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## **Cover Sheet**

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**Shortened version of the title**

(De)Constructing Human Trafficking Stereotypes

# **(De)Constructing Stereotypes: Media Representations, Social Perceptions and Legal Responses to Human Trafficking**

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## **Abstract**

The way the media portray human trafficking has a huge influence on the construction of social perceptions and consequently on the development of a legal framework to fight this crime. Stereotypical ideas, based on the existence of an “ideal victim”, which oversimplify the complexities of human trafficking and leave potential victims unprotected, have always been present in anti-trafficking laws. From the first conventions for the suppression of the so-called “white slave trade” to the most recent legislative changes, the treatment of trafficking has focussed exclusively on prostitution, migration and organised crime. Only recently has this focus slightly shifted towards a more comprehensive approach, centred on the protection of victims. Through a critical analysis of the historical evolution of international and European law, this paper will illustrate the close interrelation between media, social awareness and legal responses to human trafficking.

## **Keywords**

Human trafficking; media; criminal law; gender; social perceptions

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## **An Overview of the Links between Media, Social Perceptions and Law**

For the majority of the population, the media are the only source of information about events to which they do not have direct or usual access, such as human trafficking (Muraskiewicz, Georgiou & Constantinou, 2014; Wallinger, 2010). In order to make these events compelling to an audience of people who are not experts on the subject, the media tend to simplify information through the use of meaning-facilitating mechanisms or stereotypes (Curtis, 2012; Wallinger, 2010). For example, it is frequent that media representations of crime usually provide sensationalised images that demonise deviant behaviour (Clifford & White, 2017). As Jewkes (2015) points out, there is “a clear selectiveness in the mediated constitution of offenders and offences as well as victims who capture the public imagination” (p. 283). This information serves as a basis for citizens to (mis)interpret reality, issue value judgments, and consolidate social perceptions that do not adequately reflect the criminological reality (Birkett, 2017; Curtis, 2012; Muraskiewicz et al., 2014; Wallinger, 2010).

Although it must be pointed out that there is no mechanical causality, and that, in fact, there is an ongoing debate on this issue (see Cavender, 2004), it is important to recognise that the media play a significant role in the formation of public perceptions and legal responses to crime (Birkett, 2017; Clifford & White, 2017). The connection between these three elements is one of a complex and reciprocal nature, a deep analysis of which would exceed the scope of this paper. Media representations of crime not only have the capacity to establish areas of public concern, but also to stimulate discussions about social problems and the way they should be solved (Clifford & White, 2017). Therefore, the media can demand legal responses to certain social concerns, and direct the legislature’s attention towards certain crimes (Gulati, 2011). Nevertheless, influence can also flow in

the opposite direction. The adoption of international treaties and national laws punishing crimes is usually newsworthy and generates more media coverage. The increase of the presence of a given crime in the media when measures related to it are being debated and passed, can also lend social legitimacy to dominant views and marginalise alternative approaches (Gulati, 2011; Johnston, Friedman & Shafer, 2014). Thus, these connections can generate what Caterini (2015) has described as a “vicious circle” (p. 56). This circle starts when concerns about a certain criminal phenomenon arise, coming from the media and public opinion conditioned by the media, which is followed by the adoption of new rules (Caterini, 2015). The circle continues when the socio-political effects caused by the legal reform attract more media reactions, giving rise, in turn, to new social perceptions, which often require new public responses (Caterini, 2015).

The interferences between media representations, social perceptions and the law are perfectly visible in relation to human trafficking. These links are so important in this case that it can be sustained that journalism triggered the emergence of the first anti-trafficking campaign with international reach in the late 19<sup>th</sup> Century (Irwin, 1996; Soderlund, 2013). Since then, given the great complexity of this crime, media coverage has traditionally offered an oversimplified treatment of the issue, rather than a global vision that addresses the root causes of the problem (Jahic & Finckenauer, 2005; Muraszkievicz et al., 2014; O'Brien, 2013). These stereotyped portrayals have both reflected and informed anti-trafficking enforcements, and also shaped “law in action” (Kinney, 2015, p. 88).

This article aims to corroborate the abovementioned statement by showing the interrelations between media representations and social perceptions of human trafficking and the historical evolution of international and European anti-trafficking legislation. As

the following sections will show, a review of the extensive academic literature on this topic shows that media representations of human trafficking have reduced the complexities of this phenomenon by focussing exclusively on three aspects: sexual exploitation, immigration and organised crime (see, for instance, Muraszkievicz et al., 2014). Equally, when the legal responses to human trafficking since the beginning of the 20<sup>th</sup> Century are analysed, the same three approaches can be identified. Thus, each section of this paper analyses one of these stereotypical constructions, to subsequently show how they have both shaped and reflected legislation. Once the construction of human trafficking as an issue of sexual exploitation, organised crime and immigration has been explained, this article concludes by highlighting the need to deconstruct stereotypes.

### **Constructing Human Trafficking as a Matter of Sexual Exploitation**

#### **The Focus on Sexual Exploitation and the Construction of an “Ideal Victim”**

Human trafficking has always been conflated with prostitution. Sexual exploitation has traditionally been overrepresented in the media, ignoring other trafficking purposes such as labour exploitation or the removal of organs (Austin, 2016; Jahic & Finckenauer, 2005; Kinney, 2015; Pajnik, 2010; Uy, 2011). Studies of news coverage of human trafficking show that more than half of the articles assessed focussed on sexual exploitation, prostitution or pornography (Gulati, 2011). Sex trafficking is newsworthy for several reasons. Firstly, it has been argued that sex trafficking is frequently covered because it allows for the broadcasting of highly sexualised female bodies, which still constitutes a resource commonly used by the media (Krsmanovic, 2016). Moreover, sex trafficking effectively grabs media attention because most victims tend to be women and children, which perfectly fits audiences’ perceptions of victimisation (Austin, 2016).

Recent studies of sex trafficking in magazines (Barnett, 2016) and newspaper articles (Couto, Machado, Martins & Gonçalves, 2012) have shown that the presence of trafficked men is null or very limited. More specifically, white female victims have traditionally been overrepresented “because they fit the societal definition of an innocent and pure [individual]” (Austin, 2016, p. 26).

Media representations of human trafficking have consolidated the vision of an "ideal victim" in popular imagination, described by Christie (1986), which has deeply penetrated public discourse. Accordingly, trafficking victims are usually represented as young, innocent and vulnerable women, as passive entities who constantly need protection (Baker, 2014; O'Brien, 2013; Wilson, 2016). Men are rarely mentioned or portrayed as victims in anti-sex trafficking campaigns, despite the fact that male victims exist (Baker, 2013). Victims' supposed lack of agency is perfectly illustrated by a study which shows that only 2.4% of news about human trafficking include the victim's voice (Couto et al., 2012). Visual representations of trafficking reinforce this stereotypical vision. They usually show women with their back to the camera or covering their faces with their hands, “displaying shame and desperation”, as if they were pleading innocence to the audience (Krsmanovic, 2016, p. 4).

Another key element in the construction of the ideal victim is the explicit lack of consent to engaging in sex work (O'Brien, 2013). This is usually achieved by portraying the victims as so young that they could not possibly be held responsible for their own sexual victimisation (Baker, 2013). Innocence is also represented by showing silenced or blinded girls, as if they needed someone to speak or see for them (Baker, 2013). Those persons who had had previous links with the sex industry, or who were aware that they

were going to engage in prostitution but who eventually found themselves in conditions of exploitation, very different from those agreed upon, are not usually considered deserving of victim status (O'Brien, 2013). By following this pattern, anti-trafficking rhetoric distinguishes between "bad prostitutes" who freely chose this profession and whose experiences are ignored, and "good victims" who were forced and are deserving of new opportunities (Barnett, 2016, pp. 213-216).

This stereotypical image has the ability to arouse more sympathy in the public than that of an illegal migrant or a prostitute who is considered responsible for her own situation (Austin, 2016; Hoyle, Bosworth & Dempsey, 2011). Only "worthy victims", shaped in accordance with traditional sexual and gender ideologies, deserved being rescued (Baker, 2013). For this reason, trafficked women are often portrayed as passive and helpless victims in need of a strong, heroic, and, usually, Western man to rescue them (Baker, 2014). Thus, non-governmental organisations focussed on sex trafficking have received funding due to public perceptions of trafficking as a merely sexual issue (Uy, 2010). Furthermore, the need to rescue these ideal victims legitimises anti-trafficking measures much more easily (Jahic & Finckenauer, 2005). However, this simplification of the broad phenomenon of human trafficking has caused the marginalisation of labour trafficking victims, as well as sex trafficking victims who do not meet the criteria of the perfect victim (Uy, 2010).

This portrayal of trafficking victims has gone beyond the media to permeate public views and even institutional reports on the matter (Baker, 2013). A recently published study demonstrates that victim narratives within the annual TIP Reports from 2011 to 2012 "are broadly consistent" with the criteria for ideal victims (Wilson, 2016, p. 16).



Consistently, victims of sex trafficking, depicted as “innocent young women or girls deceived into sexual labour”, “entirely unaware of their prospective involvement in commercial sex work”, “are overrepresented compared to any other lone industry” (Wilson, 2016, p. 17). As a consequence, it is not surprising that the prioritisation of sexual exploitation and the need for protection of the "ideal victim" have also been reflected in anti-trafficking legislation since its origins, as the following subsections show.

### **The Origin of Concerns and the Fight against the “White Slave Trade”**

In 1885, the British journal *Pall Mall Gazette* published an article entitled “The Maiden Tribute of Modern Babylon”, which described stories of abductions, rape and the selling of young English girls in brothels abroad, highlighting their innocence and purity (Irwin, 1996; Soderlund, 2013). At a time when international (female) migrations experienced a considerable increase, these stories of western women (mainly from Belgium, Germany and Great Britain) who were mysteriously captured and sold in South America, Africa and the Middle East for commercial exploitation of prostitution quickly attracted media attention and spread across Europe and the United States (Breuil, Siegel, van Reenen, Beijer & Roos, 2011; Doezema, 2000). These narratives were so successful that “the Gazette’s circulation, which typically ran between twenty and thirty thousand copies a day, was selling a hundred thousand copies a day during “The Maiden Tribute” campaign” (Soderlund, 2013, p. 50). Magazines in Europe would warn the population about "the ignoble, careless, inhuman traffic" of "decent, honest and barely pubescent girls", who are no more than "inexperienced pieces of healthy beauty over which the winds of depravity have not passed" (translated from Vida Gallega, 1909, p. 13). Panic in response to the "white slave trade" spread quickly and legal responses soon followed.

Only in the first half of the twentieth century, a total of five international treaties for the suppression of trafficking for the purpose of sexual exploitation of women were approved. All of them were strongly influenced by the abolitionist movement, which originally emerged as a reaction to the institutionalisation of prostitution that was taking place at that time in Europe and America. Broadly speaking, the abolitionists considered that voluntary prostitution did not exist, and therefore it was necessary to rescue and rehabilitate all prostitutes and completely eliminate prostitution. In this context, abolitionism constituted a strategy to fight the trafficking of white people as a means to end prostitution (Doezema, 2000).

On May 18th, 1904, the International Agreement for the Suppression of the White Slave Traffic was signed. This legal instrument focussed on the establishment of States' obligations to monitor potential trafficking cases of women and girls "for immoral purposes abroad" through the exchange of information (Article 1). Given the ineffectiveness of this agreement, six years later a new text was adopted: the International Convention for the Suppression of the White Slave Traffic, which came into force in May 1910. This international agreement established that States Party, that is to say, countries that had ratified the treaty and were legally bound by its provisions, were obliged to punish those who, "in order to satisfy the passions of another person," procured, enticed or led away underage women and girls, "for immoral purposes", *even with their consent* (Article 1). If the trafficked person was a woman "over age", trafficking only occurred if the perpetrator had used fraud, violence, threats, abuse of authority, or any other method of compulsion (Article 2).

These two treaties are the immediate response of the international law makers, influenced by abolitionism, to what is now called the "myth of white slavery" (Doezema, 2000, pp. 23-50). In this case, the word "myth" is not used to designate something absolutely false, but rather as "a collective belief that simplifies reality (Doezema, 2000, p. 26). While it is true that with the increase in female migration in the second half of the nineteenth century, some women were forced into prostitution, most researchers agree that the phenomenon of white slave trafficking existed more in perception than in reality (Doezema, 2000; Irwin, 1996; Scully, 2001), since the majority of the victims were non-white women (Bravo, 2007; Clifford, 1979). For this reason, the clearly racist term "white slave traffic" was later replaced, at least from the titles of legislation. Thus, the International Convention for the Suppression of the Traffic in Women and Children, adopted in the framework of the League of Nations in 1921, aimed to promote adherence to previous texts but extended the legal concept of trafficking victim to non-white women and children of both genders.

Subsequently, the International Convention on the Suppression of the Traffic in Women of Full Age, adopted in 1933, went one step further in its abolitionist approach than the agreement adopted in 1910 by making consent completely irrelevant for adult women too. In this way, all prostitution, even if it was voluntary, would amount to trafficking, since according to Article 1 of this text: any person who "procured, enticed or led away" an adult woman "for immoral purposes", even if she had consented, would be considered a trafficker.

In the next decade, all the above instruments were merged and consolidated into a single text, which further emphasised the anti-prostitution approach. The Convention for

the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others, adopted by the General Assembly of the United Nations in 1949, not only criminalised the conduct of someone who procures or exploits the prostitution of another person, even if they consent (Article 1), but also expressly prohibited “any existing law, regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification” (Article 6). Nevertheless, this convention constituted an improvement in challenging media and social stereotypical constructions, since for the first time it included men as potential victims of trafficking. However, despite its intention of achieving a new international standard, the text was only ratified by a few states States, due to its clear anti-prostitution approach (Breuil et al., 2011).

### **The Re-emergence of Anti-Trafficking Campaigns and the Adoption of Contemporary Legislation**

In the 1990s concerns about trafficking for sexual exploitation reappeared among both western populations and legislatures. The collapse of the Berlin Wall and the dissolution of the Soviet Union were followed by an increase in migrations, and terrible reports of the large-scale selling of poor women and girls for sexual exploitation quickly began to spread in the media again (Berman, 2003; Milivojevic & Pickering, 2013; Soderlund, 2013). The need for political attention was also renewed because of other additional factors such as a rise in international tourism, changing sexual mores, and the problem of AIDS epidemics (Breuil et al., 2011). In this context, the abolitionist movement experienced a strong resurgence and made calls for trafficking and prostitution to be re-linked in the public consciousness (Hughes, 2002).

As had been the case in the struggle against the “white slave trade” during the previous century, the scale of the problem was originally overestimated (Bravo, 2007). Although in the 1990s available statistics warned of the existence of millions of victims, today it is generally accepted that the actual number of victims was lower, although nonetheless a cause for concern (Bravo, 2007). In fact, the difficulties of estimating the magnitude of trafficking still persist nowadays, since there are no reliable statistics or other effective mechanisms for measuring the exact number of victims (Weitzer, 2007). In any case, inflating the magnitude of the problem with vague and unverifiable numbers such as “hundreds of thousands” served to attract media coverage, funding and attention from policy makers (Weitzer, 2007).

As in the previous stage, human trafficking was presented through the lens of a myth or a stereotypical interpretation of reality (Doezema, 2000). The construction of an "ideal victim" is very similar to that of the previous century: a young, defenceless, innocent woman who under no circumstances chose to be a prostitute (Doezema, 2000). However, the prototypical victims are no longer exclusively white western women, but girls coming “from the third-world or the former Eastern bloc”, who are kidnapped or tempted to travel to the city or to another country with the promise of a well-paid job (Doezema, 2000, p. 31). Some authors argue that the fact that the western public easily identified with the victims from ex-soviet countries, considered innocent young people "like one of our own" or "girls next door" (Jahic & Finckenauer, 2005, p. 26), allowed these stories to succeed in the media and quickly re-enter the international political agenda (Jahic & Finckenauer, 2005; Wallinger, 2010).

This resurgence of concerns about trafficking gave rise to the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereafter: UN Protocol) in 2000, supplementing the United Nations Convention against Transnational Organized Crime (UNTOC). During the drafting process, the focus on sex exploitation and the difficulties of reconciling different views on prostitution hindered the establishment of a common concept of human trafficking. Some States considered that “any distinction between forced and voluntary prostitution was false and morally unacceptable, and that a coercion requirement in the definition would lend unfounded legitimacy of prostitution” (Gallagher, 2010, p.26). For those opposing this position, the inclusion of “non coerced adult migrant sex work” in the definition of trafficking would “blur the distinction between trafficking and migrant smuggling” (Gallagher, 2010, p. 26).

In the end, the parties accepted the inclusion of a formula that left States the capacity to establish their own positions with regards to prostitution in their national legislations in accordance with their own legal culture. Thus, it was possible to establish an internationally accepted definition of trafficking, which was later on incorporated into European texts and subsequent national legislation.

According to the concept foreseen in Article 3 of the UN Protocol, the presence of three elements is required in order to classify a certain conduct as human trafficking: action, means and purpose of exploitation. The action may be "recruitment, transportation, transfer, harbouring or receipt of persons". In the case of an adult, this action needs to be performed by means of “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 authority over another person”. No means are required when the trafficked person is under eighteen. Finally, both means and actions must have been carried out with the purpose of exploitation. In this sense, this text is particularly relevant because, for the first time, it includes purposes other than sexual exploitation, such as “forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

Concerning the issue of consent, the UN Protocol returned to the approach taken by the International Convention for the Suppression of the White Slave Traffic (1910), according to which, whenever one of the means included in the definition is used, the consent of the victim becomes irrelevant (Article 3). Therefore, the fact that a person consents to engage in prostitution or other types of exploitation does not necessarily imply that they cannot be considered a victim of trafficking. The use of means, such as deception, threats, abuse of a position of vulnerability of the victim, etc., can take place at any point of the trafficking process, invalidating previous consent (Elliot, 2016). That is, the person who accepts sex work but is ultimately forced to perform it under exploitative conditions is no less a victim than the person who was deceived about the type of work at the recruitment stage. This approach to consent was subsequently adopted by European legislation, which recognises that “the line between coercion and voluntariness is not always easy to draw”, and that “being willing to engage in prostitution does not automatically mean consenting to be subject to abuse of all kind” (Breuil et al., 2011, p. 35).

In this sense, the UN Protocol to some extent broke with the preconceived construction of an “ideal victim” that had been present in previous international legislation. Nevertheless, it cannot be said that this broad definition has been fully reflected in the practices of identifying possible cases of trafficking, which continue to employ a much more limited view of trafficking which restricts victim identification to a minority who meet the strict stereotypical criteria (Goodey, 2004; Hoyle et al., 2011; Wilson, 2016). The misinterpretation of the definition of trafficking, based on the influence of media representations and social perceptions, can sometimes have more weight than legal provisions, causing law enforcement efforts to be still mainly focussed on sex trafficking, while resources for victims of non-sexual trafficking remain scarce (Austin, 2016; Uy, 2011; Wilson, 2016).

### **Constructing Human Trafficking as a Matter of Illegal Migration**

Trafficking has not only been identified with prostitution, it has also been traditionally seen as a synonym of illegal immigration. Proof of this is the fact that social concerns and media attention over trafficking revived in the 1990s with the beginning of the integration and opening of internal borders of the European Union (Berman, 2003).

It is common for the media to use the terms “smuggling” and “trafficking” interchangeably, as if they were synonyms, despite the fact that, although closely related, they are two different offences (Wallinger 2010, 16-7). The smuggling of migrants implies facilitating the illegal entry of a person into a State of which that person is not a national (Article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the UNTOC, 2000). Human trafficking, as explained above, requires an action such as recruitment, transfer or reception of persons; means such as the use of



force or abuse of power; and a purpose of exploitation. The crossing of borders is not among these requirements, therefore, and in contrast to stereotypical visions, human trafficking can also take place within a single country. Moreover, victims can be migrants -regular or irregular- as well as nationals or permanent residents.

The confusion between both terms arises because, in transnational trafficking cases, both crimes imply an (illegal) movement of people between countries. However, even in these cases, there is a key differentiator: the purpose of exploitation. If the border crossing is made in order to exploit the victim later, we are faced with trafficking, not smuggling. Nevertheless, it must be noted that this apparently simple differentiation in law becomes far less apparent in practice.

One of the fundamental difficulties that occur when considering the trafficking of people as an exclusively migratory problem is that the status of victim is eclipsed by that of the illegal immigrant (Wallinger 2010, 18). This approach becomes evident when victims are referenced by their nationality in the news (Couto et al., 2016). As a consequence, in the name of the protection of migrants, especially women, anti-trafficking strategies have led to the intensification of border controls (Berman, 2003; Pajnik, 2010). It is, therefore, a vision very much in line with the construction of an "ideal victim" who needs protection. The rescue of so-called "trafficking Cinderellas" (Doezema, 2000, p. 31) serves as a justification for strengthening the external borders of the global north, limiting the number of visas granted, arresting illegal immigrants and deporting victims (Kinney, 2015; Milivojevic & Pickering, 2013; Segrave & Milivojevic, 2015).

The need for protection of migrant women through the limitation of their mobility was already present in the first international conventions on the issue. Although the treaties adopted in the nineteenth century attempted to respond to human trafficking mainly from the perspective of prostitution, they also began to resort to incipient migration control. These strategies were primarily based on ensuring the repatriation of victims. Moreover, international instruments following the International Convention for the Suppression of the Traffic in Women and Children (1921) created an obligation for States to take measures regarding the supervision of employment agencies and offices working with women and children seeking a job in another country (Article 6), and to exhibit notices warning migrant women and children “of the danger of the traffic” in railway stations and ports (Article 7). Although the convention explicitly indicates that the rationale behind these measures was the protection of migrant women and children, some authors believe that these warnings constituted a strategy to use trafficking as a means to reduce immigration by sending women who want to emigrate a clear message: do not go or you will be a victim (Doezema, 2000; Milivojevic & Pickering, 2013).

The ascription of trafficking to the area of irregular immigration has been accentuated in the twenty-first century. An example of this is that, in the UN Protocol, immigration control measures are mandatory, while mechanisms for the prevention and protection of victims are merely optional. Thus, it is established that States Party "shall consider implementing measures", "in appropriate cases", to provide for the recovery of victims in the receiving State (Articles 6 and 7). However, they must, "without undue or unreasonable delay", provide for the repatriation of victims (Article 8), reinforce border controls (Article 10 and 11) and ensure the legality of travel documents (Articles 12 and 13).

European anti-trafficking policies initially followed the same focus on migration, although they timidly shifted towards a more holistic approach. Accordingly, the first measures within the European Union, adopted in 1996 and 1997 (Joint Action 96/700/JHA and Joint Action 97/1547/JHA), only criminalised transnational sex trafficking. Framework Decision 2002/629/JHA on combating trafficking in human beings (19th July 2002) was the first instrument that also criminalised domestic trafficking for sexual and other exploitative purposes. In this line of change, Directive 2004/81/EC introduces the possibility of granting a residence permit for at least six months to third-country nationals who have been trafficked, providing that they cooperate with the competent authorities in judicial proceedings, and that they have broken all relations with alleged perpetrators (Article 8). This recognition is a positive step in the treatment of victims, beyond repatriation or detention. However, the improvement is insufficient, since at the end of the criminal proceedings, the permit cannot be renewed, and ordinary aliens' law shall apply (Article 13).

### **Constructing Human Trafficking as an Organised Crime Threat**

The third stereotypical construction of the phenomenon of human trafficking consists of its simplification as a mere criminal justice issue, in particular as a crime committed exclusively by transnational criminal networks. In general, the trafficking of illegal immigrants and prostitutes creates greater interest in the public if they are related to criminal organisations that profit from their exploitation (Jahic & Finckernauer, 2005). Accordingly, analyses of media reports on human trafficking show that they have pre-eminently focussed on law enforcement and crime control measures, ignoring the

complex economic, social and cultural factors that lead people to fall into exploitation (Austin, 2016; Baker, 2014; Barnett, 2016; Wilson, 2016).

Thus, if the focus on sexual exploitation emphasised Christie's (1986) paradigm of the ideal victim, the focus on organised crime has highlighted the image of an ideal perpetrator (Viuhko, 2017). Trafficked people victimised by criminal gangs, by means such as violence, rape, kidnappings, etc., are more likely to awaken public empathy, generate social alarm and, consequently, put the issue on the front pages of the political agenda (Wilson, 2016). In this line, the media have mainly presented sensationalist stories, detailing specific experiences of physical and emotional suffering, using highly shocking imagery and language (Barnett, 2016; Berman, 2003; Muraszkievicz et al., 2014; Wallinger 2010). Moreover, this phenomenon is rendered easier to explain if it is simplified through a relationship between an innocent victim and an evil villain (Doezema, 2000). Consequently, offenders are usually depicted in the media as prototypical deviant men, unknown to the victim, organised and very violent (Austin, 2016; Baker, 2014; Couto et al., 2012; Viuhko, 2017). It is also frequent that traffickers are depicted as "dark" or "Eastern" criminals, highlighting their "otherness", which adds to the global sense of panic over trafficking (Berman, 2003, p. 54).

Nevertheless, the rigid dichotomy between victims and perpetrators does not correspond to the complex reality in which human trafficking occurs. This "folk devil" stereotype does not necessarily fit all offenders (Weitzer, 2007, p. 454). A large percentage of cases are committed by family, acquaintances and friends (Austin, 2016; Viuhko, 2017; Vocks & Nijboer, 2000), as the use of the lover boy method to recruit girls shows; and several studies suggest that the percentage of women convicted for trafficking

is higher than in other crimes (Broad, 2015; Siegel & de Blank, 2010; UNODC, 2016). Moreover, it is not uncommon for people who have been previously victimised to become actively involved in trafficking as a way of escaping their own situation (Breuil et al., 2011; Viuhko, 2017). Again, the simplification of human trafficking may hinder the identification of cases that do not follow these patterns.

The immediate consequence of following this simplified vision in the creation of anti-trafficking laws has been the adoption of a purely criminocentric strategy, that is to say, based solely on the criminal prosecution of offenders (Jahic & Finckernauer, 2005; Muraszkievicz et al., 2014), overlooking the importance of addressing victims' needs such as shelter, healthcare, legal assistance, etc. This has been one of the leitmotifs in the historical evolution of international anti-trafficking laws. Since the adoption of the International Convention for the Suppression of the White Slave Traffic (1910), which made trafficking a criminal offence for the first time, subsequent international treaties have envisaged punishing not only perpetrators, but also participants, as well as attempts and preparatory acts. Likewise, in an effort to avoid impunity, these texts foresaw measures to guarantee international cooperation and extradition.

The height of the criminocentric perspective was reached with the approval of the UN Protocol, which, as mentioned above, complements the UN Convention on Transnational Organized Crime (UNTOC). As a consequence, this text is based on a limited view of trafficking, namely trafficking committed by transnational organised crime networks, obviating cases involving small national gangs or individuals (Breuil et al., 2011). Furthermore, both the Convention and the Protocol are essentially instruments of international cooperation whose central objective is to combat transnational organised

crime more effectively, through criminalisation, prosecution of offenders and border surveillance (Bravo, 2007). At the time of the Protocol's approval, human trafficking, as a form of transnational organised criminality, was perceived as a threat not only to victims, but also to States, and criminal policies were adopted in accordance with this perception. Therefore, while the Protocol does contain measures related to the prevention and protection of victims, these are vague and discretionary, while, on the contrary, criminal justice provisions are detailed and binding for all States.

Within the context of the European Union, despite recognising that human trafficking does not necessarily have to be committed by organised criminal groups, political-criminal strategies have also historically followed a crime-centred approach. Initially, the harmonisation of domestic legislation was sought as a means to facilitate judicial cooperation in criminal matters so as to counteract the ease with which criminals could move across the continent. Both Joint Action 96/700/JHA, Joint Action 97/154/JHA and Framework Decision 2002/629/JHA established common criteria according to which each Member State should define trafficking, as well as minimal penalties. However, as was the case with the UN Protocol, measures to prevent and protect victims were scarce.

With the arrival of the twenty-first century, it became evident that the criminocentric approach was insufficient. Although links with networks dedicated to transnational crime had served to justify tougher measures and a greater allocation of resources to investigate and prosecute traffickers (Bruch, 2004; Milivojevic & Pickering, 2013), the magnitude of the problem had not been reduced. Civil groups and NGOs began to demand a legal response focussed on human rights, aiming to offer adequate protection to victims and to address the causes of the problem in order to prevent trafficking (Breuil et al., 2011).

Those demands have materialised as a progressive shift towards a victim-centred strategy in policies and legislation. This new approach can be perceived to a limited extent in Directive 2004/81/EC on the residence permit issued to victims who cooperate with the authorities, which refers to the provision of resources that guarantee subsistence, medical care, including psychological assistance, access to the labour market, education, or even translation services and free legal aid (Article 7 to Article 12). It also grants a reflection period, the duration of which will be determined by domestic legislation, so that victims can recover and decide freely if they wish to cooperate (Article 6).

The change in trend is formally consolidated in the two most recent instruments adopted in this area: the Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 16th May 2005); and Directive 2011/36/EU on preventing and combating trafficking in human beings and *protecting its victims* [emphasis added], which replaces Council Framework Decision 2002/629/JHA. These texts include a definition of trafficking that includes purposes other than sexual exploitation, both at home and abroad, and regardless of whether it takes place within the framework of a criminal organisation. Moreover, they create a comprehensive system of prevention and protection of the human rights of victims, without subordinating them to their collaboration with the authorities, taking into account specific provisions for persons with special needs and ensuring equality between men and women.

Undoubtedly, these innovations are a representation of the deconstruction of human trafficking stereotypes in the law and deserve a positive assessment. The real challenge now is how to achieve the correct implementation of these general provisions within

domestic legislation and effective enforcement in practice, free from the influence of the deeply entrenched preconceived ideas that this paper has tried to illustrate.

### **Conclusion: The Need to Deconstruct Stereotypes**

There has been a reciprocal relationship between media representation, social constructions and laws against human trafficking in recent history. This complex phenomenon has frequently been simplified by narratives that identify it with three aspects: prostitution, illegal immigration, and organised crime.

The use of these three simplified constructions has created in public thought the image of an “ideal victim”: a young, naïve and blameless woman, who does not know that she will be a prostitute, and who has been clandestinely transferred from one country to another to be sexually exploited by a transnational and very violent organised criminal group. Unfortunately, victims like this exist and their experiences deserve media coverage and an adequate legal response. However, this victim profile does not cover the whole spectrum of trafficking. It ignores that a victim of trafficking can also be the person who accepts sex work in their own country or even in their own city, to later on face conditions of exploitation different from those initially agreed upon, at the hands of a relative, a friend or their own partner.

This collective image, always present in the media, has been embodied in international and European legislation. The identification of human trafficking with prostitution and the surrounding moral debates have driven attention away from other types of exploitation, such as forced labour. By looking at human trafficking as a problem simply related to (irregular) migration, internal trafficking failed to be recognised, and people



trafficked across borders were treated (and punished) as violators of aliens' laws, instead of victims deserving protection. Finally, the consideration of human trafficking as an organised crime threat has meant that scarce attention is paid to crimes committed by individuals close to the victim, or in which subtle psychological control methods instead of force were used. Legislation has been more oriented towards the prosecution of perpetrators than the assistance of victims.

Despite the most recent legislative developments seeming to have abandoned this stereotypical vision and begun to recognise the diversity of trafficking, simplified constructions based on the paradigm of the ideal victim still persist in law enforcement actions, media and public opinions. A piece of research carried out in 2016 reveals that the majority of the public still holds incorrect beliefs about trafficking, based on stereotypes (Bouche, Farrell & Wittmer, 2016), showing that the construction of an "ideal victim" has survived since its creation in the early twentieth century until today.

For this reason, media stakeholders and journalists should be aware of the fact that the way they depict human trafficking will influence the way it will be framed in popular culture, and ultimately in anti-trafficking laws. As Uy (2015) points out, "one of the first steps needed to eliminate trafficking is to change the way that we perceive trafficking" (p. 215). Therefore, it is necessary to go beyond simplifications of a complex phenomenon that is indeed related to prostitution, illegal immigration and organised crime, but not limited to them.

Deconstructing stereotypes is still much needed in order to achieve a more holistic view of trafficking that covers the diverse criminological realities it refers to; in order to

adopt a survivor-centred approach that adequately addresses trafficked people's needs, empowering rather than rescuing them; in order to put the focus of political agendas on the socioeconomic conditions that promote trafficking.

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