

Organized Crime and Illegal Adoption of Vulnerable Brazilian Children: A Human Rights Perspective

Arislene da Silva Almeida¹, Vitor Hugo Souza Moraes², Cássius Guimarães Chai^{3,4} ,
Monica Fontenelle Carneiro^{5*}, Carlos Magno Alhakim Figueiredo Júnior^{6,7,8}

¹Criminal Law and Criminal Procedure (Prominas), São Luís, Brazil

²Culture, Law and Society Research Group, Federal University of Maranhão, São Luís, Brazil

³Law Department (PPGDIR and PPGAERO), Social Sciences Center, Universidade Federal do Maranhão, São Luís, Brazil

⁴Vitória School of Law (PPGD/FDV), Vitória, Espírito Santo, Brazil

⁵Letters Department (PPGL/SLZ; PPGL/Bacabal), Federal University of Maranhão (UFMA), São Luís, Brazil

⁶Public Notary, Espírito Santo, Brazil

⁷Fundamental Rights (PPGD-FDV), Espírito Santo, Brazil

⁸Law (UAL-PT), Lisbon, Portugal

Email: arislene.sa@discente.ufma.br, hugo.vitor@ufma.br, cassius.chai@ufma.br, mf.carneiro@ufma.br, carlosmafj@gmail.com

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Abstract

We study the international trafficking of Brazilian children for illegal adoption, based on organized crime, considering not only that criminal organizations have improved in terms of such trafficking over the years but also that illegal adoption is one of their purposes. Considering child trafficking as one of the most common human market species, the research problem permeates ways of combating the transnational organized crime of trading Brazilian children for illegal adoption. This is because, despite efforts by the international community, recent studies by the UNODC (2020) and IOM (2023) show that the number of child victims of human trafficking has increased, demonstrating how this phenomenon is multifaceted and complex, evolving internally and across borders, employing increasingly specialized criminal groups. The primary objective is to address the international trafficking of Brazilian children as being more susceptible to commodification for illegal adoption through organized crime. Thus, as specific objectives, we have the following: 1) to analyze the regulation regarding international human trafficking, as well as criminal organizations activities involving child trading; 2) understand illegal adoption based on national legislation; and 3) ponder the commodification of children in contradiction to children's rights in Brazil. The research is exploratory and dialectical, including data and information

*Pos-doctorate Fellow at Faculdade de Direito de Vitória (PPGD/FDV), Espírito Santo, Brazil.

that explain the theme, such as normative provisions and recognized doctrines. Results indicate that, despite the existence of national and international legislation to combat child trafficking aimed at illegal adoption, the aforementioned practice has become increasingly latent, requiring urgent cooperative action by the international community through prevention and repression policies against this form of human commodification.

Keywords

International Child Trafficking, Organized Crime, Illegal Adoption

1. Introduction

Human trafficking is a globally organized criminal activity, representing one of the biggest problems faced today, due to its incidence at both national and international levels. As a serious violation of human rights, which involves violence, restriction of documents, deprivation of liberty, and other manifestations contrary to the dignity of the human person, it subjects the victims to degrading conditions, ultimately causing physical, moral, and psychological sequelae which may lead to their death.

At the same time, trafficking in human beings is considered one of the modern forms of slavery, affecting large swathes of the world, as the widespread activities of these criminal organizations have contributed to making it a transnational crime. To this extent, trafficking in children is a multi-faceted phenomenon that is rampant across borders and is a truly global problem that is not limited to age or gender but takes advantage of these specificities as facilitators of the criminal practice.

Given this, this research has the following problem: how to combat the activities of organized crime concerning the international trafficking of Brazilian children for illegal adoption, considering the contradiction between the rights related to the dignity of the human person and the use of children as highly vulnerable merchandise. This is because, despite the existence of legal instruments to combat human trafficking and protect children, the kidnapping, disappearance, and concealment of the identity of children by organized groups specialized in this criminal practice have become increasingly common, among other purposes, for illegal adoption.

Along these lines, a recent report by the UN's National Agency for Migration (IOM), entitled *From Evidence to Action: Twenty Years of IOM Child Trafficking Data to Inform Policy and Programming*, shows that child trafficking is a crime that continues to spread and evolve on both sides of borders, so that no age group, gender, or nationality is immune to this crime. It also reveals that victims are violated not only physically when they are subjected to objectification in the illicit market but also psychologically, as they are coerced and threatened by traffickers (recruiters and exploiters) who are members of large-scale criminal

networks (IOM, 2023).

The main objective of this research is to present the international trafficking of Brazilian children as more susceptible to commodification for illegal adoption by organized crime. To this end, the specific objectives are the following: 1) to analyze the regulation regarding international human trafficking, as well as criminal organizations' activities involving child trading; 2) understand illegal adoption based on national legislation; and 3) ponder the commodification of children in contradiction to children's rights in Brazil.

To this end, the study was developed through structured topics, based on national and international standards for child protection and international trafficking combat, aiming at the activities of criminal organizations directed to illegal adoption, integrating an explanatory methodology, anchored on scientific articles and master's and doctoral dissertations. It also relies on national and international regulations, such as the Constitution of the Federative Republic of Brazil (Constituição, 1988); Laws no. 13.509/2017 (Lei nº 13.509, 2017) and no. 12.010/2009, all of which rule adoption; Law no. 12.850/2013 (Lei nº 12.850, 2013), which is concerned with Organized Crime; and the Additional Protocol to the United Nations Convention against Transnational Organized Crime on the Prevention, Suppression and Punishment of Trafficking in Persons, Especially Women and Children (UNODC, 2000).

2. Human Trafficking as a Transnational Organized

Human trafficking is a modern form of slavery in that it has human rights-violating characteristics similar to those of the Brazilian slavery period, which lasted more than 300 years. The enslavement practices included, among others, the deprivation of freedom, the subjection to precarious subsistence conditions, labor, and sexual exploitation, the disrespect for the body, and the manifest infringement of the principle of human dignity that is common to them. In this sense, de Jesus (2003) comments that although the issue of human trafficking has been present throughout man's history, it has become an updated form of slavery in today's democratic world.

Thus, it is clear that human trafficking represents an evidently contumacious practice that marks the path of a Brazilian historical period whose consequences still have their effect on today's society, being expressed both in those days and today by the anticipated deprivation of human freedoms. Similarly, Smith (2017) states that human trafficking is a severe violation of human rights in that it forces a person to leave their place of origin for another, where they will be subjected to various forms of exploitation. According to the author, this involves curtailing fundamental freedoms, such as freedom of choice, movement, and thought, which are corollaries of human dignity.

2.1. The Concept of Human Trafficking

Trafficking in persons was belatedly appreciated in the extensive way it is today,

mainly because of the difficulty in establishing its concept, which was often restricted to specific groups and did not cover all the purposes of the crime. Although there are several national and international instruments on criminal practice in question, not one deals with human trafficking universally and in its entirety.

In 2004, Brazil became a signatory to the Additional Protocol to the United Nations Convention against Transnational Organized Crime on the Prevention, Suppression, and Punishment of Trafficking in Persons, Especially Women and Children, more commonly known as the Palermo Protocol, ratified by Brazilian Decree no. 5.017/2004, whose Article 3 states that trafficking in persons occurs employing through the displacement of people, from recruitment to reception, through the threat or use of force, as well as other forms of coercion, for exploitation, almost always sexual and labor exploitation (Decreto, 2004b).

Although the concept is internationally recognized, there are still questions about the term “exploitation” since the aforementioned Convention was not precise about its meaning, and its effectiveness is only conditioned to the practice of means and purposes, as it will be shown as constituent elements of the concept of human trafficking. In any case, concerning children, paragraph “c” of that article states that taking a child from recruitment to foster care, to exploit him or her will be considered trafficking in persons, even if it does not include the means set out in paragraph “a” of the same legal provision (Decreto, 2004b).

According to contemporary understanding, human trafficking is characterized as a transnational crime of human trade, regardless of the victim’s consent, which comes in various forms. Corroborating the above, Article 149-A of the Penal Code (Decreto-lei nº 2.848, 1940) stands out, which, in addition to the core of the criminal type that ratifies the terms adopted by the Palermo Convention, adding others, presents the purposes of the criminal practice in question, including illegal adoption.

2.2. Acts, Means and Purposes of Human Trafficking

Considering the concept established in the Palermo Convention, it is possible to highlight the fundamental elements for defining the crime of human trafficking: the acts, means, and purposes of exploitation.

In this sense, based on the Reference Guide for the Network to Combat Trafficking in Persons in Brazil (2012), drawn up by the Ministry of Justice and the National Secretariat of Justice, the acts are procedural actions for the realization of human trafficking, expressed initially in the recruitment of people to be trafficked, their transportation, transfer within the same country or in an international environment, accommodation, and reception.

The means used to carry out the acts may include not only threats, the use of force, the application of different forms of coercion, kidnapping, fraud, deception, abuse of authority, and taking advantage of vulnerability but also giving or accepting benefits to obtain the consent of a person who is responsible for

another. Furthermore, these means can be applied cumulatively in such a way as to promote the prosperity of the criminal practice and reduce the victim's conditions of resistance.

About victims, specifically, those who are the object of this study, the National Report on Trafficking in Persons, with data from 2014 to 2016, states that if the victim is a child or adolescent, the means are considered irrelevant, given the legal incapacity of the public to make decisions, as well as the condition of a vulnerable person, characteristic of those under 18 years of age. Thus, protected by comprehensive safeguards, children and adolescents cannot consent, which is why the "action" and "purpose" of exploitation of these people are sufficient for the conduct to be considered human trafficking (Brasil, 2017).

As for human trafficking, corroborating the above, they are the most diverse, such as the removal of organs, sexual exploitation, and illegal adoption, among others that have always focused on profitability (Brasil, 2012), including its international practice. To this end, as it is a crime carried out through plural conduct, trafficking in persons is usually accomplished by members of criminal organizations, who act cooperatively (Brasil, 2017).

2.3. The Activities of Criminal Organizations

According to the Ministry of Justice (Brasil, 2012), human trafficking has improved over the years and is currently considered one of the most lucrative heinous criminal practices in the world, surpassed only by drug and arms trafficking. This is due to the articulation of trafficking networks through sophisticated and structurally stable organized crime, with the exposure of human beings to the most varied forms of objectification, such as non-perishable merchandise that can be bought and sold several times on the illegal market.

In line with this, Xerez (2010) points out that the crime of human trafficking ends up arousing interest in organized crime, as it makes significant and prolonged financial gains possible. Unlike cases involving drugs and weapons, human beings are treated as objects that can be sold several times as if they were merchandise.

Concerning organized crime, Federal Law no. 12.850, on August 2, 2013, in §1º of Article 1, considers a criminal organization to be an association of four or more people who, in a structured, orderly manner and characterized by a division of functions, even if informal, have the objective of directly or indirectly obtaining an advantage of any kind (Lei nº 12.850, 2013).

Corroborating the above, the national standard for combating organized crime, Brazilian Decree nº 5.015, of March 12, 2004, which internalized the United Nations Convention against Transnational Organized Crime, understands an organized criminal group, in Article 2, paragraph "a," as one formed by three or more people, marked by habitually, to commit serious criminal practices or those expressed in the aforementioned Convention. In this case, the intention is to obtain economic or material benefits directly or indirectly (Decretonº 5.015,

2004a).

In addition, it should be noted that organized crime only occurs when criminal offenses are committed with maximum sentences of more than four years or are transnational (Lei nº 12.850, 2013), as it is the case with the crime of human trafficking, which is one of the transnational criminal activities most practiced by criminal organizations in Brazil.

One of the main characteristics of human trade by organized crime is internationalization, especially in contemporary times when economic globalization, market freedom, the development of the means of communication, and many others contribute to facilitating the universal operation of human trafficking (Gomes & Cervini, 1995).

On the other hand, it is worth noting that the child victim of human trafficking often has a close relationship with their recruiter. Along these lines, in a study carried out by the IOM to assess the factors that contribute to vulnerability to human trafficking, it was found that more than half of the children identified (52.5%) reported the involvement of friends and family in their recruitment. Often, these were people with financial means, to whom parents gave their offspring in the belief that these children would have a better chance in life, showing that, even if involuntarily, they were part of the process (IOM, 2023).

Likewise, with the expansion of the structure of services and means, considering that human trafficking reflexively involves various criminal activities, such as falsifying documents and money laundering, in addition to the difficulty of identifying trafficking routes and the modus operandi of the criminal group, the foundations of organized crime are solidifying every day. Thus, although human trafficking is not a new problem, the phenomenon of globalization has contributed significantly to its growth (Haddad, 2019).

For this reason, it is essential to have more effective regional, national, and international state cooperation mechanisms in this fight, especially in the face of the latent need for vulnerable people who lack government support, such as children, who quickly become the merchandise of human trafficking for illegal adoption. This issue will be dealt with in the following section.

3. Adoption in Brazil and Its Transfiguration into Illegality

Adoption is an institute characterized by affection, which has been part of human history since its beginning and is emphatically so today. Initially, it was aimed at satisfying religious fears or guaranteeing the perpetuation of the family name, and nowadays, it is aimed at the need to have adopted children when it is not possible to have them biologically, for different reasons.

Thus, adoption is the legal act through which a bond between paternity and filiation is established, devoid of relations of kinship or consanguinity, and an adult becomes a child's parent. Corroborating this, the civilist Pereira (2017) points out that, despite any relations of consanguineous kinship or affinity, adoption is a legal act through which one person takes another as their child.

Adoption was introduced into the Brazilian legal system around the 17th century and is currently regulated by the Civil Code, Law no. 13.509/2017, and Law no. 8.069/1990 (Statute of the Child and Adolescent - ECA). The main purpose of this institute is to provide a favorable environment for the development of children and adolescents who have been deprived of their biological family life, aiming to ensure their safety and the realization of their rights. It is characterized as an extraordinary alternative, according to §1° of Article 39 of the ECA, which states that adoption is an exceptional and irrevocable measure (Lei nº 8.069, 1990).

On the other hand, once adoption has been granted, the adoptee's rights must be guaranteed since they enjoy the same protection as other children who were born in a marital relationship. In these terms, Article 227, §6° of the 1988 Federal Constitution states that, whether they come from marriage or adoption, all children will have the same rights without any discrimination related to filiation (Constituição Federal, 1988).

In a convergent manner, the head of Article 41 of the ECA stands out, stating that through adoption, the adoptee becomes a child and, as a result, will have the same rights and duties, including inheritance (1990). Thus, it is understood that adoption is the most beneficial and effective form of substitute family, as it is a relationship of filiation that seeks to ensure that the child can live in a family with support in all spheres of their life, especially by sharing unconditional love.

However, it should not be forgotten that there are disagreements about the legal nature of adoption as a contractual or hybrid act, characterized by a solemn agreement of wills, which requires the intervention of the judiciary to be valid in the Brazilian legal system.

In line with the above, Maciel (2010) says that adoption is a complex act consisting of two phases: the first, which is of a negotiating nature, is the moment when the parties interested in the donation manifest themselves; and the second, which occurs when the state intervenes to confirm whether the adoption is suitable. Thus, these moments correspond, respectively, to the postulatory phases of the action and instruction of the judicial process, the latter being the moment when the sentence is handed down.

Adoption is governed by Section II of Chapter III of the ECA, which deals with "Procedures", and by Section IV, which focuses on "Placement in a Substitute Family", characterized as a prolonged process for Brazilians and even more so for foreigners, whose internationality has a significant influence on whether or not the request submitted for analysis by the court is granted. In this sense, the 1988 Federal Constitution states in §5° of Article 227 that the adoption process will be assisted by the Public Authority, which, following the law, will establish situations in which the criteria have been met by foreigners (1988), which is understandable given the delicacy of the issue.

The adoption process in Brazil is one of the most complex and lengthy processes, as it seeks to ensure children's well-being and healthy development. In this way, the intention is to make their rights effective in a dignified and equal

manner, regardless of, or perhaps mainly because they are adoptees living up to the normative provision of Article 227 of the Federal Constitution of 1988. To this end, the requirements for adoption were set out in the Civil Code (Articles 1.618 and 1.619), Law 8.069/90 (Articles 39 to 50), and Law no. 12.010/2009 (Lei n° 12.010, 2009).

As can be seen, the institute in question requires particular attention, especially regarding children, as they are human beings who, owing to their age, do not have the mechanisms to safeguard their lives and rights. However, the slowness of the Brazilian legal system and the bureaucracy involved in making the institute effective contribute significantly to the existence of cases of people seeking to adopt children illegally outside of legal procedures.

Dealing specifically with international adoption, the judge of the Court of Infractional Acts of Childhood and Youth of Belo Horizonte/MG, Dr. Valeria da Silva Rodrigues, states that this type of adoption manifests itself in the possibility of placing a child in a foreign surrogate family, taking into account what is best for them. To this end, Private International Law is observed, aiming to resolve conflicts of laws in relation to adopters and the adopted, as well as considering the effects of the adoption at the end of the process in the country of future parents (Rodrigues, 2016).

Similarly, Article 51 of the Statute of the Child and Adolescent states that international adoption takes place when the applicant habitually resides in a country party to the Hague Convention (1993), which refers to the protection of children and cooperation in matters of international adoption and wishes to adopt a child in another country party to the Convention (1990). According to this legal provision, international adoption occurs when an adopter lives in a different country. In these terms, it is not the nationality of the adopters that defines adoption as international, but rather the fact that the applicants for Brazilian children reside or are domiciled outside of Brazil (Venosa, 2012).

However, for international child adoption to take place, some essential requirements must be met, and it should only happen when it is the appropriate solution for the specific case; all possibilities for Brazilian adoption have been exhausted, and the preference of Brazilian adoptive parents living abroad over foreign parents has been observed (Lei n° 8.069, 1990).

The difficulty in adoption from other countries, as has been shown, has led to a decrease in the number of international adoptions of Brazilians. In addition, the National Council of Justice [CNJ] (2014) states that one of the reasons for this phenomenon is the high cost of the procedure and the European economic crisis, based on data from 2009 and 2013. In the pandemic context that has emerged in recent years, given the multiple difficulties faced globally, the tendency for this number to decrease even further and, consequently, clandestine forms of adoption to become more attractive.

Considering various scenarios, this type of adoption has become the subject of more comprehensive debate by the international community, including the sub-

ject of many multilateral declarations, conventions, and treaties.

In these terms, the United Nations [UN] has drawn up a series of conventions, among which the Convention Relating to Protection and Cooperation in Respect of Intercountry Adoption, dated May 29, 1993, commonly known as the Hague Convention, was promulgated in Brazil in 1999 through Decree no. 3.807 of June 21, 1999, establishing a system of cooperation between member states to guarantee rights in intercountry adoption and, nevertheless, to prevent international trafficking in children.

The Hague Convention is a supra-legal norm and an important international normative instrument for protecting children's welfare and rights. In this sense, the preamble to the Convention states the importance of the signatory states recognizing and acting in favor of the harmonious development of the child's personality, which must grow up in a loving, happy, and understandable family context (HAIA, 1993).

Despite its exceptional nature, international adoption is essential and the best option for children who find themselves orphaned by parental affection. However, there are national protection mechanisms to prevent violation of their rights. Thus, the Convention states that countries should recognize that international adoption is a prosperous alternative for children who find a family in foreign countries that could not be found in their country of origin (HAIA, 1993).

Given the importance of international adoption, intending to provide greater security for the institute, mainly to avoid cases of child trafficking for the same purpose, the Hague Convention emphasized the need to adopt measures aimed at ensuring the child's protection and exercise of their rights.

In this sense, article 4 of this international instrument establishes that international adoptions will only take place when the authorities of the state of origin have determined that the child is adoptable and have ascertained that once the possibilities for appropriate placement of the child in their own country have ended, international adoption is in the child's best interests (HAIA, 1993).

In addition, to avoid any form of illegal adoption through international trafficking, which is the subject of this study, the Hague Convention established that consent to the adoption process should not be conditional on payments or compensation (HAIA, 1993).

The aim of the normative instruments mentioned throughout this research, in short, the Federal Constitution (1988), the Child and Adolescent Statute (1990), and the Hague Convention (1993), is not to prevent international adoption from taking place but to ensure that it does so under the law and for the more significant benefit of children, whose vulnerability yearns for guardianship, care, love, and protection.

On this subject, Gonçalves (2014) states that adoption by foreigners has raised concerns about the possibility of facilitating the practice of trafficking in minors, not least because of the difficulty of accompanying minors who start living abroad. In the same vein, some defend national adoption as opposed to foreign

adoption, considering the importance of guaranteeing the right to identity of children born in Brazil.

Because of the divergent understandings presented, the possibility of circumventing the legal process to carry out malicious adoptions, and despite the delay in the process, seeking precisely to avoid illegality and to achieve what is best for the adoptee, it is understood that regulating the institute of international adoption is fundamental, especially in the case of children.

The objective is to provide the necessary support so adoptees can be treated with equal rights, respect, and love, regardless of any distinctions. To this end, any form of violation of these aims must be repudiated, as is the case with international child trafficking, which is much more widespread today than you might think, as shown below.

4. International Infant Trafficking: The Violation of the Dignity of the Person Who Is “Objectified” as a Commodity

Trafficking in human beings is considered a transnational crime and a contemporary form of slavery that subjects the trafficked person to the most diverse human rights violations through physical, psychological, and moral exploitation, disintegrating the concept of dignity to which every person is entitled. The trafficked person is treated as a commodity to the extent that the criminal conduct under scrutiny is dedicated to different lucrative purposes, among which is the object of study of this research: international child trafficking for illegal adoption.

The first internationally accepted definition of human trafficking was set out in the Additional Protocol to the United Nations Convention against Transnational Organized Crime on the Prevention, Suppression, and Punishment of Trafficking in Persons, Especially Women and Children, enacted in Brazil by Decree no. 5.017 of March 12, 2004. Based on this concept, a more comprehensive approach to crime was established since it began to consider the multiplicity of victims and purposes, enabling more specific studies and forms of combat concerning the public it seeks to protect.

In this context, Article 149-A of the Penal Code stands out, where human trafficking is foreseen as an alternative mixed type aimed at multiple purposes. It is clear from this legislative precept that illegal adoption is one of the purposes of human trafficking aimed at the commodification of children in violation of the formal adoption procedures regulated in the Brazilian legal system (1940).

The practice of this crime is constant despite the national and international instruments aimed at combating it, such as the Convention on Protection and Cooperation in Respect of Intercountry Adoption (HAIA, 1993). This has happened because of the ease with which crime can be carried out, brought about by the modern technological society that marks today’s globalized world.

In this context, we highlight the work concerning Criminal Organizations, whose legal provisions are found in Law no. 12.850/2013 (Lei nº 12.850, 2013) and in the United Nations Protocol against Transnational Organized Crime on

the Prevention, Suppression, and Punishment of Trafficking in Persons, especially Women and Children, in which the members of the criminal group are described as organized in a structurally hierarchical way, with a division of tasks and the aim of obtaining any advantage.

In order to carry out child trafficking, several agents with an explicit division of tasks are dedicated to international child trafficking, from the monitoring of pregnancy to the transfer of the born child to the adoptive parents when illegal adoption takes place outside the legally established procedures.

The practice of this criminal act is so ingrained in Brazil that it is commonly known as the “Brazilian adoption.” The truth is that many biological families, faced with various circumstances that are almost always related to economic difficulties, donate or sell their children without observing legal procedures outside of any legal or institutional control, which contributes to the occurrence of camouflaged child trafficking.

In this regard, [Fernandes \(2006\)](#) states that the main reason for the practice of illicit activities related to adoption, in compliance with the “law of supply and demand”, is the existence of a significant number of children living in precarious situations, on the margins of societies in developing or underdeveloped countries, associated with the demand from people in wealthy countries who are eager to have children.

There are also cases in which children are stolen from their biological parents, who are deceived by false promises of medical and/or financial help, including by possible social workers who accompany the entire gestation process, providing medicines, vitamins, and essential elements for the baby and the mother, separating them soon after birth, regardless of the parent’s consent.

These are real criminal agents who, as members of criminal organizations, divide themselves into specific tasks with other members, taking advantage of the current means of communication and transport to act together in a camouflaged way, even in different countries.

Even with international cooperation, in which several countries act independently and in harmony with each other to combat child trafficking, such a criminal practice has been gaining increasing ground as a relatively common type of human trafficking. Thus, according to the most recent report from the United Nations Office on Drugs and Crime [UNODC] on the topic, the Global Report on Trafficking in Persons in 2018, approximately one-third of the victims were children, 19% of whom were girls and 15% were boys. Regarding the pre-existing factors traffickers exploit, economic needs account for 51% ([UNODC, 2020, p. 9](#)).

In this context, it is essential to emphasize that the practice of international child trafficking for illegal adoption constitutes a real kind of commodification of the child, who is the most vulnerable of human beings, in need of family, social, legal, and governmental assistance, according to Magna Carta (1988).

In addition, the crime in question constitutes several violations of children’s rights linked to the dignity of the human person since it infringes on the child’s

right to identity and nationality and, more emphatically, deprives them of the right to live with their family of origin, generating numerous negative consequences for their development.

Children are seen as objects that can be sold directly by criminals, whose main objective is to make a profit, and indirectly by adopters, insofar as they make payments as if they were buying the children. This is a significant violation of the dignity of the human person, given the vulnerability of the children who have no means of defending themselves.

Thus, by being trafficked for illegal adoption, the child is minimized to the status of an object that can be bought and sold and is doubly victimized since children are valued in money when they are bought from their biological parents and later sold to adopters. This is why mutual governmental action between countries is essential.

In this respect, considering the provisions of the Hague Convention on the subject, one can see the importance that Central Authorities have in combating international child trafficking for illegal adoption. The aforementioned normative instrument establishes, in Article 6, that each Contracting State shall designate a Central Authority to carry out the obligations contained in the aforementioned Convention (HAIA, 1993).

In the case of Brazil, over the years, we have seen the country's commitment to the cause, to protect children and guarantee their rights, as well as combating the crime of trafficking this vulnerable public for the specific purposes under study. One example is the State Judicial Adoption Commission, which helps with the adoption process and aims to guarantee the adopted child's right to family life, including internationally.

Throughout this research, it became clear that Brazilian legislation is strict on illegal adoption, with international child trafficking being typified in Article 239 of the ECA as promoting or aiding the sending of children or adolescents abroad, without observing legal formalities, to make a profit, the penalty for which is imprisonment for four to six years and a fine (Lei n° 8.069, 1990). However, much remains to be done.

It can be seen that child trafficking for illegal adoption is an inhumane form of conduct, marked by the disregard for the rights of people who are in a vulnerable situation, including biological parents, adopters, and children, in order to reduce the latter to the status of objects at their disposal.

Given the debate provided in this study, marked by those uncertainties and contrasts in the globalized world, in which criminal organizations have increasingly perfected human trafficking, including child trading, it is vital to open our eyes to this transnational phenomenon, camouflaged but real, as it violates the rights of children in Brazil.

5. Methodology

Law and society are intrinsically related and participate in a mutual process of

influence, given that while law aims to regulate life in society, human relations increasingly demand a legal science that is social and dynamic, capable of keeping up with its constant transformative process. Hence, it is crucial to conduct legal research based on theory and praxis. To this extent, [da Fonseca \(2009\)](#) advocates the production of pragmatic knowledge in order to identify problems and propose solutions.

Based on this, the method used in this research is dialectical, as it proposes the discussion of a social phenomenon through dialogical argumentation, with constant questioning about the facts of social life related to it. Furthermore, this is legal-sociological research, with a qualitative approach, focused on the analysis of child trafficking for illegal adoption by organized groups, presenting reflections on the dynamism of legal science in the face of the globalized world, which is more suited to the perception of intangible data ([Minayo, 2013](#)).

In this sense, the study is based on bibliographic and documentary techniques aimed at describing, analyzing, and reflecting on the proposed theme, essentially through classic and contemporary authors who deal with human trafficking and documents developed by the [UNODC \(2020\)](#) and [IOM \(2023\)](#), which present updated data on child trafficking. In addition, normative instruments to prevent and combat human trafficking and the actions of criminal organizations for this purpose, such as Laws no. 8.069/1990 (Statute of the Child and Adolescent), no. 13.509/2017 (Adoption Law), and no. 12.850/2013 (Criminal Organizations Law), considering the object of the research, which is the trafficking of children for illegal adoption carried out by organized groups.

6. Results

This study proposed not only a relevant but also a necessary analysis and discussion on the international trafficking of children carried out by criminal organizations, bearing in mind that, as victims of human trafficking, due to their age, children are more susceptible to this criminal conduct, despite the existing political, legal, material, and formal instruments which aim to protect them. In this sense, considering human trafficking as a modern form of global slavery, it was emphasized that children are much more vulnerable and easily commodified in international territory by people who want to have children and find illegal adoption as a way of doing so.

Throughout the research, it was observed that various factors contribute to the increasingly constant practice of human trafficking in Brazil. With a focus on child trafficking for illegal adoption by organized groups, it was found that the main reason is the poverty experienced by people on the margins of society, who are in constant search of better life opportunities and, as a result, become more vulnerable. Furthermore, it was found that child trafficking is not restricted to age, color, race, ethnicity, gender criteria, or even geographical barriers, as it victimizes boys and girls of different ages, both nationally and internationally ([IOM, 2023](#)). Furthermore, the reasons for choosing Brazil as a significant ex-

porter are justified by its underdevelopment and an extension of over 16.886 km of quite varied terrestrial borders with nine countries of South America: Uruguay, Argentina, Paraguay, Bolivia, Peru, Colombia, Venezuela, Guyana and Suriname, and with the French Department of Guiana.

Based on these findings, it was observed that although the Brazilian state has been proactive not only in proposing normative acts to prevent and combat trafficking in human beings but also in including legislation aimed at protecting specific groups, such as women and children, to demonstrate its commitment to the international community, Brazil is still the scene of intense human rights violations with the commodification of human beings. This is why there is an extreme need for international collaborative action so that states cooperate mutually to prosper in a common cause: concentrating efforts to reduce and put an end to human trafficking and making those directly or indirectly involved in it quit such a practice.

In this context, concerning the activities of criminal organizations, it is unquestionable that their activities have become increasingly widespread, to the extent that the advance of communication technologies has made it easier for several people to carry out criminal acts, even in different locations. In this respect, it has been noted that children often do not realize the trafficking context in which they find themselves, not only because they are given new identities and belong to a different family context but also because their family members and friends often participate in recruitment, albeit indirectly. This has led to the transnational reach of organized crime, with the aim of gaining economic advantages on a global scale and making it difficult to tackle.

7. Conclusion

Given various factors, such as the improvement of criminal organizations in the practice of human trafficking, as well as the difficulties with bureaucracy in Brazil in relation to the institute of adoption, this study proposed a hypothesis to be tested to verify whether the laws of the Brazilian legal system, based on the Constitution of the Federative Republic of Brazil (1988), not only guarantee the right to human dignity as a fundamental principle of the Democratic State of Rights but are also effective in combating organized crime in international trafficking for the illegal adoption of national children.

The development of this research was fundamental from an academic, social, and legal point of view, as it provided an opportunity to reflect on the actions of criminal organizations that have progressively developed in an articulated and structured way to act in the international sphere, especially about the international trafficking of people for various purposes, including the sale of children for illegal adoption. Along these lines, we highlight the regulatory framework for combating organized crime, essentially Law no. 12.850/2013, which plays an important role in curbing the illicit activities of criminal organizations which have surpassed the principle of international cooperation provided for in the

Brazilian Constitution of 1988, about Brazil's international relations with other countries for the progress of humanity.

Nevertheless, this research has also played a significant role in proposing an analysis of international human trafficking as the third most lucrative form of trafficking (Lei nº 12.850, 2013), which has led more and more human beings to be subjected to the condition of merchandise for various purposes. Not only were their discussions about what was presented for analysis with a focus on the problem but also proposals for combating the trafficking of children for illegal adoption were presented, highlighting the need to confront the organized crime system.

When we consider human trafficking, which is so intrinsic and hidden as a violation of human rights, in Brazilian society, which is an importer and exporter of such “products”, there is a fundamental concern about trafficked children, given that turning these vulnerable beings into valuable commodities is a very delicate situation. For this reason, this study enabled three critical analyses: 1) what international human trafficking is, specifically when it involves children; 2) how illegal adoption by international adoptive parents takes place in Brazil; and 3) how criminal organizations operate in the international trafficking of children for adoption.

We conclude that although there is national and international legislation to combat human trafficking, specifically of children and illegal adoption, this practice has not only grown in terms of its limits and frequency but also improved its hiding capacity in Brazilian society. This demonstrates the need for more effective multilateral, social, and legal cooperation between states and the international community, aimed at the prevention and combat of human trafficking and the commodification of the human body, along with the preservation of the national and international rights of children, as well as the necessary fight against the prevalence of organized crime.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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