

ADDRESSING THE PROBLEM: INSTITUTIONAL FACTORS THAT FACILITATE HUMAN TRAFFICKING AND POTENTIAL PREVENTIVE MEASURES THROUGH COMMUNICATION

Diana Ramona GAVRA, Denisa Andreea TUDOR

College of Communication and Public Relations, National University of Political Studies and Public Administration, Bucharest, Romania

Abstract: *The paper identifies the factors which encourage the human trafficking in Romania: corruption, the weakness of state institutions, and lack of adequate social protection measures. The application is performed on a notorious case in Romania: *Andrei* case, largely reported in the press, both in the Romanian and in the British press. Around 180 Roma children from poor families were exploited by wealthy members of their community in *Andrei*, Ialomița County, being transported in UK in order to practice begging and theft. The method of analysis was the study of judiciary documents and files instrumented in this case, for over seven years. Finally, the paper proposes communication and institutional measures in order to ensure the social reintegration of victims and the effective prevention of this phenomenon.*

Keywords: *human trafficking, organized crime, institutional measures*

1. INTRODUCTION

During the last decade there has been a notable increase in terms of studies addressing human trafficking topic to describe the various elements associated with human trafficking, including estimates of the scope of the phenomenon, descriptions of trends, and characteristics of victims (Kelly, 2002)

Human trafficking is a global public health issue. Poor living and work conditions faced by trafficking victims often combine to create or exacerbate serious health problems and in some situations, the spread of infectious disease (Burke, 2013). The international definition of trafficking has emerged only in December 2000, with the signing of the *UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons* (in Palermo, Italy), despite the magnitude of trafficking in personae.

As a worldwide phenomenon, human trafficking deprives victims of their basic rights each day. Its multifaceted nature poses a great challenge for (1) effective prevention, (2) victim protection and (3) prosecution related measures and policies. Its linkage with illegal migration, determines the urgency for decision makers at the international, regional and local levels to communicate, cooperate, and share responsibility in the fight against it. (UNITAR, 2013:4)

As globalization and commodification defy national borders (Liu, 2010: 13), law enforcers, local and national governments, international organizations, and non-governmental organizations are among the key actors at the forefront of this topic. In particular, implementing communication strategies, all in alignment with international human rights standards, plays a significant role in reducing vulnerability of potential victims.

2. THE FACTORS WHICH STIMULATE HUMAN TRAFFICKING IN ROMANIA

Economic and political liberalization has produced major changes in Romanian society after 1989. The transition to a market economy provided on one hand, economic opportunities, and on the other hand, it has affected a large part of the population unprepared for these changes and favored the emergence of vulnerable groups.

The most common sense of vulnerability is the lack of support and inability to seize opportunities. Regarding the groups identified as vulnerable in official documents, they are defined as those experiencing one or a plurality of social deprivation (such as: (1) high levels of poverty, (2) lack of long-term employment, (3) early school leavers, (4) lack of access to education or health care, (5) homelessness or inadequate housing, (6) lack of access to a water supply system, heat or

electricity, or (7) discrimination of any kind etc.). The Roma population is a vulnerable group in relation to several criteria: standard of living, education, employment, housing, health, discrimination and even segregation.

Consequently, a study conducted in 2010 (European Roma Rights Centre and People in Need, 2011: 12) confirmed that Roma people are victims of human trafficking for different purposes: (1) labor exploitation, (2) begging, (3) organ trafficking, (4) domestic servitude, and (5) sexual exploitation. The most noteworthy, however, of the vulnerability factors, is not inherently ethnic or a 'cultural practice'. The primary vulnerability lies in poverty, social exclusion, unemployment, ethnic and gender discrimination, domestic violence, homelessness, or lack of education. In other words, there is no unique 'Roma vulnerability factor', and no indication that trafficking is a 'cultural practice' of Roma.

A number of leaders occupying important positions in Roma communities, can be distinguished in several categories, such as: (1) Roma rich elite, (2) religious leaders, (3) intellectual-activists. (Popoviciu, 2009:26) *Roma rich elite* generally adopts a patriarchal lifestyle where economic status determines the rank of leader. *The religious elite* groups form themselves in neo-Protestant circles, adopt a religious discourse, and establish places of worship where Romani language is used. The third category is made up of *Roma intellectual activists* who took the initiative for civic and political organization, and emphasized the reconstruction of identity and image enhancement of Roma (Popoviciu, 2009). They are involved in various education projects and to support the emancipation of their people, while promoting an inclusive view of Roma culture and identity.

Moreover, in an analysis conducted by the online publication Verticalnews (see www.verticalnews.ro), the richest Roma individual has an estimated fortune of 13 million euros, followed by another Roma individual with an estimated fortune of 11 million euros. The third place Roma individual has a fortune of 7 million euros, while the Roma leaders involved in trafficking within the Tnd rei network (the case that we will discuss later on) have estimated fortunes of 2.3 to 1.9 million euros. Many of those at this top are prosecuted, due to suspicions that these fortunes were not legally acquired. Pair them with various politicians in power, with protection

conferred by the state authorities, and, last but not least, corruption, aided the creation of a rich elite of Roma.

In various police reports, but also in Ion Pitulescu's book "Organised crime. Third World War" depiction of Roma clans involved in organized crime is quite common. In an interview with Ion Pitulescu (Muntean, June 2005), known for his involvement in combating organized crime, he showed that these networks have penetrated the entire system state: parliament, government, ministries, prosecutors, and especially, justice. Pitulescu notes that they enjoy the protection of high-ranking politicians, suggesting that their financial disclosure could be directly proportionate to the illegal businesses of these organized crime groups.

3. METHODOLOGY

We conducted an in-depth analysis, by using a qualitative method document analysis, in order to find out the social and institutional factors behind trafficking crime among Roma people. In addition, it offers remedies that could stop the growth of this type of crime among them. Documents that may be used for systematic evaluation as part of a study take a variety of forms. As a research method, document analysis is particularly applicable to qualitative case studies—intensive studies producing rich descriptions of a single phenomenon, event, organization, or program (Stake, 1995). We reviewed the indictments and judgments referring to Tnd rei case. This case was significantly reported in the press, both Romanian and British. We have analyzed the facts, group structure, and protection offered by authorities and subsequent procedures.

We aim to answer two main research questions: (1) what were the social and institutional factors that led migration through trafficking crime among Roma and (2) what remedies can be proposed for stopping the growth of this type of crime among Roma.

4. STUDY CASE: NETWORK OF HUMAN TRAFFICKING IN TND REI

4.1 Case description. The chosen case is a representative one, in terms of (1) the number of people involved, (2) the period during which group acted (2002-2010), (3) the transnational nature of trafficking and (4) the complexity of criminal investigation.

ADDRESSING THE PROBLEM: INSTITUTIONAL FACTORS THAT FACILITATE HUMAN TRAFFICKING AND POTENTIAL PREVENTIVE MEASURES THROUGH COMMUNICATION

Since 2002, several Roma people from Țindrei, Ialomița County, have joined a group that aimed at recruiting children in Țindrei, and nearby in order to exploit them abroad. Therefore, from 2002 to 2008, the group managed to pull out of the country, exclusively through border crossing points: Turnu, Ndlac and Vr and around 180 children from Ialomița, Constanța, Iași, Brila, Braov and Clra i County. (Courts web portal, criminal file case no. 496/96/2012, details available at: http://portal.just.ro/96/SitePages/Dosar.aspx?id_dosar=960000000027270&id_inst=96)

The group members were, mostly, people uneducated and unemployed. Among the 24 members who committed crimes of trafficking in minors, the most noteworthy are three of them who have primary education, and one with secondary education, while the other 20 people have no education.

As, the children recruitment was conducted in rural, poor, Roma communities, network members were seeking children from poor families or with disabilities, and obtained agreement through false promises, or in exchange for money. Family members were promised financial aid, but subsequently minors' families received no such aid. Thus, some children were taken from families through the 'loans method' - clan members offering high interest loans to poor families, which they could not return. Therefore, as the debt exchange, willingly or by compulsion, group members were taking children away from their families to exploit them abroad. The *children*, dealing with difficult family situations and poor financial conditions, easily became victims by creating a state of physical and psychological dependence on the members of organized criminal group. This dependence happened mainly through: (1) deprivation of any financial resources, (2) linguistic isolation and (3) interruption of all contacts and communications with their families remaining in Romania. Faced with these situations, conjugated with forms of coercion exercised by group members, children were forced to (1) practice begging, (2) to commit antisocial acts and (3) give members of organized criminal groups all income from this illegal activity.

An indictment (Indictment prepared in criminal case file no. 333 / D / P / 2006 of the Prosecutor's Office attached to the High Court of Cassation and Justice - Directorate for Investigating Organized Crime and Terrorism, Central Structure) notes that traffickers have exploited children from 8 to 16 years, children

below the age of criminal responsibility. Thus, these shall be presumed not to have the capacity to infringe the penal law.

Minors are a vulnerable group for offenders who practice human trafficking because (1) they are not mature physically and mentally, and (2) lack of judgment and the ability to assess the risks and severity of the situation. During their growth, 8-16 years, these children did not attend school, but they learned to commit antisocial acts as their behavior had been shaped by traffickers.

By entering traffic, these children had been modeled in respect with deviant behavior, thus the chance to reintegrate into society reduced considerably. They lost contact with the school, lacked necessary professional qualifications, and acquired criminal skills. They most likely can rejoin human trafficking under one or another form, and, actually, still being within easy reach of traffickers. For these people, rights and freedoms are practically canceled, being condemned to perpetual captivity.

Being chosen Roma children, their recruitment was easier for group members, as in some cases children were encouraged by their families, thus being easily manipulated in accepting the inhuman conditions imposed by the traffickers, and being deprived of any protection.

Abroad, the children were taken over by other group members, who dealt with both accommodation and their exploitation. Children were forced to beg, to wash windshields at intersections, or were used to commit a crime of pickpocketing in shops or restaurants. Their accommodations were inadequate as they were sleeping all down on some mattresses, extremely crowded. Children were (1) badly treated, (2) scantily clothed, (3) forced to leave the street in any conditions - rain and low temperatures -, (4) most often they ate alone with food taken right out of the garbage. Being threatened, they were forced to beg on the street all day long, and to commit various crimes, especially theft and all income was taken by the group members. Hence, juveniles were identified by the UK authorities committing a series of robberies or practicing begging.

According to criminal records, sent by the judicial authorities from United Kingdom, a large number of children (about 80) were discovered, investigated, and arrested for committing antisocial acts, such as: begging, theft, various frauds, deception, and aggressive behavior. Some minors were noted committing a large number of offenses, over 30 crimes, mostly theft, and arrests, about 30

times at intervals ranging from one month to several months. These children were found during searches conducted at their homes in United Kingdom, and were identified by authorities as part of the group of minors trafficked by organized criminal group *nd rei*.

Besides children, another trafficked category was that of *people with disabilities*. They have an increased vulnerability, as those physical or mental deficiencies that characterize these victims are causing them difficulty to defend against possible threats. Thus, being unable to secure their basic needs, their state of dependency is higher.

The money obtained from these criminal activities came to group members and were used exclusively in their interest. With the search warrant and decided precautionary measures, it was found that the traffickers had impressive wealth, stately mansions, large areas of land, large sums of money, and luxury cars, although none of those investigated persons in this case has a legal source of income, with no remunerated activities conducted.

4.2 The structure of criminal network. The group was composed of Roma citizens, structured on internal and external branches, with well defined hierarchies and specific tasks. While the internal branch was dealing with (1) the recruitment, (2) transportation, and (3) children's transfer, the external branch was in charge of (1) housing and exploitation and (2) collection and money transfer to the internal branch of the group.

General characteristics of this criminal network consist of being built around a family, the clan system, which had a dominant influence in the community through the property they displayed and the relation with local authorities. Moreover, smaller groups that gravitated around leaders were set up all around families.

4.3 A Short View of Legal Proceedings. On 31.08.2007, the case was indicted *in rem*, for the offense of trafficking minors (performing acts of criminal prosecution to determine those responsible for this crime. Three years later, by resolution no. 150, dated on 06.04.2010, 26 people, identified as members of a criminal network, were indicted for (1) *trafficking of children*, (2) *money laundering*, and (3) *the offense to establish an organized criminal group*.

On 08.04.2010, (1) the criminal prosecution against 26 accused Roma individuals began, (2) it proceeded to carry out house searches at addresses from *nd rei* (where they were living), and (3) their hearing was ordered. After conducting house

searches, they discovered documents, money, large amounts of gold jewelry, and several firearms, ammunition, swords, and other weapons. In this situation, by Order no. 333 dated 14.07.2010, has decided to extend the investigations and the criminal prosecution against four defendants also for the offenses of breach of regulations on ammunition. One day after, on 09.04.2010, the defendants were presented to Bucharest Court with the proposal for preemptive arrest for a period of 29 days. By the sentence dated on 09.04.2010, issued in criminal case file 17661/3/2010, Bucharest Court, Criminal Section I, admitted the prosecutor's request and ordered the preemptive detention of 17 defendants for a period of 29 days (starting from 09.04.2010 until 07.05.2010 inclusively) (Arrest warrants no. 90- 106 / 09.04.2010 issued on behalf of 17 defendants, members of the network). The defendants appealed against the decision to order their preemptive arrest, but it was rejected.

Moreover, by the report of the criminal case file no. 17763/3/2010, the arrest was ordered *in absentia* for an additional 8 persons, members of the group, for a period of 30 days from the date of incarceration. Later, the arrest warrants mentioned above, were executed. Throughout the investigation, the defendants have denied committing the facts evidence against them, with insincere attitude, claiming that trafficked minors are, in fact, grandchildren or other relatives, even though those minors are unrelated to their families. In this respect, preemptive arrest was periodically extended (until 08.02.2011 when they were set free by the Court of Appeal Târgu Mureș).

Through Criminal Sentence no. 8 / 19.01.2011, delivered in criminal case file no. 2483/96/2010, Harghita Tribunal ordered the return of the criminal case to the Prosecutor's Office attached to the High Court of Cassation and Justice, DIOCT (Directorate for Investigating Organized Crime and Terrorism) - Central Structure, for restoring notification act, as it was not shown (1) the number of material acts, (2) the content, nor (3) when the crime was done. In this context, a proper description of the facts adduced against the accused was not possible. The Court considered that, until the new prosecution is ready, it is necessary to maintain the state of preemptive arrest of the accused.

They appealed against this judicial decision to the Prosecutor's Office attached to the High Court of Cassation and Justice - DIOCT Harghita. On 08.02.2011, the Court of Appeal Târgu-Mureș,

ADDRESSING THE PROBLEM: INSTITUTIONAL FACTORS THAT FACILITATE HUMAN TRAFFICKING AND POTENTIAL PREVENTIVE MEASURES THROUGH COMMUNICATION

with dissent, admitted, it ordered retrial by the Court Harghita and released arrested defendants by replacing the requirement of preemptive arrest with measure not to leave the country or locality, as appropriate. Consequently, Harghita Court criminal case file no 496/96/2012 was formed. Thus, on 31.07.2012, it was ordered again the return of the case to the prosecution for restoring indictment. This order was appealed, allowed by the Court of Appeal Târgu Mureș, and referred back to the Court Harghita. Hence, new criminal file case is formed: no, 496/96/2012 which in 2014 was still under judicial investigation to the trial court with 11 court appearances.

The fact that this criminal group committed human trafficking was known to the local authorities (as it is shown in Indictment in case file no. 333 / D / P / 2006). In fact, this criminal group was functioning because of the relationship with local authorities: (1) police and rei, (2) the border police, and (3) the courts.

This process roadmap demonstrates the ineffectiveness of Romanian justice system, to the extent that members of organized criminal networks are set free and are not convicted, while this time (seven years) victims are not included in any program of social reintegration.

4.4. Proposed measures to remedy the situation. After a systematic procedure for reviewing or evaluating documents, we could note that the measures to prevent trafficking should focus on several areas: (1) reducing vulnerability through social (re)integration of victims, (2) controlling the phenomenon through authorities' concerted actions, and (3) increasing the effectiveness of the justice system.

(1) *Reducing vulnerability through social (re)integration of victims.* Allowing educational and vocational integration possibilities are solutions mentioned as essential in order to increase the autonomy of victims and reduce the vulnerability to recruitment by criminals. Secondly, the adequacy and standard of support services (to the needs of these categories of victims) is also critical in this matter. In this respect, a range of initial accreditation programs or retraining programs could lead to employment opportunities for victims. Third, the increased number of centers and places available to assist people in distress after exposure to shares of a criminal network and the inclusion of children identified as vulnerable or day care programs, can potentially ensure both their basic needs and learning a normal lifestyle.

(2) *Controlling the phenomenon through authorities' concerted actions.* Externally, institutions concerned with the issues of trafficking should strengthen cooperation with authorities in other countries, especially with migration destination states who had a large number of Romanian trafficking victims (such as United Kingdom). This would establish liaison points for addressing such cases in a timely and effective way. Secondly, Romanian embassies should be regularly updated concerning trends in trafficking of Romanian citizens, so that they could be prepared to meet the needs of victims. Third, taking internal measures for institutions' cooperation in order to strengthen the response capacity of the authorities at the least possible signs of human trafficking situations (sighting the phenomenon since its origin). These measures should be linked to (1) penalties and exclusion of institutions' members that have been proven as agents of corruption and (2) implementation of a fair system of criminal case management, starting with the small ones (such as begging).

(3) *Efficiency of justice.* The authorities must cease the crisis through urgent and timely measures, designed to discourage traffickers. Remand should be the rule so that they cannot repeat or continue offenses. Secondly, increasing penalties due to evidence is another needed solution. The resulting sentencing patterns have shown that, usually, traffickers receive either minimum sentences or no punishment. This pattern predictably (1) leads to high risk of re-trafficking and (2) maintains human trafficking vulnerability.

5. CONCLUSIONS & ACKNOWLEDGEMENT

The presented case of human trafficking would not have been possible without the support of high-ranking politicians, administrative officials, prosecutors, judges, underworld clan members, and corrupted officials. The given money to politicians and public officials, directly or indirectly, contributed to solving the apparent legal problems and ensure the 'protection' of the criminal justice system.

Corruption (1) delays economic development, (2) diverts resources, (3) weakens state authority and (4) contributes to violations of human rights and fundamental freedoms. The costs of corruption are very high, reflected in delayed development of communities and lack of resources for most people. Corruption generates a *power pole shift*,

diverting state authority and protection from vulnerable groups to private organizations, oligarchs, clans and organized crime groups, as in the present case.

This case reflects (1) widespread corruption, (2) dysfunctional Romanian state institutions fostering organized crime and wrongdoing at this level, and (3) that laws and regulations are completely ignored. Human rights and freedoms have become in the control of clans or oligarchs. As a result, this raises legitimate questions - *to what extent it is justified to maintain these systems that are encouraging or ignoring criminals, and how might they cure a social body* (or to what extent would work well in a particular social sector) *while even the systems designed to protect honest citizens and the laws, despise them the most?*

With regard to the specific situation of Roma people, the presented case strongly shows internal limits on their integration or on the design of effective strategies by which their living standards and education could improve, as long as the criminal model can proliferate in their ranks.

6. ACKNOWLEDGEMENT

This paper was possible with the financial support of the Sectoral Operational Programme for Human Resources Development 2007-2013, co-financed by the European Social Fund, under the project number POSDRU/159/1.5/S/134650 with the title "Doctoral and Postdoctoral Fellowships for young researchers in the fields of Political, Administrative and Communication Sciences and Sociology".

BIBLIOGRAPHY

1. Burke, M.C. (2013). *Human Trafficking Interdisciplinary Perspectives*. New York: Routledge.
2. European Roma Rights Centre and People in Need. (2011). *Breaking the Silence: Trafficking in Romani Communities*. [online]. *European Roma Rights Centre (ERRC)*. Budapest: Fo-Szer Bt. Available: <http://www.errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf>. [Accessed in March 2015]
3. Kelly, E. (2002). *Journeys of Jeopardy: A Review of Research on Trafficking in Women and Children in Europe*. International Organization for Migration.
4. Liu, Y. (2010). The Commodification of Human Life: Human Trafficking in the Age of Globalization. [online]. *Macalester College. Macalester International: Vol. 25, Article 11*. Available: <http://digitalcommons.macalester.edu/cgi/viewcontent.cgi?article=1480&context=macintl>. [Accessed in March 2015]
5. McKee, K.A. and Kohm, L.M.. (January 17, 2015). Examining the Associations between Sustainable Development Population Policies and Human Trafficking. *International Law Review*, 1.
6. Pitulescu, I. (1996). *Third World War. Organised crime*. Bucharest: National Publishing House.
7. Popoviciu, S. (2009). Identifying protective, corection and growth factors to welfare, and promoting social inclusion of Roma in Romania. [online]. *Social Innovation magazine*. No.1. (ianuarie-iune). 16-40. Available: http://www.inovatiassociale.ro/pdf/art_1363107227.pdf. [Accessed in March 2015]
8. Stake, R. E. (1995). *The art of case study research*. Thousand Oaks, CA: Sage.
9. ***. (November 2011). Top richest Gypsies from Romania. [online]. *Vertical News*. Available: <http://verticalnews.ro/serial-verticalnews-topul-celor-mai-bogati-tigani-din-romania-ionelas-carpaci-cel-mai-avut-tigan/>. [Accessed in April 2015]
10. Muntean, C. (June 2005). Police brink of disaster - interview with general Ion Pitulescu. [online]. *Hotnews*. Available: http://www.hotnews.ro/stiri-presa_regionala_arhiva-1735305-politia-pragul-dezastrului-interviu-gen-ion-pitulescu.htm. [Accessed in April 2015]

CRIMINAL DOCUMENTS:

1. Ministry of Justice. (2012). Criminal file case no. 496/96/2012 [online]. *Portalul instanțelor de judecată*. Available: http://portal.just.ro/96/SitePages/Dosar.aspx?id_dosar=960000000027270&id_inst=96. [Accessed in March 2015]
2. Ministry of Justice. (2015). Courts web portal, criminal case details. *Portalul instanțelor de judecată*. [online]. Available: http://portal.just.ro/96/SitePages/Rezultate_dosare.aspx?k=Dragusin&a=%20scope%3AvDosar%20MjImpIdIns titutie%3D96&start1=1. [Accessed in March 2015]