



Research on the Crime of Purchasing Trafficked Women and Children from the Perspective of Criminology

Bailin Liu

Institute of MARXISM, Inner Mongolia Normal University, Inner Mongolia Autonomous Region, China

118873557300@163.com

Abstract. Human trafficking is a widespread phenomenon occurring in numerous countries worldwide, with women and children being particularly vulnerable to exploitation. In China, the purchase of trafficked women and children has emerged as a significant criminal activity, posing grave threats to personal rights, societal harmony, and national stability. Adopting a criminological lens, this study elucidates patterns of criminal behavior, identifies underlying motivations, and offers recommendations to mitigate the societal impact of trafficking-related crimes. It investigates the legal concept, reasons for conviction and criteria for conviction, and examines the phenomenon, causes, and potential countermeasures of the crime of purchasing trafficked women and children. It explores historical, social policy, physiological, and psychological factors contributing to such crimes, while proposing preventive strategies encompassing social conflict resolution, psychological interventions, public security enhancement, and criminal justice reforms. According to the current situation, causes, and preventive measures, this paper advocates for initiatives include raising legal awareness among citizens, strengthening punitive measures, and enhancing social welfare provisions to effectively curb the trafficking and purchase of women and children.

Keywords: The crime of purchasing trafficked women and children; causes of crime and prevention; judicial practice; case analysis.

1 Introduction

Human trafficking is one of the fastest growing and most lucrative criminal activities in the world [1,2]. Specifically, the trafficking of women and children has garnered significant attention in research circles [3]. Articles 240 and 241 of China's current Criminal Law respectively define the crimes of trafficking and purchasing women and children. While efforts from both the government and the public have predominantly focused on combating the trafficking of women and children, comparatively little attention has been paid to the crime of purchasing them [4].

In contrast to efforts directed at combating trafficking, there has been a notable absence of emphasis on crime prevention, and effective societal preventive measures are

yet to be established. There remains a lack of understanding regarding the underlying causes and societal implications of trafficking in women and children, particularly concerning how to prevent the crime of purchasing trafficked individuals. This gap in knowledge persists within research domains in China. The existence of markets for purchasing trafficked women and children has deep-seated social and historical reasons, how to prevent the crime of purchasing trafficked women and children and reduce the demand in the buyer's market is an urgent issue that requires attention from law enforcement and the judiciary.

Based on a guiding case from the Supreme People's Court of China, this article discusses the contentious issues, criminal causes, and prevention deficiencies of the case, with two aims: (1) To clearly delineate the underlying causes of the crime of purchasing trafficked women and children and discuss countermeasures. (2) To analyze the circumstances of the crime of purchasing trafficked women and children in judicial cases and explore preventive measures in practical application.

Combining theory with practice, this article aims to present comprehensive recommendations on how to more effectively prevent the crime of purchasing trafficked women and children. It is significant for helping deter purchasing behaviors and safeguards the legitimate rights and interests of victimized women and children, also serves the purpose of punishment by ensuring that offenders face lawful sanctions [5].

2 Literature Review

2.1 Concept of the Crime of Purchasing Trafficked Women and Children

According to Article 241 of the Criminal Law of the People's Republic of China, the crime of purchasing trafficked women and children refers to the act of purchasing trafficked women and children without the purpose of resale. According to the provisions of the Criminal Law, those who purchase trafficked women and children shall be sentenced to imprisonment for a term not exceeding three years, criminal detention, or control.

2.2 Reasons for Conviction of the Crime of Purchasing Trafficked Women and Children

Firstly, purchasing behavior severely infringes upon the personal freedom and physical safety of the victimized women and children, primarily demonstrated by treating women and children as commodities within one's illegal control. Secondly, purchasing behavior objectively facilitates the criminal activities of trafficking women and children. Some criminals only proceed with trafficking women and children after finding buyers. Therefore, cracking down on the act of purchasing women and children is also conducive to curbing the criminal activities of trafficking women and children.

2.3 Criteria for Conviction of the Crime of Purchasing Trafficked Women and Children

Analyzing the crime of purchasing trafficked women and children from the perspective of criminal constitutions: (1) Regarding the object elements of this crime, it is manifested as the infringement upon the in-violability of the personhood of the victimized women and children; (2) Regarding the objective elements of this crime, it is manifested in the acts of purchasing trafficked or kidnapped women and children; (3) Regarding the subject elements of this crime, any natural person who has reached the age of criminal responsibility and possesses criminal capacity may commit the offense; (4) Regarding the subjective elements of this crime, it is intentional [6].

3 Research Methods

This study employs literature review, survey research, and comparative research methods to investigate the crime of purchasing trafficked women and children from the perspective of criminology [7].

(1) Literature analysis

This method involves reviewing relevant literature to understand the definition, concept, constitutive elements, and development trends of the crime of purchasing trafficked women and children. It aims to grasp the theoretical knowledge and re-search status of this crime and accumulate relevant research information. It analyzes the concept and conviction issues of this crime from the four elements of criminal constitutions in criminal law.

(2) Survey research

This method involves collecting and organizing cases of the crime of procuring trafficked women and children, and then conducting data analysis. From the perspective of criminological research methods, it compiles and analyzes judicial documents related to this crime from 2008 to 2024, classifying them into analyses of criminal phenomena, causes, and countermeasures.

(3) Comparative research

This method distinguishes between the crime of purchasing trafficked women and children and the crime of trafficking women and children, and summarizes the differences to avoid confusion in judicial application. Utilizing the guiding case of Gong Shaowu's case (No. 991) from the Supreme People's Court of China, which involves the crime of purchasing trafficked women and children for forced prostitution, it conducts a criminological study on judicial practices. Additionally, this study combines with the national conditions of China to establish and improve the prevention mechanism for the crime of purchasing trafficked women and children.

4 Criminological Analysis of the Crime of Purchasing Trafficked Women and Children

4.1 Criminal Phenomenon

In the past, the crime of purchasing trafficked women and children frequently occurred in economically and culturally underdeveloped impoverished areas and mountainous regions. However, in recent years, it has expanded from rural to urban areas, and even transnational crimes have emerged, with intricate and complex criminal networks. Urban areas, such as train stations, restaurants, and pedestrian streets, where the population is dense and highly mobile, are common sites for these crimes [8].

The targets of purchase have also expanded from rural women to include students, female teachers, and foreign women. Some individuals sell their relatives and even their own children to satisfy their greed for money, exploiting the special status of "family ties" to deceive others. Furthermore, there is now a new trend in crime, specifically targeting the purchase of trafficked mentally disabled, deaf, and mute women and children.

The number of court judgments can reflect the incidence and enforcement efforts of the crime of purchasing trafficked women and children compared to the crime of trafficking women and children, highlighting the differences between the two crimes [9]. This study utilized the China Judgments Online platform (<https://wenshu.court.gov.cn/>) to conduct a quantitative analysis of judgments related to the crimes of trafficking and purchasing trafficked women and children from 2008 to 2024. A total of 1,650 judgments related to the crime of purchasing trafficked women and children and 2,465 judgments related to the crime of trafficking women and children, were retrieved (Figure 1).

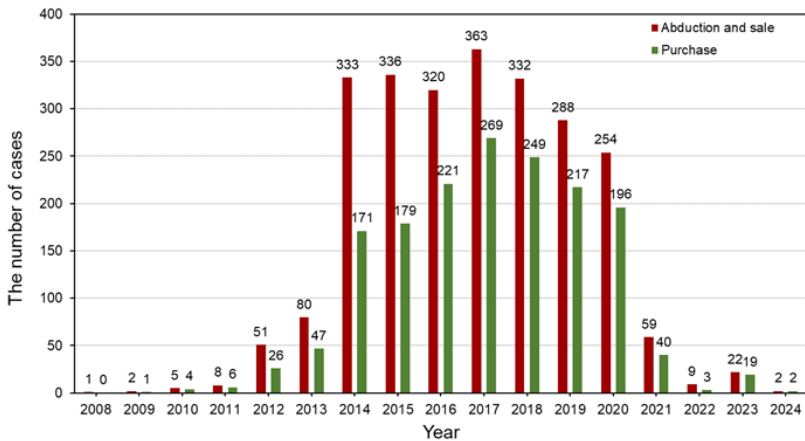


Fig. 1. The number of judgments for the crime of trafficking women and children and the crime of purchasing women and children from 2008 to 2024 (mapping by the author)

As shown in Figure 1, the number of judgments related to the crime of trafficking women and children significant increase in 2014. Between 2014 and 2020, the trend in the number of cases remained stable, but in 2021, there was a drastic decline in the number of judgments. The fluctuations in the number of judgments for both the crime of trafficking women and children and the crime of purchasing women and children are synchronized, but there is a significant disparity in the number of judgments. The implementation of the Ninth Amendment to the Criminal Law of the People's Republic of China in 2015, heightened the punishment for the crime of purchasing trafficked women and children, aiming to deter the act of purchase by imposing harsher penalties, thereby fundamentally curbing the trafficking of women and children.

4.2 Causes of Crime

(1) Social factors

Due to the implementation of the family planning policy and the prevalent practice of heavy bride prices, an increasing number of individuals seek a more affordable route to marriage and childbearing, re-sorting to the purchase of women and children who have been trafficked. The gender imbalance and the implementation of family planning policies have also contributed to the occurrence of such purchases. Additionally, the penalties for purchasers engaging in transactions with human traffickers under the Criminal Law are too lenient, despite them being the direct cause of numerous trafficking cases [10].

(2) Physiological factors

Data retrieved from the China Judgments Online platform shows that the majority of suspects involved in purchasing trafficked women and children are over 30 years old, with slightly more males than females. Most purchasers are farmers or unemployed individuals. Judgements reveal that some medical personnel have also been involved in illegal activities related to the purchase of trafficked children, with multiple cases identified.

(3) Psychological factors

Influenced by traditional beliefs such as the preference for sons and the continuation of family lineage, some individuals develop a need to purchase women and children. A lack of legal awareness is another significant factor contributing to the buying and selling of women and children. Many perpetrators have low levels of education and a deficient understanding of the law. Despite knowing that purchasing trafficked women and children is illegal, some buyers still engage in these criminal activities.

(4) Victim reasons

Women and children possess limited abilities to protect themselves, making them easy targets for trafficking [7]. Victims typically hail from remote rural areas, where their levels of education are low and their exposure to the outside world is limited, resulting in a lack of self-protection awareness and a tendency to place blind trust in others. Many victimized women feel discontented due to economic poverty and aspire to seek employment opportunities elsewhere to improve their living conditions. Exploiting this sentiment, unscrupulous individuals lure them under false pretenses of job opportunities or business negotiations, then they are exploited in forced labor [11].

4.3 Countermeasures to Crime

4.3.1 Crime Prediction

Long-term crime trend prediction: Forecasting the long-term crime trends of purchasing trafficked women and children involves predicting changes in crime phenomena, causes, and crime prevention measures over a period of 10 years or more. The formulation of such predictions must be based on the national economic plan and aligned with the grand blueprint for various national development projects, determining the timeframe and trends of long-term forecasts [12].

Medium-term crime trend prediction: Predicting the medium-term crime trends over a period of approximately 5 years. It provides a comprehensive overview of crime trends and serves as an important basis for policy-making and addressing major crime issues.

Short-term crime trend prediction: Predicting the short-term crime trends over a period of 1 to 3 years. Its function lies in promptly assessing whether specific criminal policies and criminal laws are suitable for the current needs of crime development based on crime rates.

4.3.2 Crime Prevention

Crime prevention is the most fundamental approach to governance. In practice, China has developed a comprehensive set of integrated governance principles such as "combining punishment with prevention, with prevention as the foundation," known as "Strike Hard, Prevent, Reform, Control, Educate, and Build." However, simply "striking" or "preventing" crime alone does not constitute a Marxist crime prevention strategy. It should involve a combination of punishment and prevention, with prevention being prioritized.

(1) Social prevention

Social prevention of purchasing trafficked women and children crimes refers to activities aimed at adjusting and improving the social structure to eliminating or reducing social ills, and preventing and reducing criminal activities. Since crime phenomena are largely caused by contradictions and shortcomings within society itself, this requires self-adjustment and improvement within society. prevention.

(2) Psychological prevention

Psychological prevention of purchasing trafficked women and children crimes involves fostering sound personality development through social cultivation and self-cultivation activities, while weakening or eliminating the internal motivations for crime and suppressing or eliminating emerging criminal motives. Criminal psychology is not innate and unchangeable; it can evolve into criminal behavior under certain conditions or be redirected toward the right path through proper education.

(3) Public security prevention

Public security prevention of purchasing trafficked women and children crimes refers to the professional preventive measures taken by public security organs against individuals who violate public security management regulations in society. Applying certain public security penalties to individuals who engage in illegal behavior but have not yet committed crimes can effectively deter and prevent further illegal activities,

maintaining social order. Effective management of social can promptly identify illegal activities and take preventive measures.

(4) Punishment prevention

Punishment prevention of purchasing trafficked women and children crimes involves the state holding criminal offenders accountable through judicial organs at all levels, utilizing punishment for deterrence and rehabilitative educational purposes to curb specialized criminal activities. This includes stages such as legislative bodies drafting and promulgating criminal laws, police and procuratorial organs investigating and prosecuting crimes, and courts and prisons sentencing and executing punishments.

5 An Inspection of Judicial Practices in Cases and Preventive Measures of the Crime of Purchasing Trafficked Women and Children

5.1 Guiding Case: the Case of Gong Shaowu Purchasing Trafficked Women and Children for Prostitution

(1) Basic Case Facts

The Tianjin Jinghai District Procuratorate brought charges against Gong Shaowu for the crimes of trafficking women and children and forcing prostitution. The Jinghai District Court found through trial that: In early April 2009, the defendant purchased the victim, Su Mou, for a price of 7,000 yuan. Gong Shaowu then brought Su Mou to Tianjin, controlled her there, and forced her into prostitution.

(2) Judgment Reasons

Gong Shaowu knowingly purchased Su Mou, who was a woman trafficked by others. Gong Shaowu's purpose in purchasing Su Mou was to profit from controlling her to engage in prostitution. This indicates that Gong Shaowu's criminal motivation was extremely malicious, and the consequences were more serious. His actions constitute the crime of purchasing women and children trafficked for prostitution without dispute.

(3) Analysis from criminological perspective

In this case, Gong Shaowu is a farmer who purchased Su Mou, a victim of trafficking, to profit from controlling her to engage in prostitution. This incident occurred in economically and culturally relatively underdeveloped impoverished areas. Moreover, Su Mou, the victim, came from a remote rural area with a lower level of education and cultural awareness. After being trafficked, she was forced prostitution, allowing the criminal to profit from her situation.

5.2 Mechanisms for Preventing the Crime of Purchasing Trafficked Women and Children

(1) Improving legal systems

To better prevent the crime of purchasing trafficked women and children, China should timely revise or enact relevant laws and regulations, as well as legal interpretations, to promote the effective implementation of criminal laws universally [13]. While

increasing penalties for buyers, efforts should also be made to enhance the level of civil compensation, further raising the cost of crime for buyers to deter criminal activities. In order to better protect the legitimate rights and interests of women and children, legislative bodies should further improve laws and regulations such as the Adoption Law, Birth Control Law, and Compulsory Education Law.

(2) Enhancing social security systems

Social security systems should not only guarantee people's livelihoods but also play a role in regulating social distribution. However, there are still deficiencies in the social security system, leading some people to be marginalized from social security, which inadvertently fosters their sense of social exclusion. To meet their own needs, they may resort to criminal activities. Improving the social security system will raise people's living standards, change traditional views on raising children for support in old age, and consequently reduce the crime of purchasing trafficked individuals.

(3) Enhancing legal awareness among the general population

Firstly, legal education should be used to enhance women's ability to recognize and defend against deception, reducing the incidence of being deceived. Secondly, legal education should make people understand that purchasing women trafficked for prostitution is illegal. Educating people to not only refrain from purchasing trafficked women but also to oppose the crime of trafficking women will undermine the market for buyers and deter criminal.

6 Conclusions

The reasons of the crime of purchasing trafficked women and children are multifaceted. Besides enacting criminal legislation to penalize traffickers of women and children, implementing similar penalties for buyers can effectively manage and prevent such crimes. While criminal law plays a vital role in addressing offenses, achieving objectives cannot rely solely on punitive measures. This study underscores that reducing and preventing criminal activities ultimately hinge on the continuous progress and refinement of society. Crime prevention should primarily aim at diminishing and eradicating societal ills and vulnerabilities, enhancing social policies, systems, and cultural norms, followed by targeted punitive measures. Only through effective control and prevention of the purchasing market can the trafficking of women and children be curbed at its root, thus ensuring a secure environment and societal tranquility.

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