

Cyber Trafficking: Independent No Legal Value But Crime

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Abstract

Cyber trafficking' should essentially be understood as human trafficking that is committed with the help of computer networks. There are many ways human trafficking becomes 'cyber': Traffickers may use online chatrooms, social media, online employment agencies or forged immigration assistance websites to recruit potential victims.

Keywords: Cyber Trafficking, Cyber Crime Law, Legal Loopholes Empowering Cyber Crime, IT Act

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INTRODUCTION

I will clarify my understanding of 'cyber trafficking' and I will argue that the term itself has no independent legal value, because even the very extreme example used by Sabine Witting falls under the trafficking definition. I will then re-examine the current definition of human trafficking, arguing contra Witting that even actions which are performed exclusively online can fall within the definition of human trafficking as articulated in the Palermo Protocol [1]. More importantly, in my view, the focus should rather lie on victim protection and how it can be adapted to this new modus operandi of traffickers, for example by the use of 'new' technologies for victim identification, protection and support [2].

WHAT IS 'CYBER' TRAFFICKING?

The term 'cyber trafficking' is used in an inconsistent way throughout the literature. However, simply put, the prefix 'cyber' essentially denotes everything 'relating to, or involving computers or computer networks (such as the Internet)'. Therefore, 'cyber trafficking' should essentially be understood as human trafficking that is committed with the help of computer networks. There are many ways human trafficking becomes 'cyber': Traffickers may

use online chatrooms, social media, online employment agencies or forged immigration assistance websites to recruit potential victims. They might use online platforms to offer the services of their victims and connect them with clients and customers. These services range from forced prostitution, child pornography, mail-order brides, forced labour to the vending of babies or human organs. The payment for these services can also be made online with crypto currencies such as Bitcoin. Furthermore, traffickers might use Internet technology to control their victims, for example with cell phones or webcams. Traffickers are seeking opportunities to continue their operations without leaving traces of their location or identity for law enforcement to find. For many, this means moving their operations into cyberspace [3].

The internet can provide traffickers with a layer of protection against the law. In many cases, perpetrators are able to remain essentially anonymous—using pseudonyms, fake photos, and virtual private networks (VPN). Additionally, the increasing popularity of cryptocurrencies like Bitcoin—popular on the dark web—make monetary exchanges harder to trace back to personal bank accounts [4].

Comparing Traditional Sex Trafficking with Cybersex Trafficking.

Traditional Sex Trafficking	Cybersex Trafficking
Trafficker exploits the vulnerable to a limited number of customers, who are physically present at scene of crime.	Trafficker exploits the vulnerable to a potentially unlimited number of customers, who do not have to be in same physical location.
The cost of attracting and hosting customers can be high and can involve things like advertising, rent, staff, security, etc.	The cost of attracting and servicing customers is incredibly low and can include only: a computer, internet services, small room, etc.
Trafficker must be hyper-aware of concealing crime.	Trafficker has protections available to conceal online activity.
Trafficker may have to transport or sell victim to evade arrest.	Trafficker can remain at single location while exploiting victim.[5]
Governments are likely to have personnel trained to arrest and/or prosecute crime.	Governments may not have manpower or resources to investigate caliber of crime.

‘Cyber’ Exploitation and Is There A Requirement of Movement?

Can a person who has been both recruited and exploited online be considered a victim of human trafficking under the definition of the Palermo Protocol, even though he or she never left the spot in front of the computer? As Witting rightly points out, the central question here is the one of movement: If, in order for the crime to meet the definition of trafficking, the victim must have (been) moved from one place to another, some cases of ‘cyber’ exploitation might not be qualified as trafficking, because the victim might have never moved out of his or her own house and was always only in front of the computer. That movement, in the sense of geographical dislocation, is a necessary condition for the offense of human trafficking. This would mean that ‘cyber’ trafficking (or more precisely, the special example of exploitation in front of a computer) does not constitute trafficking [6]. To fill this legal vacuum, Witting proposes to understand the element of movement as means of removing victims from their familiar environment. With this creative interpretation, controlling victims via the internet and using psychological methods to isolate them, might also be considered as removing them from their familiar

environment and therefore there would have been ‘movement’.

Besides the fact that the case cited (exploitation solely in front of the victim’s own computer at home) is an extreme and somewhat constructed example, from a legal point, the assumption that movement is a *conditio sine qua non* has no basis in international law and doctrine. To support her argument, Witting argues that if a family offers her child to be sexually exploited at home, by welcoming clients to the house to sexually abuse the child, nobody would think of laying charges of human trafficking against the family, but rather charge them with child prostitution or similar offences. Wittings claim rests on shaky ground, especially because the mere fact that ‘nobody would think of laying charges of human trafficking’ is not a legal argument at all. Moreover, at least two additional legal arguments speak against claim.

Know How to Report It?

If you, your friends, or your children notice suspicious behavior online, report it immediately. In severe cases, in which images or advertisements show underage individuals, file a report containing any relevant information you find—screen names, user IDs, links, etc.

In short, if you see something, don’t hesitate to speak up. Your tip may help prevent someone from becoming a victim, lead to the rescue of a victim, or cause the arrest of an online predator [7].

A Unique Level of Victim Protection in Trafficking Cases

Like no other international law enforcement instrument, international anti-trafficking law obliges States to take proactive measures in favour of (actual and potential) victims of human trafficking. For example, Article 6 of the Palermo Protocol requires States to provide assistance and protection to victims, which includes protection of privacy, identity and physical safety [7] as well as measures to provide for the physical, psychological and social recovery of the victim, such as appropriate housing, counselling and

information, medical, psychological and material assistance and employment, educational and training opportunities [8].

CONCLUSION

In comparison to any other law enforcement instrument, the international anti-trafficking law makes (potential) victims of trafficking probably the victim group with the most extensive range of individual rights [9]. No other group of victims of a particular crime has such a broad range of rights, be it victims of violence against women, of child sexual exploitation or of cybercrime.

If 'cyber trafficking' would – as a consequence of a restrictive interpretation of the definition – fall only under the Cybercrime Convention, its victims would not receive any specific individual measure of protection or support and States would not be obliged to identify them as victims of cybercrime, and to grant them for example a recovery and reflection period or provide for adequate housing or legal counseling [10].

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