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EDITORIAL ARTICLE

Human trafficking victims: An emerging reality in forensic medicine



Víctimas de trata de seres humanos: una realidad emergente en medicina forense

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Trafficking in human beings (THB) is the trade in persons for the purpose of exploitation for profit, using means such as force, fraud, deception, threat, or physical or psychological violence (sometimes extreme) to retain them, in any of the stages in which this activity takes place: recruitment, travel-transit (including receipt or harbouring), and exploitation.¹ These actions seriously violate the fundamental rights and freedoms of the victims, which can have far-reaching physical, mental, sexual, reproductive, and psychosocial consequences.²

Since 2010, the Spanish Criminal Code has included the crime of THB and its 3 fundamental elements in Article 177 bis.³ The specialised Prosecutor's Office for Trafficking in Human Beings and Immigration plays a very significant role in driving legal proceedings for this crime, which has resulted in the specialised assessment of victims as emergent practice in forensic medicine. The dimension of this practice is not measured in quantitative terms, as the volume of victims requiring forensic medical assessment is not significant if we consider the volume of interventions in other types of crime. The dimension, in this case, has to be measured qualitatively by what the forensic examination can contribute, not only for the benefit of judicial procedure, but also as a way of recognising the survivor's

experience, as a necessary step for their recovery. In 2017, the Forensic Medical Council published the Forensic Medical Protocol for the assessment of victims of trafficking,⁴ highlighting the importance of the forensic examination and the basic principles for conducting it. The results of 2 investigations conducted at the Institute of Legal Medicine and Forensic Sciences of Catalonia (IMLCFC)^{5,6} provide an approach to this practice, the first investigation to be conducted from a forensic medical perspective in our immediate environment.

The most common forensic medical intervention is to characterise the consequences that the victim may have suffered, either temporarily or permanently, to any aspect of their health.⁷ It also involves identification of the factors (especially those related to the presence of any disability) which underlie the vulnerability that traffickers are going to exploit. Finally, any circumstances that may influence their testimony, or how attendance at trial may affect their current state, need to be identified.

Less frequently, the forensic practitioner will be required to participate urgently in the police process of extracting victims from the network. This intervention will serve to document the general condition of the victims at that precise moment, from weight and nutritional status to hygiene status, or the presence of acute injuries, so as to later correlate these findings with the conditions in which the victim was kept, whatever the stage of trafficking in which they were found.

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THB primarily affects women and girls.⁸ In our experience, the procedures that most frequently required forensic evaluation were related to sexual exploitation and the predominant victim profile was a young, foreign woman with a cultural background very different to our own. Therefore, in the forensic approach to these victims, we consider it necessary to apply a broad perspective, from a victim-centred approach and based on knowledge of the impact of the trauma so that we can adjust our assessment to the concrete and specific situation of the survivor. This approach must be based on training and awareness of human rights so that those that have been violated can be detected, with a gender perspective to identify the vulnerability factors that underlie the disproportionate impact of trafficking on women and girls, and with a cross-cultural perspective to recognise factors specific to the survivor's culture that will influence both their vulnerability and the clinical expression of the psychological impact.

THB is a changing activity that adapts and exploits the means at its disposal, and has the capacity to easily develop forms of exploitation beyond sexual, begging, or forced labour, exploitation in the form of forced marriage, or organ procurement for transplantation. Moreover, it is not uncommon for victims to be subject to more than one type of exploitation. In the field of forensic medicine, we must consider exploitation for forced criminality; this could be considered the fourth most frequent type of exploitation, after sexual exploitation, forced labour, and begging, and it is essential to highlight that, in this case, most victims are men and, above all, children (68% of detected victims).⁸

In the case of exploitation for forced criminality, the victim is forced to commit criminal acts such as crimes against property or drug trafficking offences (including the production of cannabis crops).^{9,10} In these cases, the victim, in addition to the network, can also become a victim of the justice system if they are arrested, tried, and convicted precisely for having committed these acts, in contravention of the provisions of Directive 2011/36/EU,¹¹ Article 8, and the aforementioned 177 bis of the Spanish Criminal Code.³

This latter form of exploitation places forensic medicine professionals in a privileged position to detect potential victims (in forensic medical assistance to persons in custody or in psychiatric evaluations of persons accused of these types of crimes), when, duly trained and qualified, we are able to identify the indicators of trafficking and record them. This is a decisive first step, when we become aware that there is no stereotypical victim in this situation and that victims will not always be women, nor will they necessarily have been subjected to sexual exploitation, but, in fact, they may be presented to us as "criminals".

THB, therefore, presents medical professionals with an important challenge, which requires raising awareness and specialised training to incorporate the specific requirements requested by the Courts in assessments and, above all, to identify and adapt to the circumstances of the survivors, minimising re-victimisation. For these reasons, with a broad perspective and from accumulated experience, in 2022, the Institute of Legal Medicine and Forensic Sciences of

Catalonia created the first Forensic Assessment Unit for Victims of THB.

References

1. Zimmerman C, Hossain M, Watts C. Human trafficking and health: a conceptual model to inform policy, intervention and research. *Soc Sci Med.* 2011;73:327–35. <https://doi.org/10.1016/j.socscimed.2011.05.028>.
2. García-Vázquez O, Meneses-Falcón C. What is the impact of human trafficking on the biopsychosocial health of victims: a systematic review. *J Immigr Minor Health.* 2023;1–15. <https://doi.org/10.1007/s10903-023-01496-z>.
3. Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal Permalink ELI. <https://www.boe.es/eli/es/lo/1995/11/23/10/con>.
4. Consejo Médico Forense. Protocolo de actuación médico forense de valoración de víctimas trata de seres humanos. Madrid: Ministerio de Justicia; 2017. Available in: <https://www.mjusticia.gob.es/es/institucional/organismos/medicina-legal-ciencias/protocolos>. Accedido 2 de nov de 2023.
5. Mateu A, Cano E, Bertomeu A, Xifró A. Víctimes de tràfic d'éssers humans. Avaluació forense de l'impacte sobre la salut mental. Barcelona: Centre d'Estudis Jurídics i Formació Especialitzada; 2022. Available in: <https://cejfe.gencat.cat/ca/recerca/catalog/crono/2022/victimes-traffic-essers-humans>. Accedido 2 de nov de 2023.
6. Cano E, Mateu A, Bertomeu A, Xifró A, Barbería E, Aguilar I. Valoración médico-legal de las víctimas de trata de seres humanos. Estudio descriptivo de una serie de casos forenses en Cataluña (España). *Med Clin (Barc).* 2023 preimpresión (preprint).
7. Guil C, Rodríguez JA, (coords.). Guía de buenas prácticas en la instrucción y en el enjuiciamiento de los delitos de trata de seres humanos. Barcelona: Observatori Català de la Justícia en Violència Masclista; 2021. Available in: <https://cejfe.gencat.cat/ca/observatori/publicacions/ultims-5-anys/2021/Guia-TEH>. Accedido 2 de nov de 2023.
8. United Nations Office on Drugs and Crime. Global report on trafficking in persons. URL: https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTIP_2022_web.pdf; 2022. Accedido 2 de nov de 2023.
9. Fernandez S, Rodríguez JA. La trata de seres humanos para criminalidad forzada. Recomendaciones de actuación para profesionales del ámbito judicial. Barcelona: Observatori Català de la Justícia en Violència Masclista; 2022. Available in: <https://cejfe.gencat.cat/ca/observatori/publicacions/ultims-5-anys/2022/traffic-essers-humans-recomanacions/>.
10. Anti-Slavery International. Trafficking for forced criminal activities and begging in Europe. Exploratory study and good practice examples. Londres: Anti-Slavery International; 2014. Available in: http://www.antislavery.org/wp-content/uploads/2017/01/trafficking_for_forced_criminal_activities_and_begging_in_europe.pdf. Accedido 2 de nov de 2023.
11. Directiva 2011/36/UE del Parlamento Europeo y del Consejo, de 5 de abril de 2011, relativa a la prevención y lucha contra la trata de seres humanos y a la protección de las víctimas y por la que se sustituye la Decisión marco 2002/629/JAI del Consejo. Available in: <https://www.boe.es/buscar/doc.php?id=DOUE-L-2011-80799>.