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**Moral and regulatory aspects of criminal prosecution of  
trafficking in human beings**

***Summary of the Doctoral Dissertation***

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## **1. Research overview**

### **1.1. Rationale for the choice of topic and definition of the research topic**

The relevance of the choice of topic is justified by the phenomenon of trafficking in human beings, which is still flourishing in our time, as well as the serious social and regulatory issues that arise as a consequence. Human markets existing despite the efforts of international organisations and the European Union also make EU citizens and Member States' legislation to rethink in several respects. We are facing a paradigm shift in many respects, because, besides many others, the flourishing of human trafficking is only an indicator of a much more serious ethical, moral and cultural erosion. Criminal law regulation is also regularly and, in its proportions, extremely often faced with such a new challenge to which it must give immediate answers.<sup>1</sup> The ethical and moral issues of trafficking in human beings are also getting more difficult by the fact that with the information systems becoming accessible and general, virtual spaces become easily accessible to all people. For the law, criminal organisations and new areas of crime are still in the unmanageable and endless virtual space. The scouting of victims of human trafficking and the storage of their data also take place here – making it very difficult to prove and catch the perpetrators.

The dissertation conducts a scientific study of the complex phenomenon of human trafficking in a holistic approach. My main goal is to overview the legal, dogmatic and regulatory directions that the states of the international legal community, including Hungary, have chosen in order to discourage the harmful social phenomenon of trafficking in human beings. The dissertation follows the scientific position<sup>2</sup> that trafficking in human beings appears in the Hungarian legal system mostly due to international commitments. In terms of the regulation of trafficking in human beings, the dissertation takes into account the phenomenon that, moving away from the previous aspect of the protection against sexual crimes, is now gravitating towards strong human rights aspects. This justifies the comparative overview of the fundamental rights frameworks of individual states, in addition to the examination of specific criminal law regulations. As regards the EU and international instruments, I try to focus on those standards that set specific rules for each Member State.

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<sup>1</sup> Cf. Amendment 9 to the Basic Law. <https://www.parlament.hu/irom41/13647/13647.pdf> (download: November 18, 2020)

<sup>2</sup> Miklós, HOLLÁN: i.m. 235. p.

It is important to clarify the question of what discretion the national criminal legislative authorities<sup>3</sup> still have in the intersection of the guarantees of fundamental rights laid down by the instruments providing for international and European joint action. The dissertation necessarily deals with the sociological phenomena that form the basis of trafficking in human beings. In a separate chapter, the dissertation analyses the ethical, moral, philosophy of law and legal theory issues, according to which the regulation of trafficking in human beings is rather one of the crimes against human dignity.

The dissertation does not cover international and European instruments that contain findings of the phenomenon of international trafficking in human beings concerning third countries, or do not set specific requirements for Member States.<sup>4</sup> In my dissertation, I do not analyse and address the interrelations with migration-related trafficking in human beings. Nor do I touch on the rules on the protection of, compensation for or identification of victims. The dissertation covers the necessarily related issue of prostitution only in a limited way.

## **1.2. Justification of the fight against trafficking in human beings**

I would like to support the relevance of the problem with a single sentence, which was said by Secretary of State VÍZKELETY Mariann: *“In my view, trafficking in human beings is primarily a social phenomenon and only secondarily a legal concept.”*<sup>5</sup> Trafficking in human beings, as a social phenomenon, is a manifestation of all that is a mockery of our law-governed world. If trafficking in human beings, as the most serious crime against human dignity, flourishes, this means that there is a serious demand for it. And demand is usually made by individuals who are typically respected, law-abiding, exemplary members of their community.<sup>6</sup> Due to the follow-up nature of law, law enforcement authorities can only focus on violent behaviours created by the establishment, maintenance and operation of a demand-driven human market. They are neither able to manage nor solve the reduction in demand for the real source of the crime, the vulnerable, objectified victims. It is an illusion that only by punishing the market organisers, suppliers and operating staff can the demand to acquire a human object doing sexual or cheap work be eliminated.

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<sup>3</sup> Miklós, HOLLÁN: i.m. 35. p.

<sup>4</sup> See the provisions of the European Council in response to foreign policy issues related to the situation in Libya and trafficking in human beings and illegal migration in the EU.

<sup>5</sup> Mariann VÍZKELETY: Current issues of human trafficking, with special attention to the Hungarian situation <https://www.kormany.hu/hu/igazsagugyi-miniszterium/igazsagugyi-kommunikatokert-felelos-allamtitkarsag/beszedekek-publikaciok-interjuk/az-emberkereskedelem-aktualis-kerdesei-kulonos-kepelemmel-a-magyar-helyzete> (downloaded: January 19, 2021)

<sup>6</sup> See the case of Gábor Kaleta, Ambassador Extraordinary and Plenipotentiary of Lima. (V. 17.) KE revoked it by the President of the Republic because the Ambassador acted in violation of Section 204 (1) a), b) c) of Act C of 2012 when pornography depicting 19,000 minor children collected recordings on his office laptop.

## **2. The methodological issues of the research**

The common foundations of the doctoral dissertation and research are axioms that are also recognized as valid by contemporary jurisprudence. Regarding the conceptual foundations, according to some researchers, it is not particularly relevant whether we reach the final conclusion through basic or applied research: the results of an applied research can also lead to knowledge and a change of approach concerning basic theories. <sup>7</sup>This is increasingly true in jurisprudence, moreover, “*all basic research has practical results, both in terms of specific knowledge and changes in method development*”.<sup>8</sup>

### **2. 1. Summary of research concept and methodology**

The summary of the research concept serves the purpose of making the system of multi-year complex research transparent, as well as presenting the related exploratory initial research. In the meantime, the coordination of the partial results of the research and the doctoral dissertation, which is being prepared in parallel, required changes. When developing the hypotheses and the final concept of the doctoral dissertation, I tried to preserve the outline of the profile of legal research. Due to the complexity of the phenomenon of human trafficking, I approached the analysis and evaluation of the current criminal law in force step by step with the help of several research methods accepted in jurisprudence.

#### ***2.1.1. Method of historical descriptive***

With a descriptive historical overview of trafficking in human beings, I explore the symbiosis of European Christian culture and the institution of ancient slavery all the way back to the 20th century. The aim of the historical analysis is primarily to present the directions and concepts of the antecedents underlying the establishment of modern anti-slavery norms across nations. In the course of my research, I discovered the comprehensive research on slavery by the Reformed professor Ferenc Bajusz. I came across an original typed copy of the research manuscript in Germany, which I managed to purchase and study.

#### ***2.1.2. Method of legal analysis***

Philosophical and legal-theoretical analysis of trafficking in human beings in the fight against modern slavery XVII. from the utopian<sup>9</sup> thoughts of thinkers in 20th century, it travels the

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<sup>7</sup> Cf. FERGE, Zsuzsa: *The stratification of our society*. Economic and Legal Publishing House. Budapest, 1969. HÉRA, Gábor - LIGETI, György: *Methodology - research of social phenomena*. Osiris For Rent. Budapest, 2014. p. 44.

<sup>8</sup> HÉRA, Gábor - LIGETI, György: *Methodology* i.m. (2014) *ibid.*

<sup>9</sup> KANT, Immanuel: *The Idea of the Universal History of Humanity from a World Citizen's Perspective* Source: <http://mek.niif.hu/06600/06616/html/#4> (Downloaded: February 5, 2021)

most important legal theory path leading to today's modern approach to rejection of slavery and all forms of exploitation in order to review the context of practical rule-making from the international to more human rights.

### ***2.1.3. Dogmatic analytical method***

The dogmatic analysis of the regulation of trafficking in human beings aims to provide an overview of the question of how an abstract general rule formulated in international treaties raises questions within a local linguistic, contextual and conceptual framework, and how it can work.

### ***2.1.4. Method of legal comparison***

With the comparative analysis of the anti-trafficking regulations of the individual states, I want to review the differences and identities of the local peculiarities in order to be able to interpret for myself how different the regulatory directions differ from the Hungarian normative regulations. In the comparison of laws, of course, I could only undertake a textual comparison of the individual rules, because on the one hand, I did not have the opportunity to get to know the examined states more deeply culturally, linguistically and. The selection of the subject of the study was based on the fact that European states include states that are founding members of the European Union, constitutional monarchies, parliamentary democracies, and later socialist states that joined later. In selecting non-European states, I definitely wanted to look at two states: the United States and the Russian Federation as the dominant powers. I chose the Federal Republic of Brazil because they were extremely willing to respond to my letters to the embassy, thus helping to carry out my research. In addition, Brazil has an extremely long document of almost three hundred pages of very detailed fundamental rights. During its review, it is forbidden to discover specific rules related to human trafficking contained in the Hungarian Basic Law.

### ***2.1.5. Qualitative in-depth interview***

In the chapter describing the child protection perspective, I would like to present, in a qualitative in-depth interview, the solution that a highly developed democratic state with a different culture applies to the most serious perpetrators of human trafficking, while respecting human rights. In the course of the in-depth interview, I present a protection system that has been operating in the United States, California for nearly thirty years, and has come under the authority of the authorities as perpetrators of violent sexual or other exploitative

crimes against children. The anonymized interview was given to me by P. K., who has worked in penitentiary institutions for more than twenty-five years as an employee of the State of California. Initially, she served as a health assistant at the Atascadero Institute for Penitentiary and Mind Observation in Coalinga, later as a health assistant there, and now as a nurse in the mental departments of the State Hospital of Coalinga.

#### ***2.1.6. Quantitative questionnaire method***

The criminology-type complex system questionnaire primarily attempts to explore groups in the lagging strata in special life situations. The questionnaire also asks about age, gender, origin, willingness to comply, and credit beliefs. The evaluation of all the details of the large-scale complex questionnaire could not be presented in the dissertation because it alone would have exceeded the available framework, so after the operationalization I decided to report only the details closely related to the dissertation.

1. Definition of the research topic (2015)
2. Preliminary orientation (held between 2015 and 2016)
3. Research goals hypothesis was defined in 2016 and 2017. (It was then that I conducted some basic interviews in which we clarified the main questions, and the main topic was what questions could be asked to Roma people.)
4. The research plan was prepared and finalized between the end of 2017 and the beginning of 2018.
5. Data collection, fieldwork was realized in 2018 and 2019.
6. Data analysis, data cleansing, records were entered into statistical software in 2020.
7. The results were summarized, presented and included in the dissertation at the end of 2020.

The questionnaire consists of five sets of 111,104 records after data cleansing, and was completed by a total of 867 individuals.

The first, so-called general data set, applies to all respondents and asks questions about county, age, gender, religiosity. The person who did not answer the question “religious beliefs” was already excluded from the respondents. As the research was published within the ranks of the Hungarian Pentecostal Church and nationwide, acquaintances and family members could also fill in the questionnaire. Respondents were also asked to belong to their nationality on a self-reported basis, but only Roma were treated as separate statistics, as I tried to focus on the most vulnerable group. Respondents were divided into four sets based on their answers to the questions.

### ***2.1.7. Method of longitudinal quantitative questionnaire***

I examined the analysis of the effectiveness of Hungarian action against human trafficking in the framework of time-shifted longitudinal, quantitative research, with the help of a specific focus group, which included experts from non-governmental organizations, church professionals, and victim assistants with legal degrees. I built the first concept in 2013, during which I worked on the definition of the research topic, the topic of human trafficking and the issue of related crimes. During the elaboration of the concept and the questions, the focus was on the definition of the target group and the issues raised during the internship at the Ministry of the Interior's Department for Combating Trafficking in Human Beings, with Deputy Secretary of State Berta Krisztina and Péter Stauber. With regard to the target group, all persons who dealt with victim assistance or related legal issues were eligible.

The staff of the Ministry of the Interior, as well as a number of excellent researchers and practitioners, assisted me in setting the research goals and raising the hypotheses.

With the research questionnaire, I analyzed the responses of the target group at two time points in 2014 and 2018 in the framework of quantitative-based longitudinal research.

### ***2.1.8. Method of file research and questionnaire***

Within the framework of a special research conducted with the investigators of the Anti-Trafficking Subdivision of the Standby Police, National Investigation Bureau, I wanted to make a law enforcement assessment with the help of the experts closest to the phenomenon. The duration of the implementation of the tasks specified in the Internship Research Implementation Plan officially lasted from 12 October 2017 to 28 February 2018. According to the defined methodology of the research, I carried out a substantive, forensic and legal review of a total of 7 files and 16 544 pages of files containing the detection and investigation of human trafficking and other related crimes.

<b>CASE NUMBER<sup>10</sup></b>	<b>PAGES</b>	<b>SUSPICION<sup>11</sup></b>
29022-.../2013BÜ.	700	Proceedings against József Cs. and others were committed for the crime of commercial procurement
29022-.../2015BÜ.	752	Proceedings against Attila B. and others were committed for the crime of commercial procurement
29022-.../2013BÜ.	800	Proceedings against Attila B. (pseudonym of Attila T.) were committed for the crime of commercial procurement and for other crimes
29022-.../2015BÜ.	500	Proceedings against Zoltan B. and others were committed for the crime of commercial procurement, child

<sup>10</sup> 6/2006. (BK.4.) The research agreement concluded for the purpose specified in point 7 b) of the BM instruction does not allow the case numbers of the processed files to be indicated in the publication, so they are not referenced in a recognizable way.

<sup>11</sup> In order to preserve the anonymity of investigative material declassified, no further details are provided.



		prostitution and for other crimes
29022-.../2012BÜ.	700	Proceedings against Gabor Zs. and others were committed for the crime of commercial procurement and for other crimes committed in criminal organization
29015-.../2009BÜ.	1092	Gyorgy B. and others were prosecuted for trafficking in human beings and other crimes.
29022-.../2012BÜ.	12 000	Proceedings against Tamás L. and others were committed for the crime of commercial procurement and other crimes, committed in a criminal organization.
<b>Total: 7 files</b>	<b>16 544 pages</b>	

Figure 1.: I examined the files of the crimes listed in the table at the Anti-Trafficking Division

This part of the dissertation contains the research data in which I wanted to gain the criminological knowledge accumulated by investigators working in the field of forensics with the help of a complex questionnaire. Questionnaire research at the investigating authority cannot be considered as quantitative research, as there were only thirteen. Before the questionnaire was circulated with the help of the instructor, many of them also managed to clarify complex professional, forensic and criminal law issues. I compiled some of the questions of the questionnaire taking into account the content of the conversations with the instructor and the investigators, their practical experiences and suggestions.

I also tried to use the knowledge accumulated by the investigators, because I consider it important that the forensic opinion of the everyday user of the law, the professional experts of the investigative authority, appears in my research.

### 3. Defining research goals

The aim of the research is to contribute to a more accurate understanding of the phenomenon of human trafficking, thus helping to seamlessly adapt Hungarian regulations to international models and to eradicate this serious crime. During the research, taking into account the provisions of the Code of Ethics of the Hungarian Academy of Sciences<sup>12</sup>, I took care of the personal data of the persons providing the information, their integrity and the maintenance of the promised anonymity. The doctoral dissertation includes research on human trafficking conducted between 2014 and 2019. In addition to the dogmatic issues of human trafficking regulation, the focus of the research is on the applicability of the facts and the social assessment of the material weight of trafficking in human beings.

I consider child protection to be a means of preventing human trafficking, so in the Child Protection Outlook section, I analyze the U.S. state of California's regulations against children and other sex offenders. With the help of an in-depth interview, I present the closed post-sentence rehabilitation institution for traffickers and sex offenders, especially to the detriment of children and women.

<sup>12</sup> Code of Ethics. Hungarian scientific Academy. Budapest, 2010.  
[http://old.mta.hu/data/cikk/11/97/91/cikk\\_119791/etikai\\_kodex\\_net.pdf](http://old.mta.hu/data/cikk/11/97/91/cikk_119791/etikai_kodex_net.pdf) (downloaded: 18/07/2019)

The hypotheses of the dissertation were compiled from the partial results of different researches in space and time, as well as after the analysis of the final results obtained. When developing the original concept, I focused on the criminal sciences, later - due to the complexity of the issue - in addition to the sociological, criminological and forensic issues, I also considered it necessary to review the child protection regulations. It has become my conviction that one of the most effective means of preventing human trafficking is to be found in a well-functioning system of child protection.

I. In the historical part of the dissertation, I would like to follow the assumption that slavery was abolished in Christianity in medieval Europe, and that the existence of modern slavery, human trafficking, is due to the weakening of Christianity in Europe.

II. The XVII-XVIII. civil and political freedoms of the 19th century, then ECOSOC rights of the 20th century and the With the development of third-generation collective human rights at the international level in the 20th century, supranational human rights organizations are taking over, formulating and condemning the phenomenon of human trafficking. Large international organizations have formulated the eradication of human trafficking and its condemnation as a condition of belonging to a civilized community of law. By joining the rule of law, states make it mandatory to interpret and exist the phenomenon as interpreted by international organizations. For this reason, supranational organizations are entitled to comprehensive audits of the legal and social effectiveness of the fight against human trafficking. With the intensification of human rights in the twenty-first century, international organizations are also gravitating the interpretation of the phenomenon of human trafficking in this direction, and they are also trying to enforce this over the local legislation and interpretation of the law of the participating states. As a result, there is some uncertainty in two areas. On the one hand, itemized criminal law instruments are not sufficient against an abstract and highly diversified social phenomenon, and there is no consensus on the definition of human rights violations caused by human trafficking (such as human freedom, human dignity, freedom of self-determination, etc.).

III. A systematic set of criminal law subjects brings together the specific partial legal facts protecting the direct subject matter. The taxonomic list also provides guidance on the legal interpretation intended by the legislator. The current taxonomic location of human trafficking and forced labor dates back to the 18th century. under Chapter I is one of the crimes against human freedom in addition to the crime of kidnapping and coercion. It is necessary to examine whether, according to the interpretation issued by international organizations, the

facts of trafficking in human beings, which directly and seriously violate human dignity, are systematically appropriate.

IV. Trafficking in human beings is a social phenomenon with many political, sociological, fundamental, civil, child protection, offense and criminal aspects. In crime prevention, the state strives to eliminate phenomena that are dangerous to society before it can exert its negative effects. From a crime prevention perspective, it seems evident that the roots of trafficking in human beings, which is deeply entrenched in the lowest strata of society, can be weakened by child protection rules that also focus on human trafficking. This is because many trafficking-related offenses are mainly targeted at minors and, in child protection terminology, young adults under the age of twenty-five who are still entitled to aftercare. It is an almost common fact that predators of a predatory nature can operate specifically in those social strata and circles where the number of neglected, abused, homeless, vulnerable, injured persons is high. In this circle, there will be marketable persons who are aesthetically, in terms of their physical performance, suitable for delivery to customers as goods. Child protection as a means of prevention is also an important area at the level of education, as reducing the phenomenon of human trafficking - in addition to protection in childhood - can be effective through widespread knowledge expansion.

### **3.1. Hypotheses of the dissertation**

1. Trafficking in human beings primarily violates the human dignity, and only secondarily touch the victim's personal freedom.  
From the point of view of the development of Hungarian law, the starting point of
2. human trafficking is primarily a moral and ethical problem and only secondarily a legal issue.  
In more economically developed states, there are hidden groups that maintain the human
3. market with their orders at the expense of vulnerable social groups living in peripheral states.

### **3.2. The raising problems of the research**

The doctoral dissertation is based on the premise that trafficking in human beings entered the Hungarian legal system through international commitments and was not created through organic development. The emergence of human rights in modern societies has placed the living conditions of the state, society, and citizens on a new footing, with the result that they cannot be compared to premodern societies. In premodern societies, equality and equal

opportunities did not exist. According to Niklas Luhmann's theory, premodern societies were stratified societies: “*sufficient. Therefore, functional differentiation has become the dominant principle of organization in the development of Western societies*”.<sup>13</sup> Whereas in the past the individual had to exercise a social function fixed at birth, modern societies are based on functional differentiation based on equal opportunities at birth: this is the key to the modernity of modern societies. Everyone was born free and his chances are equal, so the unequal chances of premodern societies are replaced by the equal chances of starting for everyone in modern societies. Trafficking in human beings is an indicator of the functioning of modern societies, the existence of which, as one of the most serious crimes against human dignity, points in the direction of premodern societies.

Several series of researches conducted for my doctoral dissertation, conducted in total between 2014 and 2019, clearly and concisely expose the issue that the facts of sterile human trafficking described in the Penal Code are seldom established. Trafficking in human beings constitutes a complex system with exploitation, forced labor, organ trafficking and the needs of the related customer side, all the way to trends in child protection, which seriously damage human dignity for a long time.

### **3.3. Organizations and persons participating in the research**

I started the legal dogmatic research necessary to set up the hypotheses and to specify the questioning by reviewing the relevant legislation, literature, and domestic and international criminal data on trafficking in human beings. Further expanded bases of data collection include fieldwork<sup>14</sup>, visits to criminal locations<sup>15</sup>, questionnaires, personal interviews, and a six-month file search at the Anti-Trafficking Division of the National Investigation Bureau's Investigation Department. The dissertation does not include all the research carried out, because after the evaluation it would have partially increased the scope to a huge extent, on the other hand, some parts of it were classified as criminal sociological rather than criminal research. Of course, after operationalization and detailed evaluation, those data will also be published in a separate article.

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<sup>13</sup> POKOL, Béla: The logic of politics in the approach of Niklas LUHMANN and Carl SCHMITT. In Clarity. 2003 / 7-8. 58. p.

<sup>14</sup> Strengthening social cohesion EFOP-1.3.7-17 Applicant (s) on the community development activities of churches: consortium of the Hungarian Pentecostal Church and the Váltó Sáv Foundation; Location: 6300 Kalocsa, Petőfi Sándor Street Sports Complex; Application ID: EFOP-1.3.7-17-2017-00067.

<sup>15</sup> I enclose a map with my research, in which I marked the areas and locations where the research took place. See <https://sites.google.com/view/kubisch-kutatas/kutatási-terület> (downloaded August 30, 2018)

On the results of the file search, on the fourth of May 2018, “*I Serve My Country!*” I reported at a national conference<sup>16</sup> called, and the data obtained from it are an integral part of this doctoral dissertation. A brief presentation of Sate Hospital, which is linked to the special rehabilitation system of US penitentiaries, may also broaden reintegration opportunities in Hungary.

### **3.4. Quantitative research in a focus group on trafficking in human beings**

A total of approximately 1,735 individuals participated in the quantitative-based complex questionnaire research series and provided evaluable answers to the questions asked. All questionnaires guarantee complete anonymity and compliance with the applicable Hungarian<sup>17</sup> and European Data Protection Regulations (GDPR)<sup>18</sup>. We did not collect or store any identifiable data from those who completed the questionnaire. In the course of my research, I took into account the Code of Scientific Ethics and the Memorandum issued by the Hungarian Academy of Sciences, which was adopted by Resolution No. 25/2010 (V. 4.) of the General Assembly of the Hungarian Academy of Sciences. One of the strong ideas of the Code of Ethics is that “*moral knowledge is the basis of pure thought and literacy. And ethical science is the system of this knowledge; an order maintained by the assumption and representation of human values that have been jointly professed and fought*”.<sup>19</sup>

In the case of submitted answers, the county marked as a lifestyle residence by the respondent concerned is saved. The provision of criminal personal data as well as origin data was completely voluntary - without identification. This clause also applies to investigators working in the Anti-Trafficking Subdivision, who responded to the questions asked voluntarily in a questionnaire survey, with the prior consent of the commander.

### **3.5. Structure and concept of the questionnaires**

In 2014 and 2018, I used the questionnaires following the principles of the longitudinal methodology to find out how natural persons working in the legal, social and child protection fields know and feel the material weight of the crime of trafficking in society<sup>20</sup>, how important

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<sup>16</sup> KUBISCH, Károly: Forensic Issues in the Investigation of Trafficking in Human Beings in Crime Organizations: Summary of a Content Research Project In Prof., Dr. SZABÓ, Miklós (ed.) *Studia Iurisprudentiae Doctorandorum Miskolciensium* 97-115, pp. 18.

<sup>17</sup> Act CXII of 2011 on the right to information self-determination and freedom of information law.

<sup>18</sup> EU Regulation 2016/679 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (GDPR).

<sup>19</sup> Code of Ethics of the Hungarian Academy of Sciences 5 p

<sup>20</sup> KUBISCH, Károly: The social assessment of the material weight of trafficking in human beings. In *HUNGARIAN ORDER* 16: (1) 77-95. pages, (2016).

it is to recognize victims of trafficking and helping. When evaluating incoming research results from identical issues that differ in time, we can experience a number of positive development trends, however, it cannot be denied that there are issues where a decline can be seen.

The questionnaire research linked to the case study was conducted with the help of investigators, detectives and investigating officers working in the Anti-Trafficking Subdivision. The questionnaire was completed by all Subdivision staff members, which I would like to thank again. The questionnaire seeks answers to the effectiveness of cooperation between victim support, crime prevention, law enforcement and civil society organizations, church legal entities and non-governmental organizations in the changed legal environment created by the European Directive<sup>21</sup> on Combating Trafficking in Human Beings. In the last question of the questionnaire, I asked about the coherence and applicability of certain relevant sections of the Hungarian Penal Code.

The criminological questionnaire has a complex system and essentially consists of four intermediate questionnaires that attempt to explore specific life situations related to age, gender, origin, willingness to comply, and credit beliefs. I was able to complete the questionnaire and the work done with the help of the MPE Hungarian Roma Mission and the Roma Methodological and Research Center (CIMOK), as well as with the support of other internal ecclesiastical legal entities<sup>22</sup>, and it was completed by a total of 867 individuals. The elements of the questionnaire are the same for everyone: the gender, age, social network usage habits and credit beliefs of the person completing the questionnaire. During the operationalization performed during the processing of the questionnaire - taking into account the scope of the dissertation - I presented only the most important questions and answers in the dissertation.

#### **4. Review of research analyzes performed**

For the dissertation, I conducted three independent researches between 2014 and 2019. Examining the day-to-day application of the rules on human trafficking, I developed a questionnaire based on the principles of legal hermeneutics, in which I sought the answer to how the law applies to human trafficking and how it can be interpreted, applied and distinguished from other rules. the official enforcer, the ecclesiastical person the relevant law. Does the person working with it consider the promulgated legislation to be appropriate and

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<sup>21</sup> Directive 2011/36 / EU of the European Parliament and of the Council. Of 5 April 2011

<sup>22</sup> MPE Diakonosz Support and Service Center (copy of the grant agreement attached to the dissertation).

aware of it as the addressee? To formulate questions, I took into account the issues raised during the in-depth and mixed interviews with each actor.

In the research, I used non-probability sampling to determine the core population, because I was primarily interested in the answers of a specific group of people<sup>23</sup> to fill in the questionnaires. According to the theory of research methodology, the “expert selection” method and the “snowball technique” defined were the most obvious. The first case was necessary because I selected the target group on the basis of the information data set that I already knew about the elements of the target population: what education, interest and roughly what age, etc.

The snowball technique, on the other hand, was induced by reaching another target group to be studied. This methodological choice was made in order to reach Christian Roma belonging to small churches, who qualify as a multiple hiding population. The opinions and preferences of the target group to be studied were obtained by persuading a group to participate in the research with the help of some leading members of the group. For this, I collected data in advance, through which I was able to involve more and more people (belonging to the target group) in the research.

Thus, a total of 1,735 individuals participated in the research series, thirteen of whom were investigators dealing with the issue in the Anti-Trafficking Subdivision of the KR FEBEO of NYI.

#### **4.1. A general description of a longitudinal quantitative research project conducted between 2014 and 2018**

I built the first criminal law and victim support research concept in 2013, during which I worked on the definition of the research topic, the topic of human trafficking and the issue of related crimes. Among the preliminary briefings, the target group was defined by the focus and the issues raised during the internship at the Ministry of the Interior's Department for Combating Trafficking in Human Beings - Deputy Secretary of State Berta Krisztina and Péter Stauber. With the research questionnaire, I measured the responses of the target group at two time points, in 2014 and 2018, from which I drew a conclusion on the phenomenon of human trafficking in the framework of quantitative-based longitudinal research.

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<sup>23</sup> In non-probabilistic sampling, the selection of items from the population is not random targeted.

#### **4.2. A brief description of the content research carried out in the framework of the PhD (doctoral) training competition of the Home Affairs Scientific Council**

The research was carried out between 2017 and 2018 in the framework of a project supported by the Home Affairs Scientific Council in the framework of the content research project of the Detection Department of the National Investigation Bureau of the Standby Police, the Anti-Crime Department, the Anti-Trafficking Division. In the research, the head of the National Bureau of Investigation on Trafficking in Human Beings helped me with the practical implementation of the questions and the research. The duration of the implementation of the tasks specified in the Internship Research Implementation Plan officially lasted from 12 October 2017 to 28 February 2018. According to the specific methodology of the research, I carried out a content, forensic and legal review of a total of 7 files and 16 544 pages of decryption and detection of human trafficking and other related crimes, the results of which I submitted to the Home Affairs Scientific Council and presented at doctoral conferences.

#### **4.3. General presentation of the questionnaire research conducted among MPE HGM between 2016 and 2019 on the basis of a cooperation agreement**

The third criminological research was initially planned only in Békés county with the help of the MPE Hungarian Gypsy Mission (MPE HGM), within the framework of qualitative and quantitative research. Primarily to assess sociological, lifestyle, and crime-related relationships, but practice overwrote my plans on a number of issues. In defining the quantitative target group, I tried to differentiate between believing Christians and Roma, based on their own decision. The questionnaire processed the responses of four target groups: thus, I divided the questionnaire into believers and non-believers, and into a set of Roma and non-Roma individuals. In the research, I was also curious about ethnicity, because I found this attribute important in terms of the cultural and socialization differences in the given responses when analyzing the different types. To do this, I had to choose the method of self-declaration. In the definition of the target group and the questioning, László S. in the Roma house group in Körösnagyharsány on September 26, 2017, with the participants of the Sarkad Roma Christian group in Békés county on September 27, 2017 and with the leaders of the Roma house group<sup>24</sup> in Mezőberény on September 28, 2017, I made it with the help of László V. and László A. of Roma origin. In the mentioned home-praying groups, I also carried out a so-called mixed interview qualitative research in the framework of a personal interview, which mainly helped the questioning, the elaboration of the concept and the field survey.

As the sole interviewer, I met the interviewees in person here - giving me the opportunity to discuss even the most complex and personal issues at length. During the application of the

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<sup>24</sup> A Christian-minded community who, in addition to church Sunday occasions, undertake to help each other and solve their problems, building a friendly relationship with each other based on mutual acquaintance.



quantitative questionnaires, we worked with a questionnaire placed on the Internet, but there were also volunteer interviewers who - visiting the areas inhabited by Roma - helped the respondents to access the questionnaires with the help of an IT tool with an independent internet connection. With this, I tried to reduce the problems arising from the disadvantage of the focus group (difficulties in accessing the Internet). In addition to the quantitative survey, we also obtained qualitative data, but in the end I did not place these interviews in the dissertation. The main reason for this was that the discussions at times were extremely lengthy and difficult to keep in check.

## **5. Proposals made in the light of new scientific findings or de lege ferenda**

### **5.1. It is considered appropriate to place the facts of human trafficking among the crimes violating human dignity**

Based on the fundamental rights and dogmatic research chapters of the dissertation, I see it as clearly proven that victims of trafficking in human beings only seem to suffer harm to their human freedom: in fact, the inner personal core of their human dignity is violated.<sup>25</sup> The Constitutional Court ruled in 6/2018. (VI. 27.) AB states in his resolution that the dignity of human dignity as a personality together with human life means the human essence. Dignity is the uplifting and unconditional command of our human quality and value, the rank of our human essence. It is as much a priori value as life, which expresses the human dimension of existence. Human existence and human dignity are inseparable, both of which are inalienable, immanent, essential in nature<sup>26</sup>. Damage to this inner core occurs when a person is trafficked and made a commodity by a trafficker. The reasoning attached to section 192 of Act C of 2012 also states that “*under the right to human dignity, it is inadmissible for a person to become a trader himself*”. Article 3 (3) of the Basic Law states that “*trafficking in human beings is prohibited.*” Man cannot, therefore, be the object of sale: the peculiar factual situation primarily protects human dignity. It is therefore justified that the facts of trafficking in human beings, taking into account international instruments, are more relevant in the 21st century under the heading "Crimes against human dignity and certain fundamental rights".

## **6. Review of the dissertation hypotheses through research**

### **6.1. Trafficking in human beings as a crime against human dignity**

The fundamental rights research of the dissertation also proved that although states do not clearly define the criminal status of human trafficking, international instruments, apart from some translation anomalies, clearly place the fact of human trafficking as a violation of human dignity.

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<sup>25</sup> 23/1990. (X. 31.) Resolution AB - on the unconstitutionality of the death penalty “every human being has an innate right to life and human dignity, from which no one may be arbitrarily deprived”.

<sup>26</sup> See the parallel opinions of LÁBADY, Tamás and TERTYÁNSZKY, Ödön in 23/1990. (X. 31.) AB decision.

Therefore, as a *de lege ferenda* proposal, it may be justified to systematically reclassify the criminal record of trafficking in human beings as a crime against human dignity. Victims of human trafficking seem to be harmed in their human freedom, in fact, the inner personal core of the human dignity of the victims is damaged, and this is a fact that also makes reparation and reintegration difficult in the future. Nor do most victims realize that human dignity is extremely fragile and requires serious protection.

Perhaps the systematic “*reclassification*” of human dignity is also unfortunate, as it differs from the systematic structure of the Basic Law - suggesting that there are much more important legal issues than human dignity which are subject to criminal protection. Of course, it is undeniable that the structural priorities of criminal protection may be different from the constitutional structure, for example, the scope of crimes against humanity and war crimes may precede direct legal entities for the protection of life and physical integrity. At the same time, it is worth considering whether the range of crimes against the order of health intervention and research, as well as crimes against health, human freedom or freedom of sexual life and crimes against sexual morality, rightly precede human dignity, knowing that the birthright of all this is human dignity.

## **6.2. A possible new formulation of the facts of human trafficking**

Act 192 is based on Article XXI. of the Hungarian Penal Code to reclassify it under the category of crimes against human dignity and certain fundamental rights is a possible presentation in my dissertation, which you are looking for V.1.2. chapter of dissertation.

## **6.3. Trafficking in human beings is primarily an ethical issue and only secondarily a legal issue**

As a first suggestion, I examined whether the claim that the starting point of human trafficking (desacralization, dehumanization and sale, transfer, exchange for consideration) and its stages of realization (work-based sexual exploitation or removal of its organs) is primarily ethical problem and only secondly is a question of law. In addition to my research, in addition to the regulation of many states, international documents and their interpretations clearly prove that the statement is true - with the proviso that while law may approach from an ethical and moral point of view, there is no doubt that positive law does not move at home in this dimension. We find these issues in the preambles of constitutions and in the introductions and principles of laws. So a positive legal approach is hard to know what to do with moral

issues in the more realm of natural law. However, even in the moral-based approach, we can only partially find a solution to the issue.

With regard to the ancient and medieval regulations examined in historical review, prostitution, the slave trade, was accepted, so we can consider it an integral part of ancient Greek and Roman society and culture. In my historical descriptive research, I have focused on whether Christianity has brought about a fundamental and enforceable change in slavery. In Europe, thanks to the laws of the Old Testament, the issue of slavery has developed differently, but we cannot say that slavery, or the subordinate position of women, has been abolished by Christianity. What we can safely say is that it also allowed the slave a sense of freedom by restoring the honor of physical labor, thus psychologically normalizing the situation of those in bondage. The proof of my claim is that through the Middle Ages, various forms of slavery were also accepted in the New Age. This fact has not fundamentally changed since the Enlightenment, as there is also modern slavery in our modern world, operating in a complex system of human rights, operated and served by trafficking in human beings-networks. Slavery was not abolished by Christianity, yet human trafficking, as a form of modern slavery, appears in society as a serious violation of moral and moral norms. Nevertheless, the transmission of Christian ethical and cultural aspects by credible individuals can only have a positive effect on victims and perpetrators of human trafficking. As my survey in an earlier article shows<sup>27</sup>, human trafficking is not primarily a crime that attacks subjective feelings of security, but violates moral norms and human dignity built on Christian culture. For this reason, the issue cannot be resolved by legal means alone. So the answer is yes, my research proves that the Christian value system can induce a change that can result in even complete regeneration of victims of trafficking.

The modern Western societies today seek to shake off Christian moral ethical norms: the system given by religion, to abolish the family, the nations, in order to bring about the supremacy of individual self-realization. Trafficking in human beings moves on essentially the same theoretical plane, severely attacking the fundamental pillars of man and society. While the destruction of religion, desacralization, and the destruction of culture can go unpunished, human trafficking has become a serious crime, not because of its ethical social destruction, but because the object of sale is unmarketable goods whose purchase and distribution are illegal. I would close the foundations that seriously attack human dignity mentioned above with the words of the previously quoted René Descartes, who in his

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<sup>27</sup> KUBISCH, Károly: The social assessment of the material weight of trafficking in human beings. Hungarian Police 16: 1 pp. 77-95., 19 p. (2016).

progressive theory sees the desacralized man in his free will the perspective that makes us lord of ourselves and ultimately like God. It is now clear that man cannot become a god, he only destroys his dignity first and then himself.

#### **6.4. People in economically developed states sustain the human market with their orders**

From 2007 to 2020, TIP Reports<sup>28</sup> issued by the U.S. State Department regularly indicated that *“Hungarian Roma children are being exploited in a number of ways within the country, forcing them to beg or commit minor crimes, and to become victims of trafficking for sexual purposes.”*<sup>29</sup> The U.S.’s far-reaching aid reports are based on a strategy developed by the U.S. that, for example, put \$ 1.4 billion in the 2005 fiscal year at the service of human rights and democracy, along with a wide range of diplomatic tools. Guided by the noble goal of “helping others find their own voice, realize their own freedom, and go their own way.”<sup>30</sup> So the reports released signal the continued and coordinated efforts of the United States and other democracies in all regions of the world to protect democratic systems.

I researched its ethnic, cultural, and victimological aspects in a longitudinal study conducted in 2014 and 2018.

61.2% of those surveyed in 2014 said there was no correlation between becoming a victim and the ethnicity of the individuals involved.

According to 60.3% of those surveyed in 2018, there is an ethnic link between becoming a victim and the ethnicity of the individuals involved.

According to 76.5% of respondents to the 2014 questionnaire, there is a correlation between becoming a victim and the education of the persons concerned.

According to 63.2% of respondents to the 2018 questionnaire, there is a correlation between becoming a victim and the educational attainment of those affected.

According to 76.5% of those who completed the 2014 questionnaire, victims of human trafficking may report becoming victims.

According to 89.2% of those who completed the 2018 questionnaire, victims of human trafficking cannot make themselves victims.

The results of the research show that government awareness programs conducted between 2014 and 2018 had a positive impact on respondents in many respects.

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<sup>28</sup> See the U.S. Department of State TIP Report: <https://en.usembassy.gov/en/our-relationship-en/official-reports-en/> (download: 7/15/2021)

<sup>29</sup> See the USA TIP Report: Human Trafficking Report - 2015. [https://en.usembassy.gov/wp-content/uploads/sites/232/2017/07/tip2015\\_en.pdf](https://en.usembassy.gov/wp-content/uploads/sites/232/2017/07/tip2015_en.pdf) (download: 2021/07/15/2015)

<sup>30</sup> see the US Strategy for Human Rights and Democracy Source: [https://en.usembassy.gov/wp-content/uploads/sites/232/2017/07/shrd2005\\_strategy\\_en-1.pdf](https://en.usembassy.gov/wp-content/uploads/sites/232/2017/07/shrd2005_strategy_en-1.pdf) (download: 7/15/2021)

According to my research, the European Union's anti-trafficking policy cannot be described as effective. According to the data collection<sup>31</sup> of the EU Data Collection on Trafficking in Human Beings in 2018, despite a number of measures, the number of victims of trafficking is steadily increasing, with only nearly half of the proceedings and prosecutions being final.

At the same time, the European Union is helping the Member States to act effectively with a number of institutions and provisions, but it cannot be a major success.

In addition, the casualty nature of the issue is enhanced by the fact that the Group of Experts on Trafficking in Human Beings of Europe Council (GRETA) usually deals with migration, asylum and trafficking issues, which sheds light on the assessment and meaning of trafficking.<sup>32</sup>

The facts of human trafficking in the periods under review were not the current facts in force from 1 July 2020. The core population of those surveyed in a non-representative survey in 2014 was 98 individuals, 35.7% of whom were unable to provide any correct answers to human trafficking questions. 23.5% of respondents gave a correct answer in 10%, 31.6% gave an accurate answer in 50%, and 9.2% of respondents gave a 100% answer. The first measurement showed that those working in the field did not know exactly the essential elements of the facts of human trafficking and could not properly distinguish it from other similar crimes.

The respondents to the 2018 questionnaire, which works with a population of 756, show a completely different picture. 30.2% of the respondents gave a 100% accurate answer to the questions asked regarding the separation of human trafficking from other crimes. If we add the 20.6% of respondents who are 50% correct, in summary, 50.8% of respondents understand and accurately identify human trafficking incidents.

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