison sentence of four to eight years. The penalty shall be six to twelve years' imprisonment, if the victim is a person under eighteen years of age or is in a situation of vulnerability."

Article 25 of the Universal Declaration of Human Rights stipulates: "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control".

What is integrated in the law in this chapter in the subsections:

- b) Receive appropriate, accessible and safe housing, as well as coverage of their basic needs for food, clothing and hygiene.
- c) As part of the recovery process, have access to free comprehensive health care services, including specialized therapies and treatments, if necessary.

CHAPTER 6 CONCLUSIONS

6.1. CONCLUSIONS: CHALLENGES FACED BY CONATT IN THE COMPREHENSIVE FIGHT AGAINST HUMAN TRAFFICKING.

As developed, there are established routes for the attention of victims and the fight against crime, but experience has shown that each case is particular, and in any case, some aspects must be made more flexible and others must be improved in order to provide differentiated support to victims. There are many challenges to be assumed, however, the present work allows to expose some of them:

- Despite the fact that by law the Ministry of Labor and Social Security belongs to CONATT and that as a country we must provide protection for the labor rights of victims, there is no agreement or route to ensure that victims can access the employment exchange of this Ministry, as well as the possibility of integrating victims into the empléate program, so that they can obtain apprenticeship scholarships.
- Work and follow up on the Work Plan established in the Roadmap, The Technical Secretariat of the Coalition is part of the Follow-up Committee.
- Training and sensitization should be reinforced on an ongoing basis for the agencies involved in the different processes that involve the care and recovery of victims, especially in the restitution of rights.
and the defense of their guarantees, such as labor guarantees.
- Mechanisms should be established within the institutions to provide adequate comprehensive care while maintaining the parameters of confidentiality, in order to protect the physical and personal integrity of the patients.
victims.
- In order to defend decent employment, study, and migratory protection, inter-institutional coordination between the Technical Secretariat of the

Coalition, National Apprenticeship Institute, Ministry of Labor and Social Security, Ministry of Labor and Social Security, Ministry of Labor and Social Security.

Social that is fast, direct and comprehensive.

- Although there is a law in place, it is important to create agreements with institutions to further political change, in order to to follow up on the projects carried out.
- By means of Law 9095, create an agreement and protocol between CONATT and the Costa Rican Social Security Fund, to guarantee adequate and prompt medical attention, free of charge, both for immediate medical attention and for those situations that require prolonged treatment.
- Create an agreement between INA and CONATT to ensure access to education, as well as training and sensitization of the institution's officials, and create an adequate route to save the confidentiality.
- The creation of the regulation after the approval of the draft law against Trafficking in Persons and Creation of the National Coalition against Smuggling of Migrants and Trafficking in Persons.
- Positioning the issue of human trafficking within the different plans. Operational activities of the agencies involved in the subject.
- Continue with the process of integration of victims and other migrant population into Costa Rican society.

6.2 RECOMMENDATIONS: CHALLENGES OF LAW 9095

Some aspects that Law 9095 must face are, for example, that it is a law that is pro-victim, its investigation must be proactive, the testimony of the victim will not always be available. Some recommendations therefore are:

- The complexity of the phenomenon: It is a crime that has many edges, usually the ringleaders are not caught, precisely because it is an organized crime, but it is possible to strike blows to the organization as such. Likewise, as the victim is a fundamental part, many times the investigation must focus on other elements other than the victim as such, some do not wish to be involved in the investigation.

declare for example. In addition, it is an offense that may require years of research.

As a crime that can be transnational, there are not always elements to investigate them, the only thing that exists is the victim's version, so it is necessary to have full knowledge of the crime by the specialists.

and investigate other sources for a technical study of the crime.

- Determine the level of social impact of the crime: As it is a crime of Organized Crime character, it has an affectation at a global level, many aspects are damaged in society, from the recruitment of victims, money laundering, related activities of the crime, the level of demand and type of demand that is given of the victims, The fight against this crime must also involve economic and human resources, people trained and sensitized on the subject, a constant investment in specialists and mechanisms, tools, etc., as well as a constant investment in the development of new technologies.

sophisticated methods of combating them.

- Determining the protected legal right: sexual self-determination, for example, freedom, fundamental rights: For the crime to be present, the guiding verbs of its definition must be present, as a pro-victim law implies determining the level of affectation in all areas of the victim's life, and it is necessary to determine the level of affectation in all areas of the victim's life, and it is necessary to determine the level of affectation in all areas of the victim's life.

extends to its dependents.

- It is a multifensive crime: As noted above, the law must cover all the aspects that a victim is affected by. The process of comprehensive care and reintegration is not simple; it implies establishing inter-institutional and regional mechanisms and coordination to be able to offer the victim the route for an adequate reintegration, always taking into account the opinion of the victim's family, friends and relatives.

the victim accompanied by a risk assessment.

- Participation of the victim in the process: The victim will not always be involved in the process; much of the evidence must be based on the investigation, so the factors of the crime must be well known, and there must be training and awareness on the subject on the part of the justice actors. The victim must not be re-victimized at all times.

- Refine international cooperation mechanisms: In order to enforce the law, international cooperation in areas such as intelligence, investigation, information gathering, repatriation and resettlement must often be taken into account. Establish comprehensive mechanisms in the region, following up on the regional Action Plan and the framework for comprehensive attention to regional level.
- The non-punishability of the victim: This is a delicate issue in the law, being able to demonstrate that the criminal act committed by the victim is a product of the dynamics of human trafficking implies knowledge and openness in the system. judicial.
- The crime is not time-barred: It is a timeless crime, which allows the victim the restitution of many of his rights through the non-prescription of the crime, achieving justice.
- Inter-institutional coordination: The Model of Care for Victims-Survivors of the Crime of Trafficking in Persons must be improved and expanded, stipulating the appropriate routes for inter-institutional coordination, although there is a law that gives a mandate to each institution that makes up CONATT, the route to achieve this is not easy, it requires commitment, agreements, technical and political commitment. In addition, internal protocols must be created within each institution to be able to provide victims with adequate assistance. attention guaranteeing each one of their fundamental rights.
- Systematization of victim care: Each victim is particular, so coordination between governmental and non-governmental institutions is essential to create an articulated route and under the same axis of action to offer the victim an adequate care process, always taking into account confidentiality, non-revictimization and not exposing the victim to situations that are rather detrimental to their human rights, by wanting as institutions to take the reins and decisions of the victim's life and not taking into account the particular process of each one of them. It is a challenge that the attention should not be thought of only in the initial phase, but also implies a whole process of reintegration of the victim into society, which is a process of reintegration of the victim into society. which involves budget, human resources, knowledge and awareness.
- Challenge in the area of migration: Prevention mechanisms must be established for the migrant population, so that they do not fall into the trap of trafficking in human beings.

People, not only migratory controls, but precisely informing the population of the risks they may run during the journey to the countries of destination. In addition, the DGME must have an adequate route for the attention and documentation of the victims, visualizing systems that contain

the principles of confidentiality and non-discrimination.

- Technical Secretariat: The technical secretariat must be strengthened in terms of human and material resources in order to adequately perform its function at the national and international levels. Establish or rather detail very well within the regulations.

of Law 9095 its functions.

- Knowledge of the Law: It will require CONATT to coordinate workshops to train public and private officials in the integral management of the Law from the different competences, attention, prevention, law enforcement, and the prevention, prevention, and prosecution of crimes.

justice, investigation, information management

- Financing: The prompt and agile execution of the product of the financing must be very well established in the regulations. The funds are available, but the mechanisms to be able to make use of the funds is a challenge, their use must be guaranteed for the fight against human trafficking and it must be in a way that allows CONATT to make use of them to be able to give a prompt response to the victims. It also implies a whole Project Management, which will require the institutions to commit themselves to the creation of adequate projects in order to make use of these funds, taking into account the axes of prevention, attention, persecution and prosecution of justice,

as well as information, analysis and research.

- Regulation of Law 9095: Due to the complexity of the Law, the regulation must be very well elaborated, it must detail very well the function of CONATT and the Integral fight against human trafficking.
- Care must always be differentiated, as each case is particular and therefore The focus of the project is on a particular area, even if it maintains a common axis of action.
- All personnel dealing with a situation of trafficking in persons should be trained and sensitized on an ongoing basis.
- Due to the level of schooling, physical and emotional condition of the victims, it is important that the entry to the Employment Exchange systems is simple and easy.

The victims can make use of and benefit from the benefits.

- To establish a letter of understanding between non-governmental organizations and CONATT to ensure that victims can also have access to the

employment exchange with private companies, without any kind of revictimization, which would involve training and sensitization.

- Ensure that the places of employment to which victims have access are governed by the Ministry of Labor and Social Security and the provisions of the ILO, to ensure that they are not trafficked into the networks of traffickers for the purpose of exploitation.

labor or other form of exploitation.

- Conduct training and awareness-raising at the inter-institutional level, in order to maximize material and human resources, through the coordination of the Technical Secretariat.

- To have a specialized shelter for victims of the crime of trafficking in persons, with professional staff that can meet the different physical and emotional needs, so that the victim does not have the need of

to move and put themselves in a dangerous situation.

- Conduct constant training for prosecutors and judges so that they are aware of Law 9095, as well as everything that the crime of trafficking implies.

of People, so that sentences and cases are more positive.

- Establish a complete regulation that is at the same time agile to apply and that allows to control all aspects of the work of the CONATT institutions, the Secretariat, the ERI and especially the financing chapter for the derivation of funds for the different projects to be presented.

- To comply with a strategic operational plan.

- Create adequate routes for the detection and referral of cases.

- To have the necessary tools at a technological level to be able to adequately combat this crime, as well as to have security training for both the victims and the people who must carry out any of the activities.

type of accompaniment.

- Provide human and material resources to the investigation units for this crime both in the Judicial Investigation Agency and in the Professional Police of Migration and Foreigners.

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