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USER-GENERATED CONTENT & TRAFFICKING IN HUMAN BEINGS



SYMPOSIUM REPORT

Senatssaal, University of Vienna

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ACKNOWLEDGEMENTS

The symposium on User-Generated Content and Trafficking in Human Beings was organised on 31 October 2023 by the Ludwig Boltzmann Institute of Fundamental and Human Rights. The project benefited from a funding grant from the Ministry of Foreign Affairs, Education and Sport of the Principality of Liechtenstein. The event was hosted by the University of Vienna.

The organizers would like to express their appreciation to all speakers, moderators, and symposium contributors for their insightful presentations and comments.

OPENING REMARKS

Participants were welcomed by Michael Lysander Fremuth – Professor of Fundamental and Human Rights at the Institute of Constitutional and Administrative Law of the University of Vienna and Director of the Ludwig Boltzmann Institute of Fundamental and Human Rights. Professor Fremuth stressed the relevance of the topic of the symposium, noting that during the last years, the fight against online trafficking in human beings has become a top priority for national and international prosecution agencies. From the recruitment of victims up to their physical exploitation, criminals use the internet and social media and have acquired advanced technical skills and expertise in this respect. While user-generated content can play a crucial role in the investigation and prosecution of trafficking in human beings, Professor Fremuth noted that it comes with risks that require attention both from academics and practitioners.

Dominik Marxer, Deputy Head of Mission, Embassy / Permanent Mission of Liechtenstein to the OSCE and the UN in Vienna, stressed the significance of the symposium topic to the international policy agenda of the Principality of Liechtenstein in his welcoming remarks. In this regard, Marxer referred to the Liechtenstein Initiative for a Financial Sector Commission on Modern Slavery and Human Trafficking, which prepared the ground for the Finance Against Slavery and Trafficking Initiative (FAST).

Konstantina Stavrou, Researcher at the Ludwig Boltzmann Institute of Fundamental and Human Rights and University Assistant at the University of Vienna focusing on the use of user-generated digital evidence and international criminal law, and Helmut Sax, Senior Researcher at the Ludwig Boltzmann Institute of Fundamental and Human Rights focusing on children's rights and human trafficking, concluded the welcoming remarks.

SESSION I: THE NEXUS BETWEEN USER-GENERATED CONTENT AND TRAFFICKING IN HUMAN BEINGS

Chair: Andreas Sauermoser, University of Vienna – Ludwig Boltzmann Institute of Fundamental and Human Rights

Panelists: Tatiana Kotlyarenko, ODIHR/OSCE; Antoaneta Vassileva, Council of Europe/Group of Experts on Action against Trafficking in Human Beings; Radu Cucos, OSCE; Martin Reeve and Jon Blake, UNODC, Global Action Against Trafficking in Persons and Smuggling of Migrants; Sanja Milivojevic, Bristol Digital Futures Institute / School for Policy Studies, Bristol University

Promising, Effective Ways to Address Technology-facilitated Human Trafficking **Tatiana Kotlyarenko**

Tatiana Kotlyarenko discussed the issue of trafficking for pornography production. In this regard, Kotlyarenko noted that online pornography often constitutes a lasting result of human trafficking whereby the exploitation does not end with the physical liberation of victims, as the material spreads quickly and is hard to remove in full. Traffickers use the material to control and blackmail victims and to lure other victims. Among the main problems identified regarding the issue are that victims might be hidden or threatened with violence; they may distrust law enforcement; they may be hesitant to self-identify as a victim of human trafficking; the lack of public awareness; and, lastly, that evidence is often anecdotal, with no reliable data. Kotlyarenko concluded the presentation with insights into the increase of demand for violent pornographic material,

following the outbreak of the war in Ukraine.

ICT-facilitated Human Trafficking – Concerns and Engagement of GRETA

Antoaneta Vassileva

Antoaneta Vassileva's pre-recorded intervention focused on some key findings from GRETA's 2022 report on ICT-facilitated Human Trafficking.¹ The key challenges identified in the report encompassed data encryption, the large volume of data, the rapid technological advancement combined with little technical resources, inadequate legislative tools, lack of training among prosecutors and insufficient support from the private sector. State parties have found evidence of human trafficking in job advertisements on social media and dating applications, with a common approach being an 'online lover boy' who establishes contact with potential victims seeking to establish control over a romantic relationship. Several State

¹ GRETA, 'Online and Technology-facilitated Trafficking in Human Beings' (Council of Europe, 2022) <[https://rm.coe.int/online-and-](https://rm.coe.int/online-and-technology-facilitated-trafficking-in-human-beings-summary-/1680a5e10c)

[technology-facilitated-trafficking-in-human-beings-summary-/1680a5e10c](https://rm.coe.int/online-and-technology-facilitated-trafficking-in-human-beings-summary-/1680a5e10c)> accessed 3 March 2023

parties reported blackmailing, including through collecting compromising information about the victim. Vassileva concluded the presentation by stressing that the recommendations in the report should serve as a roadmap for all those involved in the fight against trafficking in human beings.

The Misuse of Online Platforms for Trafficking in Human Beings – Manifestations and Responses

Radu Cucos

Radu Cucos presented highlights from the latest OSCE report – Mapping the Online Landscape of Risks of Trafficking in Human Beings on Sexual Services Websites across the OSCE Region.² Technology is misused at every stage of the human trafficking crime, with one of the most frequent examples being the use of online platforms, particularly websites offering sexual services, to advertise victims of trafficking for sexual exploitation. The report was designed to identify (in selected OSCE participating States) the market-leading online websites and platforms for the explicit and non-explicit selling of sexual services where victims of THB for sexual exploitation could be advertised. This report aims to address the existing information gap regarding websites with high risks for facilitating sexual exploitation. The findings were based on the mapping and analysis of more than 2.000 sex services websites across 40 OSCE participating States, containing over three million ads. The report recommends, among others, a systematic

mapping of sexual services websites, and capacity-building of law enforcement to initiate proactive investigations in case of finding trafficking indicators on these websites.

Open Source Internet Investigation for ALL

Martin Reeve and Jon Blake

Jon Blake provided insights into the training on open source investigations that aims to empower law enforcement agencies to use the World Wide Web and the internet effectively and to give structure to investigations. An important principle in assessing evidence found online, which is given in training, is the 'ABC'. The principle stands for Assume nothing, Believe nobody, and Challenge everything. Blake also stressed the importance of securing and preserving the collected evidence, whose goal is finding the original evidence that will help attribute material to offenders.

Revisiting the Trafficking-Technology Nexus – Calling Quits or a New Agenda?

Sanja Milivojevic

Sanja Milivojevic revisited her 2020 article on human trafficking, modern slavery and technology.³ Milivojevic referred to some assumptions the authors identified in a literature review about the technology trafficking nexus and examined the relevance of these assumptions during and after the COVID-19 pandemic and due to the increase in the use and sophistication of technology. Despite the lack of information on the

² OSCE, 'Mapping the Online Landscape of Risks of Trafficking in Human Beings on Sexual Services Websites across the OSCE Region' (2023) <www.osce.org/cthb/555441> accessed 3 November 2023.

³ Sanja Milivojevic, Heather Moore and Maria Segrave 'Freeing the Modern Slaves, One Click at a Time: Theorising Human Trafficking, Modern Slavery, and Technology' (2020) 14 Anti-Trafficking Review 16.

number of human trafficking cases in which technology played a role, there is still an assumption that there is little reason to doubt the importance of the role of the Internet in the human trafficking of women. Milivojevic stressed the need for rigorous empirical evidence, arguing for more robust scholarly engagement with the role of technology in enabling and disrupting exploitation and pointing to the importance of ensuring that technology is not a distraction from addressing the root causes of exploitation and abuse.

SESSION II: CASE STUDY: USER-GENERATED CONTENT AND TRAFFICKING OF CHILDREN

Chair: Katie Klaffenböck, IOM

Panelists: Madeleine van der Bruggen, Office of the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children; Dorothea Czarnecki, FORENSIK.IT; Astrid Winkler, Consultant/ECPAT Austria; Helmut Sax, Ludwig Boltzmann Institute of Fundamental and Human Rights

Child Victims of (Online) Sexual Violence and Exploitation – Research by the National Rapporteur

Madeleine van der Bruggen

Madeleine van der Bruggen presented research on child victims of (online) sexual violence and exploitation conducted by the National Rapporteur. In the Netherlands, an estimated one-third of human trafficking victims are underage, with the vast majority of them being victims of sexual exploitation. Van der Bruggen underlined that digital technologies can function both as facilitators and as disruptors of child sexual violence and exploitation. Child sexual exploitation and abuse material may, for instance, unintentionally end up in criminal networks, which can operate in increasing anonymity, and be repeatedly exchanged. Digital technologies can, however, also function as disruptors by allowing to infiltrate criminal networks and identify victims. Van der Bruggen emphasized the significance of age-appropriate prevention programmes that educate children on healthy online sexual behaviour to avoid victimisation.

Child Online Exploitation and Human Trafficking – An Insight into Digital Forensics

Dorothea Czarnecki

Dorothea Czarnecki offered an insight into digital forensics, including through a practical example of using a person's telephone number, noting that the information that can be retrieved from a device can give a comprehensive impression of a person. Addressing the topic of Artificial Intelligence (AI) versus the human eye, Czarnecki noted that while AI can be useful for analysing photographs, it is not suitable for assessing context and has a high error quota. Among the main proofs of intent based on an analysis of context, according to Czarnecki, are evidence of downloads, timelines, movement profiles, as well as changes and escalation of user behaviour.

The EU CSAM Regulation and Its Potential to Prevent Child Trafficking

Astrid Winkler

Astrid Winkler's presentation (who, unfortunately, could not participate), which focused on the European Commission's Proposal for a Regulation to Prevent and Combat Child Sexual Abuse for online service providers offering services in the European Union, was shortly summarized by Helmut Sax. The proposal includes a general obligation to assess the risk of the services being misused for online child sexual abuse and to adopt mitigation services. The proposal also includes an obligation for application stores to prevent children from downloading applications presenting a risk for grooming by taking age verification measures as well as an obligation on internet access providers to disable access to images and videos that cannot be taken down. In addition, the proposal foresees the establishment of an EU centre to prevent and combat child sexual abuse, which will support both member States and victims. The proposal intends to comprehensively target existing as well as not yet known child sexual abuse material, as well as grooming and all electronic communication platforms, with its added value being the general obligation for platforms to assess the risk of use of their services for online child sexual abuse/grooming.

Child Trafficking – A Failed Concept? Implications for (Online) Identification and Victim Protection

Helmut Sax

Helmut Sax focused his presentation on the issue of the lack of a clear and effective definition of 'child trafficking' and the major flaws and challenges in the child trafficking concept. Sax noted that the lack of clarity related to the concept itself, including a problematic understanding of child "consent" and leaving out "illicit means" in the child trafficking definition, can lead to vague responses and pose obstacles to victim identification and protection. The difficult identification of online child exploitation victims can, for instance, affect access to referral mechanisms. Some key recommendations include reflecting on the concept of child trafficking and using a narrow, teleological interpretation of the definition; emphasising the importance of means as indicators of (also: online) child trafficking for victim identification, investigations and prevention; and ensuring complementarity and synergies between the concepts of trafficking and exploitation.

SESSION III: USER-GENERATED CONTENT IN CRIMINAL PROCEEDINGS

Chair: Konstantina Stavrou, University of Vienna – Ludwig Boltzmann Institute of Fundamental and Human Rights

Panelists: Alexa Koenig, Human Rights Center, University of California, Berkeley School of Law; Kerstin Kreuzer and Christian Jechoutek, Austrian Ministry of the Interior/Austrian Europol EMPACT Coordinator; Yvonne McDermott Rees, Swansea University; Psychosocial Counsellor, LEFÖ – Intervention Center for Trafficked Women and Girls (LEFÖ-IBF, Austria)

Digital Open Source Investigations into Human Rights Violations

Alexa Koenig

Alexa Koenig presented on the topic of digital open source investigations, which she underlined shall be guided by three sets of principles – professional, methodological and ethical. Open source information can be used as intelligence for decision-making purposes, as lead information (ie information leading to evidence), or directly as evidence. Pre-investigative steps include a digital risk assessment, a digital landscape assessment and an online investigation plan. The documentation steps, as identified within the Berkeley Protocol on Digital Open Source Investigations, include online inquiries, preliminary analysis to determine whether or not to collect information, collection, preservation, verification, analysis, and, lastly, reporting.

User-Generated Content in Criminal Investigations – European Perspective and Austrian Case Study

Christian Jechoutek and Kerstin Kreuzer

Christian Jechoutek offered the European perspective on investigations in relation to the topic of user-generated content and trafficking in human beings. Several steps in the trafficking process have moved to the online domain, including victim profiling, and recruitment for certain forms of exploitation. Some of the challenges posed by technology to human trafficking investigations include the increased anonymity, the massive commercialisation and the reduced criminal workforce, as well as the legislative loopholes. The internet is a key facilitator for the trafficking in human beings with an impact on the entire human trafficking process, from recruitment to transportation, harbouring and control, exploitation as well as criminal finances. Jechoutek noted that while technology offers multiple benefits to criminal networks, it

also provides law enforcement with investigative tools, such as digital footprints and evidence from, among others, financial transactions and uploaded content. Reflecting on the way forward, Jechoutek pointed out the need for empowered and increased capabilities, improved legislative tools and updated legal systems, more functional cooperation between law enforcement agencies and the private sector, as well as international and regional cooperation.

Kerstin Kreuzer presented key facts of the investigation in the *Mariposa* case (2018/19) on human trafficking for sexual exploitation by the Criminal Investigation Department of Lower Austria. Social media and the internet played a central role in the case. More specifically, Kreuzer noted that the victims were recruited via social media, travel arrangements and advertisement were conducted online, and the victims were intimidated by threats on social media. In addition, the defence introduced photographs from a birthday party as evidence against proof of coercion, which did not, however, play a role in the final judgment.

Legal Aspects of the Use of User-Generated Evidence in Criminal Proceedings

Yvonne McDermott Rees

Yvonne McDermott Rees discussed key legal aspects of the use of user-generated content as evidence in criminal proceedings and raised possible challenges to the admissibility of this type of evidence, related to its provenance, probative value and prejudicial effect. In this regard,

McDermott sketched out some important aspects related to the evaluation of user-generated evidence, answering the questions of who, what, when, where, and why about the creation and discovery of this kind of evidence. A key factor is the source of the information – both the person who captured it and the person who shared it online or with investigators. Techniques such as geolocation, which involves comparing features of the landscape to satellite imagery to pinpoint whether a piece of content was taken in the purported location, and reverse image searching to check whether the content appeared online before, or to cross-reference it with other material online, can be used by investigators to gain further contextual information about a piece of evidence. Lastly, an important element can be the metadata, which can include information about the time, date and location of capture, and the device on which the content was captured.

Reflections from an Austrian Court Case on How Technology Could Contribute to the Protection of Victims and Access to their Rights

Psychosocial Counsellor

A psychosocial counsellor (who requested anonymity for public documentation) finally took up the previously-mentioned *Mariposa* case in Austria. The panelist worked for LEFÖ-IBF, the main intervention centre for trafficked women in Austria, and presented some lessons learned from that case from a non-governmental, victim protection perspective. In particular, the speaker emphasised the

need for sensitisation of professionals in the justice sector, including prosecutors and judges, on the relevance of social media material to adequately understand the implications for the credibility of victims' statements in court.

OUTLOOK

- Despite legal definitions, the terminology and concepts of human trafficking for a wide range of exploitative purposes often remain imprecise or ineffective, as in the case of child trafficking. This can affect victim identification, protection and access to remedies as well as prevention. Participants stressed the relevance of clear terminology and definitions in this regard, especially in relation to the online dimension of recruitment and exploitation.
- Identifying gaps and considering mandatory regulations and the relevance of comprehensive legal frameworks should be considered.
- Given the lack of numbers reported on cases of trafficking in human beings in the online sphere, participants agreed that more research on the nexus is necessary.

This includes domestic data collection, analysis and monitoring.

- Participants stressed the importance of engagement with the private sector – both about online service providers and about human rights due diligence.
- Due to the lack of specialised training in the topic and the increased challenges of digital open source investigations, especially from a human rights perspective, capacity-building activities for judges, prosecutors, and the police were highlighted as necessary.
- With this in mind, the Ludwig Boltzmann Institute of Fundamental and Human Rights will explore opportunities for further research and capacity building with relevant stakeholders at the domestic level to link international developments with domestic action.

09:30-09:45

WELCOME & INTRODUCTION

Michael Lysander Fremuth, University of Vienna; Ludwig Boltzmann Institute of Fundamental and Human Rights

Dominik Marxer, Embassy / Permanent Mission of Liechtenstein to the OSCE and the UN in Vienna

Helmut Sax and **Konstantina Stavrou**, Ludwig Boltzmann Institute of Fundamental and Human Rights

09:45-11:00

SESSION I

THE NEXUS BETWEEN USER-GENERATED CONTENT AND TRAFFICKING IN HUMAN BEINGS

Promising, Effective Ways to Address Technology-facilitated Human Trafficking

Tatiana Kotlyarenko, ODIHR/OSCE

ICT-facilitated Human Trafficking – Concerns and Engagement of GRETA (online)

Antoaneta Vassileva, Council of Europe/Group of Experts on Action against Trafficking in Human Beings (GRETA)

The Misuse of Online Platforms for Trafficking in Human Beings

– Manifestations and Responses **(online)**

Radu Cucos, OSCE

Open Source Internet Investigation for ALL (online)

Martin Reeve and **Jon Blake**, UNODC, Global Action Against Trafficking in Persons and Smuggling of Migrants (GLO.ACT)

Revisiting the Trafficking-Technology Nexus – Calling Quits or a New Agenda?

Sanja Milivojevic, Bristol Digital Futures Institute / School for Policy Studies, Bristol University

11:00-11:30

COFFEE BREAK

11:30-12:45

SESSION II

CASE STUDY: USER-GENERATED CONTENT AND TRAFFICKING OF CHILDREN

Child Victims of (Online) Sexual Violence and Exploitation

– Research by the National Rapporteur

Madeleine van der Bruggen, Office of the Dutch National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children

Child Online Exploitation and Human Trafficking – An Insight into Digital Forensics

Dorothea Czarnecki, FORENSIK.IT

The EU CSAM Regulation and Its Potential to Prevent Child Trafficking

Astrid Winkler, Consultant/ECPAT Austria

Child Trafficking – A Failed Concept? Implications for (Online) Identification and Victim Protection

Helmut Sax, Ludwig Boltzmann Institute of Fundamental and Human Rights

12:45-13:45

LUNCH

13:45-15:15

SESSION III

USER-GENERATED CONTENT IN CRIMINAL PROCEEDINGS

Digital Open Source Investigations into Human Rights Violations

Alexa Koenig, Human Rights Center, University of California, Berkeley School of Law

User-Generated Content in Criminal Investigations – European Perspective and Austrian Case Study

Kerstin Kreuzer and **Christian Jechoutek**, Austrian Ministry of the Interior/Austrian Europol EMPACT Coordinator

Legal Aspects of the Use of User-Generated Evidence in Criminal Proceedings (online)

Yvonne McDermott Rees, Swansea University

Reflections from an Austrian Court Case on How Technology Could Contribute to the Protection of Victims and Access to their Rights

Psychosocial Counsellor, LEFÖ – Intervention Center for Trafficked Women and Girls (LEFÖ-IBF, Austria)

15:15-15:30

OUTLOOK & CLOSING

Konstantina Stavrou, University of Vienna; Ludwig Boltzmann Institute of Fundamental and Human Rights

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