

A CASE LAW ANALYSIS

Female victims of trafficking for sexual exploitation as defendants

Aim

This virtual event aims to launch a new UNODC publication entitled “Female victims of trafficking for sexual exploitation as defendants: A case law analysis”. The case-law analysis will be presented in a panel discussion with representatives of international organisations and criminal justice practitioners, in presence of the donor, the Kingdom of Sweden. Main findings of the analysis will be presented during the launch.

Background

UNODC reports have shown not only that women and girls have consistently represented the majority of reported victims of trafficking but also that women feature highly among those prosecuted and convicted for offences relating to the trafficking of persons, especially when compared with other areas of crime. This study examines what lies behind these trends and complexities by examining case law on trafficking in persons for sexual exploitation involving female defendants, who had been or were contemporaneously being exploited as trafficking victims. Fifty-three cases were analysed from 16 different jurisdictions mainly available in the UNODC Trafficking in Persons Knowledge Portal.

Findings

The study sheds light on how traffickers use female victims as shields to evade criminal liability and enjoy impunity, by having them perpetrating acts of trafficking. The analysis found interlinkages between human trafficking and domestic and intimate partner violence, with 25% of the cases examined involving female victims-defendants who had suffered one or multiple forms of gender-based violence, before or while being trafficked, including in early childhood. Furthermore, an examination of victims' roles in offending also revealed a different set of motives from those typically attributed to traffickers, including seeking alleviation from their own exploitation, securing the trafficker's affection and having no alternative but to obey the trafficker's orders. Furthermore, the analysis demonstrates ongoing challenges with the judicial application of the “means” of “coercion” and “abuse of a position of vulnerability”, as well as the issue of “consent” and the non-punishment principle for victims of trafficking. Finally, the analysis shows that courts considered differently the victim-defendant's prior trafficking experience for the purposes of sentencing, applying it as both an aggravating and mitigating circumstance.

Draft Agenda

Moderated by Morgane Nicot, UNODC
Team Leader, Knowledge Development
and Innovation, Human Trafficking and
Migrant Smuggling Section.

16:00 — 16:05	Welcome by UNODC, Ilias Chatzis, Chief of Human Trafficking and Migrant Smuggling Section
16:05 — 16:10	Opening remarks by the donor, Per-Anders Sunesson, Ambassador at Large for Combating Trafficking in Persons, Kingdom of Sweden
16:10 — 16:20	Presentation of main technical findings, Zoi Sakellidou, Crime Prevention and Criminal Justice Officer, UNODC Human Trafficking and Migrant Smuggling Section
16:20 — 16:30	Valiant Richey, OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings
16:30 — 16:40	Marcelo Colombo, Federal Prosecutor and Coordinator of Special Unit devoted to preventing, prosecuting and protecting victims of trafficking in Argentina (PROTEX)
16:40 — 17:00	Q&A