

## Metamorphosis of the White Slave Trade Concept within the League of Nations: paradigm of contemporary migratory flows\*

Esther Pomares Cintas<sup>1</sup>

### *Abstract*

The history of repressive international policies to control migratory flows of unqualified economic immigrants emerged within the League of Nations at the turn of the 20<sup>th</sup> century, with the management of the intra-European and transcontinental exodus of prostitutes, known as "white slave trade". As the Archives of the League of Nations reveal, some of the keys of the international political agendas on human trafficking at the time were forged around women.

They reveal significant substantive issues: the shaping of an ideology that takes prostitution as a hostage to a discourse on trafficking in human beings, aimed at disabling adult women in the area of voluntary paid sexual services, as a measure to eradicate prostitution as a job opportunity that facilitates migration.

As the migratory flows of unqualified and impoverished people are not likely to cease, since the factors that drive them appear to be here to stay, old political discourses are retracing their steps. Sex work is once again contemplated from the prism of the fight on trafficking in human beings, understood in turn as a tool for containing "annoying" migratory flows. This points to a reductionist and speculative aim: we must "avoid the idea that prostitution can be a solution for migrant women in Europe" (European Parliament resolution of 26 February 2014). Analysing in detail the keys and impact of this discourse is the purpose of this article.

**Keywords:** Trafficking in human beings, migration control, victimization.

### **1. Introduction**

Since the period between the end of the 19th century and the early years of the 20th century — when a distinct phenomenon emerged of a migratory flow of European prostitutes who, finding in prostitution an assured source of work that allowed them to emigrate, travelled with the assistance of third parties to other continents — the visible presence of foreign women has been perceived and strategically reshaped by means of the discourse on the international traffic in persons, once known as 'white slave traffic' and later as the 'trafficking of people for the purposes of sexual exploitation'. The political management of these transcontinental movements of women was a crucial issue, since it would determine how similar labour migration flows — from unskilled, impoverished sectors of the population — would be managed in the future at international level.

The metamorphosis of the international traffic in persons was engineered in the heart of the League of Nations in the context of the clamour surrounding the exodus of European prostitutes, in the main adults who, impoverished above all in the aftermath of the First World War, travelled to other transcontinental destinations with the help of third parties or intermediaries. The sheer scale of those events and their social repercussions generated a propitious climate for the creation of a new international regulatory framework that would address the traffic in persons. The Advisory Committee on the Traffic in Women and Children appointed by the Council of the League of Nations was founded in 1924 with the aim of reclassifying the legal profile of this migratory phenomenon, thereby offering a political solution that would allow migratory flows of this kind to be suppressed and contained.

---

\* This paper is part of these research projects: *Victimas de delitos: modelos de actuación integral (Victims of crime: integrated models for action)* (DER2016-77228-P), led by Mar Carrasco Andrino, Professor of Criminal Law at the University of Alicante (Spain); *Derecho penal y distribución de la riqueza en la sociedad tecnológica (Criminal Law and distribution of wealth in a technological society)* (PID2019-107974RB-I00), led by Paz de la Cuesta Aguado, Professor of Criminal Law at the University of Cantabria (Spain).

<sup>1</sup> Prof. Criminal Law. Coordinator Red Iberoamericana de investigación sobre formas contemporáneas de esclavitud y derechos humanos (Universidad de Granada). [epomares@ujaen.es](mailto:epomares@ujaen.es) +34953212670

A thorough examination of the materials contained in the Archives of the League of Nations and in the Library of the United Nations Office in Geneva — which Belgian sociologist J.-M. Chaumont of the Catholic University of Leuven brought to our attention — reveals the problems and core issues dealt with by that Advisory Committee. His work sets forth the Advisory Committee's vision, which is explored in great detail in documents, studies and reports on the debates and speeches of its members during the 74 meetings in seven sessions of the Committee that took place between April 1924 and November 1927.<sup>2</sup> The Committee's Final Report, divided into two parts, was submitted to the Council of the League of Nations between 1927 and 1928.

This paper will analyse the key features of the discourse that developed at that time on the traffic in persons, its background, the people involved, the transformation of that discourse and, finally, its impact on current international policy on the control of migratory flows.

## **2. The idiosyncrasy of a "migrant prostitution" movement and its political management by the League of Nations**

### 2.1. International framework

Between the end of the 19th century and the early years of the 20th century there was an intense period of migratory flows of European women<sup>3</sup> — most of whom were prostitutes in their country of origin<sup>4</sup> — to other locations within Europe and beyond, to North America and some Iberoamerican countries.<sup>5</sup>

Without going into the details of its characteristics and variations, it is true to say that prostitution was regulated in a large part of the European and American continents by the end of the 19th century.<sup>6</sup> Nevertheless, the number of brothels fell substantially and drastically in various European countries at this time, which brought about a change in the geographical destination chosen by women who continued to work in prostitution and sought to improve their living conditions. The situation worsened after the First World War because prostitution no longer offered a sufficient livelihood almost anywhere in Europe,<sup>7</sup> leading to an increase in the flow of foreign prostitutes to other continents, especially the Americas.<sup>8</sup> These women were normally transported illegally by third parties who helped them evade border controls and/or enter prostitution (in specific establishments) in the country of destination.<sup>9</sup>

The scale and idiosyncrasy of a wave of 'migrant prostitution' involving women who were generally of legal age (older than 20 or 21, depending on the international legislation in force in 1910 and 1921, respectively)<sup>10</sup> evinced sufficiently serious concern at international level to merit the classification 'phenomenon' with socioeconomic repercussions, a 'truly serious' migration problem.<sup>11</sup> This provided a suitable opportunity for the League of Nations to supervise application to so-called white slave traffic of the international framework in force. The fact that these were generally consensual transnational journeys undertaken by foreign female sex workers and facilitated by third parties or intermediaries,<sup>12</sup> posed problems that were not easily understood or addressed under the existing regulations.

<sup>2</sup> J.-M. Chaumont, *Le mythe de la traite des blanches. Enquête sur la fabrication d'un fleau*. La Découverte. Paris, 2009, pp. 64-65.

<sup>3</sup> Above all, Polish, Russian, Romanian, German and French women. Cf. Chaumont, J.-M., *op. cit.*, p. 115.

<sup>4</sup> Some had other occupations such as cabaret dancers (see Part 1 of the Final Report of the Advisory Committee on the Traffic in Women and Children, pp. 20, 23). Chaumont, J.-M., *op. cit.*, pp. 68, 71.

<sup>5</sup> Mexico, Argentina and Uruguay. There was also a second flow of European women to Egypt and north African countries, such as Tunisia, consisting of French prostitutes. Cf. Chaumont, J.-M., *op. cit.*, pp. 24, 68. See also Maqueda Abreu, M<sup>a</sup> L., 'La trata de mujeres para explotación sexual', in (R. Serra Cristóbal, R., Coord.) *Prostitución y trata. Marco jurídico y régimen de derechos*, Valencia, 2007, pp. 295 *et seq.*

<sup>6</sup> In a large proportion of European countries as of the second half of the 19th century, and in North America at the start of the 20th century, 'prostitution was generally tolerated'. Cf. Villacampa Estiarte, C., 'Análisis de las políticas de criminalización de la prostitución', in (A. Iglesias Skulj/L. M<sup>a</sup> Puente Aba, Coords.) *Sistema penal y perspectiva de género: trabajo sexual y trata de personas*, Comares, Granada, 2012, pp. 3, 10. See, Zweig, S. (2001). *El mundo de ayer. Memorias de un europeo*. Barcelona: Ed. El acantilado. pp.117ss.

<sup>7</sup> Cf. Chaumont, J.-M., *op. cit.*, pp. 51, 104.

<sup>8</sup> This state of affairs was reflected in the meetings of the Advisory Committee in its sixth session. Cf. *Op. cit.*, pp. 114, 143.

<sup>9</sup> *Op. cit.*, pp. 68-69, 70.

<sup>10</sup> The age of majority was set at 20 years in the International Convention for the Suppression of the White Slave Traffic of 4 May 1910 and was raised to 21 years by the International Convention for the Suppression of the Traffic in Women and Children of 30 September 1921.

<sup>11</sup> Part 1 of the Final Report of the Advisory Committee, p. 49. Cf. Chaumont, J.-M., *op. cit.*, p. 142.

<sup>12</sup> See below.

In effect, the first step required was the updating, by means of a convention, of the term ‘white slave traffic’ employed by the international conventions for the suppression of the white slave traffic of 18 May 1904 and of 4 May 1910, which were adopted before the League of Nations was founded. A new term was approved by virtue of the International Convention for the Suppression of the Traffic in Women and Children of 30 September 1921 which would be incorporated into the body of regulations of the League of Nations.

However, this instrument was limited to reproducing the previous contents (1910); at the time, modification of the concept of the international traffic of women had not been considered and the Convention merely raised the age of majority to 21 years (Article 5). By means of an express referral clause, the 1921 Convention (Articles 2 and 3) confirmed the applicability of the definition of trafficking set out in the 1910 Convention, which aimed to maintain the elements that characterised ‘slave traffic’ without undermining the essential means — abuse, coercion, violence, deceit — in the hypothesis of effective ‘*retention, against her will, of a woman or girl in a house of prostitution*’.<sup>13</sup>

Article 2 (Convention of 1910): ‘*Whoever, in order to gratify the passions of another person, has, by fraud, or by means of violence, threats, abuse of authority, or any other method of compulsion, procured, enticed, or led away a woman or girl over age, for immoral purposes, shall also be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.*’<sup>14</sup>

At that time, the League of Nations created a permanent advisory committee that, during the session of 24 March 1923, posed the Council three key questions related to the issue of the migratory flow of European prostitutes. The first of these questions was whether it was truly possible to speak of a modern-day return to slave traffic; in other words, whether it could be said that there was international trafficking of women between Europe and America for the purposes of prostitution in the terms of the 1910 and 1921 Conventions. Secondly, given that third parties were involved in cross-border operations, it was recommended that an analysis be carried out of the methods used to recruit and transport the women. Thirdly, the question was raised as to the ideal, effective measures that could be used at international level to control and suppress this type of transnational movement.<sup>15</sup>

To respond to the problem posed by the situation, a special Advisory Committee on the Traffic in Women and Children was created, comprising eight members (female and male) from different countries (United States, Belgium, France, Italy, United Kingdom, Switzerland, Uruguay and Japan).<sup>16</sup>

## 2. 2. Dilemma posed and its resolution

The studies commissioned by the Advisory Committee to analyse *in situ* the characteristics of the intra-European and transcontinental exodus of European prostitutes<sup>17</sup> highlighted the general absence in the immediate destination of the use of force, abuse, violence or exploitation in conditions that could be described as similar to slavery.<sup>18</sup>

The conclusion was clear: the situation, albeit shocking due to the situation of the female migrant prostitutes involved, did not fit the parameters of traffic in persons defined in the 1910 and 1921 Conventions. While they were deplorable, the cases of trafficking detected that displayed the above-mentioned features were anecdotal,<sup>19</sup> and were not an accurate portrayal of the real situation under analysis: they were not sufficient to merit talk of a phenomenon of large-scale international human trafficking.

<sup>13</sup> Section D, Annex - Final Protocol to the 1910 Convention, which forms an integral part of the Convention. The Preamble to the International Agreement for the Suppression of the White Slave Traffic of 18 May 1904 also mentions the terms of abuse or coercion suffered by adult women in the provision of sexual services.

<sup>14</sup> The offence is classified differently when the victim is a minor. Article 1: ‘*Whoever, in order to gratify the passions of another person, has procured, enticed, or led away, even with her consent, a woman or girl under age, for immoral purposes, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries.*’

<sup>15</sup> Cf. Chaumont, J.-M., *op. cit.*, pp. 57, 66.

<sup>16</sup> *Op. cit.*, pp. 10, 12 *et seq.*, 63 *et seq.*

<sup>17</sup> The empirical analyses of Abraham Flexner - *Prostitution in Europe*, 1914, The Century Co., New York, 1914, and George J. Kneeland - *Commercialized Prostitution in New York City*, The Century Co., New York, 1913 (revised edition, 1917). [https://archive.org/stream/commercializedpr00kneeciala/commercializedpr00kneeciala\\_djvu.txt](https://archive.org/stream/commercializedpr00kneeciala/commercializedpr00kneeciala_djvu.txt) were particularly influential. See below.

<sup>18</sup> This is reflected in the deliberations of the second session of the Advisory Committee. Cf. Chaumont, J.-M., *op. cit.*, pp. 89 *et seq.*

<sup>19</sup> This is underlined by A. Flexner in *Prostitution in Europe*, *cit.*, p. 93, a reference study for the Advisory Committee, as evident from Part 1 of the Final Report, pp. 11, 20. Cf. Chaumont, J.-M., *op. cit.*, pp. 70 *et seq.*, 88, 188-190.

In short, the findings did not yield a diagnosis of international traffic in women in line with the international parameters in place at that moment in time. The large majority of the women involved in cross-border movements could not be considered victims of trafficking in the strictest sense of the word: they were not subject to abuse or coercion; they were not obliged by third parties to leave their country or work in prostitution in another country; and the interventions of third parties in migration operations were not in breach of the international conventions of 1910 and 1921 because they were generally part of consensual labour migration movements. This could not be understood to constitute a ‘true international form of organisation for the purpose of favouring trafficking’.<sup>20</sup>

One of the factors at the heart of the assessment that there was no international traffic in women (in the sense of the aforementioned regulatory framework) lay precisely in the prevailing system regulating prostitution at the time in a large part of the European and American continents: above all in the post-war context, the immense majority of working adult women who migrated chose to travel, with the assistance of third parties, to countries where there was regulation of prostitution.<sup>21</sup>

In other words, it was not possible to address the phenomenon under investigation using the international instruments in force.<sup>22</sup> This does not diminish the international importance of a migratory movement of this magnitude, the flow of foreign female prostitutes to other countries, or the socioeconomic dimension and social stigma attached to their occupation.

Far from seeking other conclusions, the whole range of regulatory systems governing prostitution became the focus of attention since they were regarded an attraction factor in these migratory flows because they favoured the presence in other countries of foreign prostitutes, a sector of impoverished, unskilled economic migrants.

#### a) Political management of the migratory flow of foreign female prostitutes

Aware of this state of affairs, the Advisory Committee on the Traffic in Women and Children of the League of Nations swiftly took advantage of the situation to remove terminological barriers that had hitherto prevented the organisation from adopting major political decisions in the management of problematic migratory flows that were not slave traffic. With the aim of offering a positive political response to the interpretations put before the Council of the League of Nations on the existence of traffic in prostitutes between Europe and America, the Advisory Committee agreed to label the phenomenon occurring within and outside European territory as trafficking, the trade of women for sexual exploitation,<sup>23</sup> to ultimately propose the application of strategies to combat and prevent what it wanted to classify as an ‘international criminal phenomenon’.<sup>24</sup>

Let us now examine the keys to the conceptual metamorphosis of trafficking that was shaped by the social furore surrounding this migratory flow of women.

Firstly, over the three years that the Advisory Committee sat (from April 1924 to November 1927) the only voice of moral conscience in the group of experts, the only clear and reasonable voice in discord with the rest, was that of the French expert Félicien J.L. Hennequin, Chair of the French association for the suppression of the traffic of women, who insisted that the migratory phenomenon under analysis ‘*is not strictly speaking trafficking*’, since it did not rely on coercion, deceit or abuse of the women involved; neither were the women destined for slavery.<sup>25</sup>

Precisely for this reason, and given that a response to the principle issue could only be offered by altering the international concept in force, the Committee decided to circumvent the serious disadvantages of the regulations that frustrated their primary ambition *ab initio*. It was evident that the strict vision of traffic in persons, as updated in the International Convention for the Suppression of the Traffic in Women and Children of 30 September 1921, was incapable of explaining and responding to a type of migratory flow of foreign women that was far from being in keeping with a concept of (sex) slave traffic.

<sup>20</sup> Part 1 of the Final Report of the Advisory Committee, p. 27. Cf. Chaumont, J.-M., *op. cit.*, p. 70.

<sup>21</sup> *Op. cit.*, pp. 29, 30, 77.

<sup>22</sup> This is acknowledged in Part 1 of the Final Report — pp. 13 and 49 — and in the deliberations of the sixth session. Cf. *Op. cit.*, pp. 67, 142, 143.

<sup>23</sup> This was highlighted in the second session of the Advisory Committee. Cf. *Op. cit.*, p. 89.

<sup>24</sup> *Op. cit.*, p. 76.

<sup>25</sup> This was debated during the second session of the Committee. Cf. *Op. cit.*, pp. 89 *et seq.*, 191. The rational voice of Hennequin was silenced with his death in 1926, when he was replaced on the Committee by the French expert Pierre Le Luc, who also opposed a terminological use that stretched the international concept of trafficking to its breaking point. Seventh session of the Advisory Committee. Cf. *Op. cit.*, pp. 91, 95, 194. This reasonable voice was eventually muffled by the vast majority in consensus. Cf. *Op. cit.*, p. 65.

Secondly, in order to remove this obstacle and confirm that the exodus of prostitutes could be considered trafficking as a large-scale criminal phenomenon, a complicit media campaign would be required to publicise the need to support a new definition of traffic in women and strategies to suppress this trafficking.<sup>26</sup> The Advisory Committee found a compliant partner in the movements to abolish the regulation of prostitution, whose discourse was instrumentalised to achieve the Committee's objectives. With good reason, the abolitionist cause found itself represented by the Advisory Committee itself, and already included in the contents of the reports.<sup>27</sup>

Once again, the ideas of the abolitionist movement at the heart of the League of Nations were aired, having been suppressed during the creation of the International Convention for the Suppression of the White Slave Traffic of 4 May 1910, an international instrument that was in all senses uncomfortable reading for abolitionists, since it made a material separation between the fight against the international traffic in women and the fight against the regulation of prostitution, presenting them as situations that should be viewed from different perspectives. The International Abolitionist Federation did not support this vision of trafficking, therefore, and was not represented in the League of Nations following the First World War. It did however resume its crusade with plenty of energy, taking advantage of the social repercussions of the mass influx of European prostitutes to other countries. This was an opportunity that the Advisory Committee could not pass up. The situation of female migrant prostitutes provided the perfect political context for organising a fight against the regulation of prostitution at international level, now orchestrated from within the League of Nations, where its policy strategies against a new kind of traffic in persons could be developed.

Now what was needed was some 'noise' about trafficking, a campaign that would capture the imagination of the general public using the handful of cases of sex slave trafficking, now presenting it as 'common practice'.<sup>28</sup> This sort of dramatization was steered by the abolitionist movement, which was characterised by a line of religious, puritan, reactionary thought that was primarily concerned with the social hygiene values prevalent in Europe and North America at the time.<sup>29</sup> The overwhelming presence of European prostitutes in other territories signalled declining morals in the country of origin that were then projected on the country of destination: these women were seen to represent the mental and moral breakdown of the human race.<sup>30</sup> This was, then, a phenomenon that affected '*social and moral hygiene and the interests of the future of the race*'.<sup>31</sup>

Thirdly, consolidating this terminological change regarding the traffic in persons meant relying on the support of empirical studies that corroborated this need to extend the concept in a new direction. The Committee based its argument in the main on two pieces of research funded by the magnate John D. Rockefeller Jr under the auspices of the Bureau of Social Hygiene, founded in New York, of which he was Chair:<sup>32</sup> G. Kneeland, *Commercialized Prostitution in New York City*, 1913; and A. Flexner, *Prostitution in Europe*, 1914.<sup>33</sup>

Both studies pinpoint the systems regulating prostitution as the key to cross-border movements of women. They also identify another key issue: the research into empirical data was conducted in the wake of the USA's White-Slave Traffic Act of 25 June 1910 (H.R.12315), which provided an accurate portrayal of an extremely protectionist socioeconomic context of very strict control of migratory flows.<sup>34</sup>

---

<sup>26</sup> This situation was morally unsettling for other Committee members, as can be inferred from the deliberations of the fifth session of the Committee, including those of the Chair of the Swiss national committee for the suppression of the traffic in women, Alfred de Meuron. Cf. *Op. cit.*, p. 93.

<sup>27</sup> Indeed, the Committee members included Cristina G. Bandini, an Italian princess who founded the Union of Italian Catholic Women and was a member of the chairing committee of the International Union of Catholic Women; Albert de Meuron, evangelist, and active member as of the end of the 19th century of the International Abolitionist Federation; and doctor of medicine Paulina Luisi, one of the founders of the abolitionist movement in Argentina and Uruguay. Cf. *Op. cit.*, pp. 15-17.

<sup>28</sup> *Op. cit.*, p. 33.

<sup>29</sup> *Op. cit.*, pp. 24 *et seq.*, 38. Private, non-governmental organisations also collaborated with the abolitionist movement on the implementation of its ideology, pp. 7, 8 *et seq.*, 41 *et seq.*

<sup>30</sup> *Op. cit.*, pp. 66, 147, 182.

<sup>31</sup> Part 1 of the Final Report of the Advisory Committee, p. 20. Cf. *op. cit.*, p. 97.

<sup>32</sup> Specifically, two members of the Advisory Committee were linked to the US Bureau of Social Hygiene: the Chair of the Committee, doctor of medicine William F. Snow, who was also director of the association; and Bascom Johnson, director of the legal department of the US Bureau of Social Hygiene, who supervised the empirical analyses at Snow's behest. Cf. *Op. cit.*, pp. 16, 39 *et seq.*

<sup>33</sup> In relation to the two empirical studies, cf. *Op. cit.*, pp. 40 *et seq.*, 50 *et seq.* They feature introductions by John D. Rockefeller Jr.

<sup>34</sup> It was a period of extreme conservatism and puritanism in the United States, brought about partly by the post-war economic crisis: these were years of protectionism, closed borders, and reduced immigrant quotas, in particular in the case of

Sections 2 and 3 of that law criminalise the forced transport of women of legal age (18 years) whether within North America or cross-border, to another country, or to the United States of America (in accordance with the clarification made in Section 1) to engage in prostitution or for any other immoral purpose.<sup>35</sup>

Over-represented in this way in the collective European and American imagination in the form of the exodus of foreign female prostitutes, the conviction took hold that this movement constituted ‘*large-scale, slaving traffic*’<sup>36</sup>: the ‘clamour’ surrounding trafficking was heard where it did not exist, and the outcry generated by this imagined international traffic in women eventually silenced the few critical voices at the heart of the Committee, who were quashed by consensus.<sup>37</sup>

At the mercy of the abolitionist movement of the day, which associated prostitution with a kind of slavery,<sup>38</sup> and of the critical influence of North American regulations on white slave traffic, the way had been paved for the emergence of a new trafficking phenomenon to be suppressed, a new international concept of the traffic in persons.

#### b) Metamorphosis of the concept of traffic in persons: a new conceptual and strategic framework

Encouraged by this favourable environment, the Advisory Committee took the decisive step of reformulating the concept of trafficking with the short-term objective of examining these migratory movements of foreign prostitutes under the ‘diagnostic tool’ of its own notion of ‘trafficking’: the ‘*traffic in women from one country to another for the purposes of sexual exploitation*’.<sup>39</sup> There was a move towards a definition that was deliberately distanced from the context of abuse, coercion or violence of forced exploitation, making it easier to tackle and suppress other forms of migration under the same criminal and nefarious-sounding ‘*international traffic in persons*’.

For the purposes of this paper, international sex traffic is defined as the ‘*direct or indirect recruitment and transport of women to another country, for profit, to gratify the sexual appetite of one or more persons*’.<sup>40</sup>

The Advisory Committee responded with an exercise in contortionism that evaded the international regulatory framework in force on the initial issue that justified its creation, projecting onto this new vision of trafficking an adulterated diagnosis, a fraudulent labelling of a situation that actually pointed to something else: a new reality, a human phenomenon of a socioeconomic kind that did not coincide in any way with the classification of slave trafficking. Now, invoking the threat of slavery, a strategic response was being implemented against collaboration or assistance related to the irregular labour migration of unskilled, impoverished economic migrants,<sup>41</sup> women who found at that time that prostitution provided them with an opportunity to migrate. The phenomenon actually fitted the contemporary profile of labour migratory flows, characterised by the intervention of third parties at various stages of the operation of transnational relocation based on the travel and employment difficulties they encountered in their quest for improved living conditions.

This malleable definition of the term ‘traffic’, which could be applied to a broader concept of migration, was ideal for justifying and implementing a range of suppression strategies designed to contain the phenomenon. We shall now examine these.

### ***3. Prevention and suppression measures in the name of combating international traffic in persons***

those coming from southern European countries. There was growing inequality, an increase in racism and a repressive political climate. Cf. Fontana, J. *El siglo de la revolución, Una historia del mundo desde 1914*. Ed. Crítica, Planeta, Barcelona, 2017, pp. 133 *et seq.*, 136, 137; Zweig, 2001, *cit.*, pp. 98 *et seq.*; *vid.*, in detail, Gritner, F.K. *White Slavery. Myth, Ideology, and American Law*, Garland, New York, 1990.

<sup>35</sup> Such offences were subject to fines of up to USD 5,000, up to five years in prison, or both. If the offence was against a person aged under 18, the penalties increased to up to USD 10,000 and up to 10 years in prison (Section 4). On the current legal penalties for these offences in North American legislation on traffic in persons, *vid.* Villacampa Estiarte, C. ‘Análisis de las políticas de criminalización de la prostitución’, *cit.*, pp.11 *et seq.*

<sup>36</sup> Cf. Chaumont, J.-M., *op. cit.*, p. 33.

<sup>37</sup> *Op. cit.*, pp. 33 *et seq.*

<sup>38</sup> The abolitionists’ approaches owed something to the values of the Religious Society of Friends (the Quakers), who advocated the abolition of slavery (represented by Josephine Butler, the founder of the International Abolitionist Federation). Cf. *op. cit.*, p. 38.

<sup>39</sup> Second session of the Advisory Committee. Cf. *op. cit.*, p. 89.

<sup>40</sup> Part 1 of the Final Report of the Advisory Committee, p. 10. Cf. *op. cit.*, p. 95.

<sup>41</sup> *Op. cit.*, pp. 28, 34, 113 *et seq.* Cf. Attwood, R. (2016). ‘Looking Beyond “White Slavery”: Trafficking, the Jewish Association, and the dangerous politics of migration control in England, 1890-1910’, *Anti-Trafficking Review* 7, pp. 115 *et seq.*

The most significant factor on which the recently redefined international traffic in persons for the purposes of sexual exploitation would rest was, precisely, the regulation of prostitution;<sup>42</sup> it was necessary to erase the concept of prostitution as a potential or assured opportunity to migrate. The connection between female immigrants and the provision of sexual services in another country was thereby automatically seen through the prism of the ‘modern’ trafficking that was to be suppressed: brothels became a key criminological field due to their capacity to attract a new kind of migration that had to be prevented. The demand for sexual services provided in brothels fomented the recruitment of migrant women and their travel to their destination. These were the premises that formed part of the ideology of the Advisory Committee, premises which would be incorporated into the international political discourse on traffic in human beings in the future.

### 3.1 The main causes: the regulation of prostitution and demand for sexual services

In an age of growing puritanism, economic protectionism, xenophobia and restricted immigration quotas, the influence of the empirical studies funded by the Bureau of Social Hygiene (the reports by Kneeland and Flexner) shaped the premises and aims of the Advisory Committee; the focus was placed on the role of regulation of prostitution and brothels (or ‘houses of tolerance’) — in other words, the setting in which prostitutes were employed to provide sexual services — and the demand for such services, as the main and direct cause of the international traffic in women.<sup>43</sup>

In truth, the link between traffic in persons and the regulation of prostitution was negligible, fuelled largely by the ‘clamour’ surrounding trafficking provoked by the dogma of the abolitionist movements of the age, since it fed into their parallel ideology — which was essentially puritan and moralising.<sup>44</sup> We must take into account that since the movement of women for the purposes of forced sexual exploitation was not prosecuted, it does not make any sense to find a similar link between trafficking as a gateway to exploitation and the regulation of prostitution or prostitution in itself.<sup>45</sup>

Following the incorporation of this dogma into the repertory of the Advisory Committee, a whole series of questions accumulated for the Council of the League of Nations. The last of these persisted: the best measures and strategies to contain and combat this new type of international traffic in persons.

### 3.2 The strategies employed in international political discourse on the traffic in persons

Based on the new vision of the international traffic in persons and the attendant dogma that stated that there was trafficking because prostitution was subject to regulation, for the first time the ideology of the Committee — and, from now on, the international political agenda in this sphere — included the strategy of neutralising the factors that attracted and stimulated the types of migration encompassed by this redefined model of trafficking. In other words, preventive strategies on trafficking designed as an ends in themselves (not as a means of preventing exploitation in conditions similar to slavery) became the main focus of attention.

Eradicating the idea of prostitution as a job, as a labour opportunity allowing someone to leave one country and enter another,<sup>46</sup> became the political key to the adoption of suppression strategies on two fronts: the criminalisation of the setting in which prostitution took place; and the migration operation itself. This all had a single aim: to contain, control and suppress contemporary flows of labour migration.

---

<sup>42</sup> On the different models of regulation, see Olarte Encabo, S., ‘La prostitución voluntaria: ¿una forma de esclavitud o de ejercicio de libertad personal, de trabajo y de empresa?’, in (E. Pérez Alonso, Ed.) *El Derecho ante las formas contemporáneas de esclavitud*. Tirant lo Blanch, Valencia, 2017, pp. 519 *et seq.* Cf. Giménez Merino, A. (2018). ‘El cuerpo de las trabajadoras sexuales como campo en disputa: la controversia sobre el derecho a decidir’. En C. Barbosa Abreu/F. Carvalho Leite/M. Messias Peixinho (orgs.), *Temas de derechos humanos* 1, pp. 25 *et seq.*

<sup>43</sup> This is reflected in the deliberations of the sixth session of the Advisory Committee. Cf. Chaumont, J.-M., *Op cit.*, pp. 75, 110. It was designated a stimulus for international trafficking in Part 1 of the Final Report of the Advisory Committee, p. 54. Cf. *op. cit.*, pp. 67, 68.

<sup>44</sup> In this context, the founder of the International Abolitionist Federation, Josephine Butler, sustained in 1869 that the regulatory system governing prostitution clearly favoured the international traffic in prostitutes. Cf. *op. cit.*, pp. 7, 8 *et seq.*, 41 *et seq.*

<sup>45</sup> Specifically, during the sixth session of the Advisory Committee, some of its members questioned this close linking of prostitution and trafficking, even suggesting it was an ‘exaggerated’ view, as the French expert F. J.L. Hennequin pointed out early on, during the first session of the Committee. Cf. *op. cit.*, pp. 105, 111, 112.

<sup>46</sup> Second session of the Advisory Committee. Cf. *op. cit.*, p. 89.

a) The international criminalisation of the setting in which prostitution took place

A vision of the migration phenomenon dominated by prostitutes, reflected in a concept of trafficking disassociated from any form of abuse or coercion of the migrant, was successful in supporting the call of the abolitionist movement for the issue of regulation of prostitution and the existence of brothels to no longer be a matter of countries' domestic policy. Thus, it became part of the international political agenda linked to the prevention of the international traffic in women, which was simply a way of avoiding all debate on the benefits or disadvantages of particular systems of regulation of prostitution or on hypothetical modifications to others.<sup>47</sup>

This context provided the justification for the Advisory Committee's core strategy: criminalisation, at international level, of the setting in which prostitution occurred, i.e. the place where prostitutes were employed to provide sexual services, understood to be sexual exploitation. It was necessary to punish sex work in all of its forms, in line with the dogma that stated that it was intimately linked with the traffic of women, with no need to base the prohibition on the existence of coercion, abuse or deceit of the person offering sexual services. New types of offences of an actuarial nature, new archetypes and a 'new class of [international] delinquency' were introduced to the discourse on trafficking.<sup>4849</sup>

But this was not the only setting to be seriously stigmatised at international level. The redefinition of transnational trafficking was just a tactic that the Committee used to formulate a much more ambitious suppression strategy with a much broader scope: to pave the way for international criminalisation of the migration process as a whole. In this way, an interest in controlling, containing and suppressing the new migratory flows of people at risk of socioeconomic exclusion became the central political objective of the discourse on trafficking.

b) The criminalisation of contemporary migratory movements of people at risk of socioeconomic exclusion

The discourse on trafficking became an ongoing, misappropriated play on words deliberately given a market-based connotation: the term 'traffic in women' was employed to incriminate 'any means used (...) to facilitate prostitution',<sup>50</sup> and, along with it, the intra-European and intercontinental 'traffic' of women who would work in prostitution in other countries. Emphasis was placed on the 'commercial' ends of sexual exploitation, which is not the same as the forced provision of sexual services for a third party: sex slave trafficking was not the target; forms of exploitation that took place in conditions of slavery or similar did not play a central, defining role that would establish the scope of trafficking. In this new context, a 'trafficker' would become akin to a smuggler, a kind of recruitment agent for prostitutes who facilitated migration by helping them find employment. Thus, as of the end of the second decade of the 20th century, and on the initiative of the Advisory Committee, it was proposed that new labels be applied at international level to new crimes and offenders, creating a criminal phenomenology drawn from the debased criminal underworld and organised crime — 'traffickers' and 'pimps'<sup>51</sup>— in so far as their behaviour favoured the movement of unskilled economic migrants at risk of socioeconomic exclusion. In short, the dramatic phenomenon of European prostitutes travelling to other countries was presented as a type of organised crime on an international scale.<sup>52</sup> The idea was to create new victims of trafficking that would not have been classed as victims under the strict provisions of the international Conventions of 1910 and 1921. This was in line with the specific imperative of taking decision-making capacity and forms of emancipation away from women, based on their being women. This rested on the concept (constructed using the illusory language of commerce) of these women being at the mercy of external forces, represented by terms such as traffickers, exploiters, demand, supply, the import and export of people, countries of origin, transit, destination, and so on.

<sup>47</sup> This was highlighted by the French expert Hennequin, the only member who did not agree with the dogma followed by the majority of the Committee, during the third session of the Committee. Cf. *Op. cit.*, p. 106.

<sup>48</sup> Part 1 of the Final Report of the Advisory Committee, p. 53, and sixth session of the Committee.

<sup>49</sup> *Op. cit.*, p. 264. Cf. Caruso Fontán, M. V. (2011). 'Sobre la criminalización de las actividades relacionadas con la prostitución consentida', *Revista de Derecho y Proceso penal* 25, pp. 31 et seq.; Iglesias Skulj, A. (2012). 'Prostitución y explotación sexual: la política criminal del control del cuerpo femenino en el contexto de las migraciones contemporáneas (el caso de España)', *Investigaciones: Secretaría de Investigación de Derecho Comparado*, 1, pp.13 et seq.

<sup>50</sup> Fifth session of the Advisory Committee. Cf. *Op. cit.*, p. 93.

<sup>51</sup> They are all *traffickers*. Part 1 of the Final Report, p. 28. Cf. *Op. cit.*, p. 267.

<sup>52</sup> As of the first session of the Committee. Cf. *Op. cit.*, p. 90.



This ceaseless commercial language derived from slave trafficking was, paradoxically, now distanced from that trafficking to diminish migrant women's decision-making capacity, not depicting them as slaves, as such, but strategically positioning them as something similar.<sup>53</sup>

Given that it was not necessary for the will of the person making the journey to have been broken before the act of transporting them could be classed as trafficking, and that it was possible for the 'new' victims of trafficking to be involved in the migratory operation to the same extent as those cooperating with them, as demonstrated by the studies commissioned by the Advisory Committee,<sup>54</sup> its particular definition of victim identified deportation (of foreign prostitutes) or the alternative of voluntary repatriation as a primary and ideal recommendation, presented as a protective measure for victims.<sup>55</sup> The provision of temporary detention sites was also highly recommended so that migrants awaiting deportation could be detained in the meantime.<sup>56</sup> Meanwhile, at a moment in history characterised by border closures, the bureaucratic processes to be completed by migrants began to become more complicated, and there was growing uncertainty and administrative discretion in the granting of visas, a state of affairs that can be understood as measures to contain migratory flows of unskilled, impoverished populations.<sup>57</sup>

The measures proposed by the Advisory Committee to eradicate and prevent trafficking (not slavery) as seen from the complicit perspective of abolitionist postures not only worked against foreign female prostitutes/new victims of trafficking/ clandestine immigrants. They also represented a forerunner of the repressive anti-immigrant policies seen in Europe as of the last decade of the 20th century,<sup>58</sup> applied to migratory flows into Europe (from the continents of Africa and Latin America) or happening within Europe (from east or south to north) in which the key terms speak of the exclusion of migrants: unskilled labour, entry bans, deportation, border returns, immigrant detention centres.<sup>59</sup>

In short, we are now seeing a new and distorted vision of the traffic in persons, presented as a gateway to an exploitative fate in slavery, with a function that integrates with strategies to control contemporary migratory flows of unskilled labour linked to the dramatic effects of inequality, marginalisation and the socioeconomic exclusion of broad sectors of the population, deriving from the globalisation of a single neoliberal economic model. In other words, a system has been constructed that closes borders and establishes barriers to prevent unskilled, impoverished migrant workers from entering the territory while simultaneously creating and feeding an industry of immigration or traffic in persons<sup>60</sup> based on the idea of relocation to another country being a 'valuable asset':<sup>61</sup> the facilitation of border crossing or evasion of border controls and/or placement in work in the country of destination.

---

<sup>53</sup>Maqueda Abreu, M<sup>a</sup> L., 'A propósito de la trata y de las razones que llevan a confundir a l@s inmigrantes con esclav@s', in (Carbonell Mateu/GonzálezCussac/Orts Berenguer, Ed.) *Constitución, derechos fundamentales y sistema penal (semblanzas y estudios con motivo del sesenta aniversario del profesor Tomás Salvador Vives Antón)*, Tirant lo Blanch, Valencia, 2009, pp. 1251 *et seq.*

<sup>54</sup> Cf. Chaumont, J.-M., *op. cit.*, p. 96. When contemplating a migratory flow of these characteristics, we can understand why this type of victim did not report 'trafficking'.

<sup>55</sup> The deportation of foreign prostitutes was underlined as a primary recommendation in Part 1 of the Final Report, and debated during the fourth session of the Committee, having been questioned in the previous session by the French expert, F. Hennequin. Cf. *Op. cit.*, pp. 252, 253, 255.

<sup>56</sup> Fourth session of the Advisory Committee. Cf. *op. cit.*, p. 256.

<sup>57</sup>*Op. cit.*, p. 260.

<sup>58</sup> Cf. Chaumont, J.-M., *cit.*, pp. 13 *et seq.*, 19 *et seq.* They likewise reside in aporophobic political and criminal strategies, cf. Terradillos Basoco, J.M. (2019), 'Un sistema penal para la aporofobia', in (G. Portilla Contreras/F.VelásquezVelásquez, Ed.) *Libro Homenaje a Perfecto Andrés Ibáñez*, Dykinson, Madrid, 2019, pp. 351 *et seq.*

<sup>59</sup> These measures became part of the language of European democracies during the 21st century. Cf. Pomares Cintas, E., 'La Unión europea ante la inmigración ilegal: la institucionalización del odio', *Eunomia. Revista en Cultura de la Legalidad*, No 7, 2014, pp. 125 *et seq.*

<sup>60</sup> Cf. Maqueda Abreu, M<sup>a</sup> L., 'Una nueva forma de esclavitud: el tráfico sexual de personas', in (P. Laurenzo Copello, Coord.) *Inmigración y Derecho penal*, Tirant lo Blanch, Valencia, 2002, p. 260; García Arán, M. in (M. García Arán, Coord.), *Trata de personas y explotación sexual*, Comares, Granada, 2006, pp. 3, 10-11; by the same author, 'Trata de personas y regulación de la prostitución' in (E. Pérez Alonso, Ed.), *El Derecho ante las formas contemporáneas de esclavitud*, Tirant lo Blanch, Valencia, 2017, pp. 661, 662; Hava García, E. 'Trata de personas, prostitución y políticas migratorias', *Estudios penales y criminológicos*, No 26, 2006, pp. 84, 86; Cugat Mauri, M. 'Normativa internacional y derecho comparado' in (M. García Arán, Coord.), *Trata de personas y explotación sexual*, Comares, Granada, 2006, p. 77.

<sup>61</sup> Cf. García Arán, M., *Trata de personas y explotación sexual, cit.*, p. 22.

This, then, was the ideology of the Advisory Committee as regards the new vision of the international traffic in persons. The only thing left to do was consolidate this view in conventions drawn up under the auspices of the League of Nations.

#### ***4. The later influence of the ideology of the Advisory Committee on the international traffic in persons***

The revised discourse on trafficking coming from the Advisory Committee was the reference work that inspired the need to create a convention that would guarantee an international commitment to implementing the key strategies for combating and preventing the international traffic in persons. This was initially reincarnated in the International Convention for the Suppression of the Traffic in Women of Full Age of 11 October 1933, which marked a significant departure from the previous Convention of 1921, also created under the auspices of the League of Nations. It applied to migrant women of legal age (over 21) the same regime as applied to minors, definitively invalidating their capacity to consent in the sphere of sexual services; in other words, it incapacitated women in a sphere that was also disappearing as a possible form of emancipation through work.

*'Article 1. Whoever, in order to gratify the passions of another person, has procured, enticed or led away even with her consent, a woman or girl of full age for immoral purposes to be carried out in another country, shall be punished, notwithstanding that the various acts constituting the offence may have been committed in different countries. Attempted offences, and, within the legal limits, acts preparatory to the offences in question, shall also be punishable.'*

As part of this same strategy, and now in the aftermath of the Second World War, the ideology designed by the Advisory Committee was consolidated in the international legal instrument that would become a reference in the topics dealt with by the United Nations General Assembly: the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 2 December 1949 (Resolution 317, IV).

Article 1 of that Convention establishes the commitment undertaken by States Parties *'to punish any person who, to gratify the passions of another: (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; (2) Exploits the prostitution of another person, even with the consent of that person'*.

Although in its protocol it expresses a desire to 'consolidate' the previous international conventions (of 1904,<sup>62</sup> 1910<sup>63</sup>, 1921,<sup>64</sup> and 1933<sup>65</sup>), the 1949 Convention takes over from the immediately preceding draft convention of 1937, marking the end of the essential meaning of the trafficking of slaves, which had been diluted along the way: it was no longer an inseparable requirement for there to be abuse and coercion forcing the victim to provide sexual services in order for an act to be considered trafficking. The Convention once again criminalised all conduct of third parties favouring the practise of prostitution as such conduct favoured the idea of prostitution as an employment opportunity facilitating migration. By criminalising prostitution, the 1949 Convention embodied the policy of neutralising the factors that attracted foreign prostitutes ('of either sex', states Article 17) to travel across transnational borders. Therefore, it considered irrelevant under all circumstances the consent of the person of full age transported — it incapacitates that person — in the sphere of the voluntary provision of sexual services, whether as an employee or whether to attend to the demands of users of sexual services, a new feature of the Convention and new criminal profile added to the broad range in the political discourse on trafficking. The 1949 Convention went into further depth when criminalising the setting in which prostitution occurred, even touching on the prohibition of prostitution itself. Assimilating the dogma of the prevailing abolitionist ideas of the time, it identifies similar forms of conduct as international traffic in persons,<sup>66</sup> even where there is no abuse or coercion linked to the activity of the person who practises prostitution, and regardless of the conditions in which it is practised, thereby creating the stigma of social danger around prostitution: as the 1949 Convention states at the beginning of the Preamble, *'whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the*

<sup>62</sup> Amended by the Protocol approved by the United Nations General Assembly on 3 December 1948.

<sup>63</sup> *Ibidem*.

<sup>64</sup> Amended by the Protocol approved by the United Nations General Assembly on 20 October 1947.

<sup>65</sup> *Ibidem*.

<sup>66</sup> *Vid.* in particular Article 17, which establishes the international commitment to develop legislation to 'check' international traffic in persons *'for the purpose of prostitution'*, calling for international cooperation to prosecute trafficking in the places of departure and arrival, and en route.

*individual, the family and the community.*<sup>67</sup> Women are thereby transformed into victims of trafficking/prostitution (or *vice versa*) who will require ‘*rehabilitation and social adjustment*’ (Article 16).<sup>68</sup>

The Convention defines a criminal policy designed to contain the presence of foreign prostitutes in other territories, offering a strategy to ‘combat’ the international traffic in persons ‘*for the purpose of prostitution*’ (Article 17) with a set of dissuasive and police measures under the recurring principle of protecting the ‘victims’ (Article 17). It urges Parties to organise media campaigns warning of ‘*the dangers of the aforesaid traffic*’, promote international cooperation to prosecute, both in countries of origin and destination and in transit through the surveillance of border posts (railway stations, airports, seaports and ‘*other public places*’) to detect the ‘*persons who appear, prima facie, to be the principals and accomplices in or victims of such traffic*.’ It also imposes measures linked to the ‘*supervision of employment agencies in order to prevent persons seeking employment, in particular women and children, from being exposed to the danger of prostitution*’ (Article 20).

This set of measures comes with the supreme recommendation of the Advisory Committee: the deportation of victims. In contrast with previous international instruments, the 1949 Convention expressly mentions the ‘*expulsion*’ of victims of trafficking when this is ‘*ordered in conformity with the law*’ (Article 19), most likely to cover the hypothesis of consent in migration operations and the practise of prostitution. It also includes the idea of ‘*eventual repatriation*’ (Articles 18 and 19) in the form of voluntary return or on the initiative of ‘*persons exercising authority*’ over the victim, only after agreement is reached with the country of destination. Costs are to be covered by the victim, excepting where she cannot pay them (‘*destitute victims*’), in which case the costs are shared between the country of residence (journey to the nearest frontier or port of embarkation or airport) and the country of origin (Article 19).

It is worth mentioning that, with the exception of the compulsory deportation of victims of trafficking, the measures set out in the 1949 Convention come directly from the 1904 Convention,<sup>69</sup> which was merged with the 1910 Convention, updated and added to in order to create the International Convention for the Suppression of the Traffic in Women and Children of 30 September 1921. The main concern of those three instruments on international trafficking was women who had ‘*suffered abuse or compulsion*’, as indicated in the Preamble to the 1904 Convention; in other words, trafficking was the gateway to exploitation in conditions similar to slavery. In contrast, in the 1949 Convention the situation described is different: in reality, it is above all a form of voluntary migrant prostitution.

In conclusion, we can see how the political discourse surrounding traffic in persons was closely linked to issues of immigration and fused with these, transforming a human phenomenon of socioeconomic dimensions into a criminal matter, and converting the concept of trafficking into a paradigm of control of migratory flows.<sup>70</sup>

<sup>67</sup> Italics added.

<sup>68</sup> Given that it is understood that prostitution in itself is incompatible with dignity. Cf. Maqueda Abreu, M<sup>a</sup> L. ‘La prostitución: el “pecado” de las mujeres’, *Cuadernos electrónicos de Filosofía del Derecho*, No 35, 2017, pp. 76 *et seq.* The North American lawyer B. Johnson, who was a member of the Advisory Committee of the League of Nations and head of the legal department at the US Bureau of Social Hygiene, spoke during the discussion of the Convention. On this occasion, he participated in his capacity as representative of the International Bureau for the Suppression of the Traffic in Women and Children. United Nations Economic and Social Council, Social Affairs Committee, fourth session, New York, 9/5/1949, E/CN.5/SR.78, p. 5. Cf. Chaumont, J.-M., *op. cit.*, p.16.

<sup>69</sup> See Articles 2, 3 and 6.

<sup>70</sup> See Pérez Alonso, E., *Tráfico de personas e inmigración clandestina. (Un estudio sociológico, internacional y jurídico penal)*. Tirant lo Blanch, Valencia, 2008, p. 239; by the same author, ‘Marco normativo y política criminal contra la trata de seres humanos en la Unión Europea’, in (E. Pérez Alonso/E. Pomares Cintas, Coords.) *La trata de seres humanos en el contexto penal iberoamericano*, Tirant lo Blanch, Valencia, 2019, pp. 65 *et seq.*; Lara Aguado, Á. ‘La trata como grave violación de derechos humanos: incoherencias entre la concepción de la trata como atentado a los derechos humanos y su regulación a nivel interno e internacional’, in (Á. Lara Aguado, Coord.) *Nuevos retos en la lucha contra la trata de personas con fines de explotación sexual. Un enfoque interdisciplinar*, Aranzadi, Navarra, 2012, pp. 75 *et seq.*; Pérez Cepeda, A. *Globalización, tráfico internacional ilícito de personas y Derecho penal*, Comares, Granada, 2004, p. 22; Cugat Mauri, M. ‘Normativa internacional y derecho comparado’, *cit.*, p. 77; Daunis Rodríguez, A. ‘Cuestiones clave de la prostitución y trata de personas. Aproximación al caso andaluz’, in (A. Iglesias Skulj/L. M<sup>a</sup> Puente Aba, Coords.) *Sistema penal y perspectiva de género: trabajo sexual y trata de personas*, Comares, Granada, 2012, pp. 94 *et seq.*; Villacampa Estiarte, C. ‘La trata de seres humanos: concepto y caracterización’, in (E. Pérez Alonso/E. Pomares Cintas, Coords.), *La trata de seres humanos en el contexto penal iberoamericano*, Tirant lo Blanch, Valencia, 2019, p. 34.

This constituted a qualitative change regarding the profile of victims that is remarkably far from the idea of traffic in slaves and, therefore, far from being identifiable with a exploitative fate similar to that of slavery.<sup>71</sup>

### **5. Impact of human trafficking discourse today**

This historical data not only reflects a reality that is transmuted at a certain time and then returned to the archives. Today it is recognized that the migratory impoverished flows will not cease because the factors that drive them "have a vocation of permanence" [European Commission Communication, 2016 on the First Progress Report on the Partnership Framework with third countries in the context of the European Agenda on Migration). They're gonna keep coming...<sup>72</sup>

The discourse today retraces its steps, focusing once again on neutralizing the pull factors of these annoying transnational displacements. The European Parliament bears witness to that Committee of the League of Nations and recovers its legacy, keeping alive the 1949 Convention. The strategy set out in the Resolution of 26 February 2014 on sexual exploitation and prostitution and its impact on gender equality is very similar. Prostitution is condemned to be a permanent hostage to a vision of trafficking in human beings whose epicentre lies in the idea of containing migrant flows with low socio-economic profiles<sup>73</sup>; a criminal tool, that of trafficking, which expressly forms part of the "policies on border controls, asylum and immigration", designed to "ensure, at all times, effective management of migratory flows" (arts. 79.1, 79.2 d) Treaty on the Functioning of the European Union). That is why we insist on eradicating at all costs the idea of prostitution under the idea of work: as expressly stated: we must "to avoid the idea that prostitution can be a solution for migrant women in Europe". To wrap this idea in "trafficking role", we resort to an identification that dispenses with conceptual categories and realities: prostitution=trafficking=slavery, thus speculating, again, with the dignity of women. The ideology of the abolitionist movements, surely loaded with good intentions, is filtered out, now as then, for the achievement of purposes that transcend the issue headed by the arguments of gender violence: contributes, under their complicit gaze, to the development of repressive border control policies on EU territory.

By monopolizing the discourse of prostitution under these reductionist parameters, can only open up a deep sea of speculation and conflict. It has not only stopped drastically, as if it were a matter of public order, any serious, serene and thoughtful debate on sexual services provided voluntarily. It also hinders the rigorous analysis of the face and edges of today's slavery, its forms of manifestation, the traits that identify it, the criteria for its detection, the identification of victims. Because there are other hostages of this reductive discourse of human trafficking, under the complicity, conscious or not, of the abolitionist currents: it does not allow to ask or question what promotes serious human exploitation; the overall commodification of social and economic rights, the inadequacy of channels for regular migration, poor labour migration systems, recruitment patterns in unskilled productive sectors, only in the country of origin: Thus, the tandem work and residence permit, visas linked to a single activity, to a single employer, to a single territorial portion. Because certainly in these productive sectors the precarious choices or job opportunities and resources for women-immigrants are accused, a position of clear disadvantage in the labour market. Precisely, with regard to this specific issue, that Special Committee of Experts of the League of Nations recognized the importance of facing it, but looks elsewhere with the argument of affecting "a vast problem of economic order" that is outside its prerogatives<sup>74</sup>. The answers to these factors, excused for going beyond the competences in relation to the persecution-prevention of trafficking in persons, are always a pending question...

### **References**

Attwood, R. (2016). Looking Beyond "White Slavery": Trafficking, the Jewish Association, and the dangerous politics of migration control in England, 1890-1910, *Anti-Trafficking Review* 7, pp. 115-138.

<sup>71</sup> See Pomares Cintas, E., 'Hacia una *coalición regional sudamericana contra la trata de personas*: protocolo regional de buenas prácticas en torno al eje de persecución del delito de trata de personas y modalidades de explotación asimiladas a la esclavitud', in (E. Pérez Alonso/E. Pomares Cintas (Coords.) *La trata de seres humanos en el contexto penal iberoamericano*. Tirant lo Blanch, Valencia, 2019.

<sup>72</sup> Naïr, S. (2006). *Y vendrán...: las migraciones en tiempos hostiles*. Barcelona: Bronce.

<sup>73</sup> Borges, P.C./Gebrin, L.M. (2014). 'Combate ao tráfico de mulheres ou controle migratório da prostituição?'. En Cruz-Zúñiga, P. y Cordero-Ramos, N.(eds.), *Análisis, retos y propuestas en torno a la trata de personas*, Sevilla, Aconcagua libros, pp.151-176.

<sup>74</sup> Cf. deliberations at the fifth session; First part of the Report.

- Borges, P.C. y Gebrin, L.M. (2014). Combate ao tráfico de mulheres ou controle migratório da prostituição?. En Cruz-Zúñiga, P. y Cordero-Ramos, N. (eds.), *Análisis, retos y propuestas en torno a la trata de personas*, Sevilla, Aconcagua libros, pp.151-176.
- Caruso Fontán, M.V. (2011). Sobre la criminalización de las actividades relacionadas con la prostitución consentida, *Revista de Derecho y Proceso penal* 25, pp. 31-44.
- Chaumont, J.-M. (2009). *Le mythe de la traite des blanches. Enquête sur la fabrication d'un fleau*. Paris: La Découverte.
- Cugat Mauri, M. (2006). Normativa internacional y derecho comparado, En M. García Arán (coord.), *Trata de personas y explotación sexual*, Granada: Comares.
- Daunis Rodríguez, A. (2012). Cuestiones clave de la prostitución y trata de personas. Aproximación al caso andaluz, En A. Iglesias Skulj y L.Mª Puente Aba (coords.), *Sistema penal y perspectiva de género: trabajo sexual y trata de personas*, Granada: Comares, pp. 91-120.
- Flexner, A. (1914). *Prostitution in Europe*, New York: The Century Co.
- Fontana, J. (2017). *El siglo de la revolución, Una historia del mundo desde 1914*, Barcelona: Planeta, ed. Crítica.
- García Arán, M. (2006). Los tipos penales acogedores del tráfico de personas. En M. García Arán (coord.), *Trata de personas y explotación sexual*, Granada: Comares.
- García Arán, M. (2017). Trata de personas y regulación de la prostitución. En Pérez Alonso (dir.), *El Derecho ante las formas contemporáneas de esclavitud*. Valencia: Tirant lo Blanch, pp.655-675.
- Giménez Merino, A. (2018). El cuerpo de las trabajadoras sexuales como campo en disputa: la controversia sobre el derecho a decidir. En C. Barbosa Abreu/F. Carvalho Leite/M. Messias Peixinho (orgs.), *Temas de direitos humanos* 1, pp. 25-42.
- Gritner, F.K.(1990). *White Slavery. Myth, Ideology, and American Law*. New York: Garland.
- Hava García, E. (2006). Trata de personas, prostitución y políticas migratorias, *Estudios penales y criminológicos* 26, pp. 81-124.
- Iglesias Skulj, A. (2012). Prostitución y explotación sexual: la política criminal del control del cuerpo femenino en el contexto de las migraciones contemporáneas (el caso de España), *Investigaciones: Secretaría de Investigación de Derecho Comparado*, 1, pp. 13-25.
- Kneeland, G.J. (1917). *Commercialized Prostitution in New York City*. New York: The Century Co., updated ed. [https://archive.org/stream/commercializedpr00kneeiala/commercializedpr00kneeiala\\_djvu.txt](https://archive.org/stream/commercializedpr00kneeiala/commercializedpr00kneeiala_djvu.txt).
- Lara Aguado, Á. (2012). La trata como grave violación de derechos humanos: incoherencias entre la concepción de la trata como atentado a los derechos humanos y su regulación a nivel interno e internacional, En Á. Lara Aguado (dir.), *Nuevos retos en la lucha contra la trata de personas con fines de explotación sexual. Un enfoque interdisciplinar*. Navarra: Aranzadi, pp. 45-107.
- Maqueda Abreu, M.L. (2002). Una nueva forma de esclavitud: el tráfico sexual de personas. En P. Laurenzo Copello (Coord.), *Inmigración y Derecho penal*. Valencia: Tirant lo Blanch, pp. 255-272.
- Maqueda Abreu, M.L. (2007). La trata de mujeres para explotación sexual. En R. Serra Cristóbal (coord.), *Prostitución y trata. Marco jurídico y régimen de derechos*. Valencia: Tirant lo Blanch, pp. 295-306.
- Maqueda Abreu, M. L. (2009). A propósito de la trata y de las razones que llevan a confundir a l@s inmigrantes con esclav@s, En J.C. CarbonellMateu/J.L.GonzálezCussac/E.OrtsBerenguer (dirs.), *Constitución, derechos fundamentales y Sistema penal (semblanzas y estudios con motivo del sesenta aniversario del profesor Tomás Salvador Vives Antón*. Valencia: Tirant lo Blanch, pp. 1245-1260.
- Maqueda Abreu, M.L. (2017). La prostitución: el “pecado” de las mujeres, *Cuadernos electrónicos de Filosofía del Derecho* 35, pp. 64-89.
- Nair, S. (2006). *Y vendrán...: las migraciones en tiempos hostiles*. Barcelona: Bronze
- Olarte Encabo, S. (2017). La prostitución voluntaria: ¿una forma de esclavitud o de ejercicio de libertad personal, de trabajo y de empresa?. En, *El Derecho ante las formas contemporáneas de esclavitud*. Valencia: Tirant lo Blanch, pp.517-567.
- Pérez Alonso, E. (2008), *Tráfico de personas e inmigración clandestina. (Un estudio sociológico, internacional y jurídico penal)*. Valencia: Tirant lo Blanch.
- Pérez Alonso, E. (2019). “Marco normativo y política criminal contra la trata de seres humanos en la Unión Europea”. En E. Pérez Alonso y E. Pomares Cintas (coords.), *La trata de seres humanos en el contexto penal iberoamericano*. Valencia: Tirant lo Blanch, pp. 63-113.
- Pérez Cepeda, A. (2004). *Globalización, tráfico internacional ilícito de personas y Derecho penal*. Granada: Comares.
- Pomares Cintas, E. (2014). La Unión europea ante la inmigración ilegal: la institucionalización del odio, *Eunomía. Revista en Cultura de la Legalidad* 7, pp. 143-174.

- Pomares Cintas, E. (2019). Hacia una coalición regional Sudamericana contra la trata de personas: protocolo regional de buenas prácticas en torno al eje de persecución del delito de trata de personas y modalidades de explotación asimiladas a la esclavitud, En, E. Pérez Alonso y E. Pomares Cintas (coords.), *La trata de seres humanos en el contexto penal iberoamericano*. Valencia: Tirant lo Blanch, pp. 400-431.
- Terradillos Basoco, J.M. (2019). Un Sistema penal para la aporofobia. En G. Portilla Contreras/F. Velásquez Velásquez (dirs.), *Libro Homenaje a Perfecto Andrés Ibáñez*. Madrid: Dykinson, pp.353-364.
- Villacampa Estiarte, C. (2012). Análisis de las políticas de criminalización de la prostitución. En A. Iglesias Skulj y L.Mª Puente Aba (coords.), *Sistema penal y perspectiva de género: trabajo sexual y trata de personas*. Granada: Comares, pp. 1-44.
- Villacampa Estiarte, C. (2019). La trata de seres humanos: concepto y caracterización. En E. Pérez Alonso y E. Pomares Cintas (coords.), *La trata de seres humanos en el contexto penal iberoamericano*. Valencia: Tirant lo Blanch, pp. 21-62.
- Zweig, S. (2001). *El mundo de ayer. Memorias de un europeo*. Barcelona: Ed. El acantilado.