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# HOW DO GOVERNMENT IDEOLOGIES SHAPE ANTI-TRAFFICKING DIRECTIVES?

Analysing Populist Parties Influence In and Out of Government

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## ABSTRACT

When looking to analyse state's anti-trafficking strategies, usually it's analysed from an International Relations perspective on why states comply with international treaties such as the UN Anti-Trafficking Protocol, and the reasons given are coercion by other states or a strategic decision made by states to enhance their reputation and demonstrate their commitment. However, it is important to analyse trafficking in human beings beyond an International Relations perspective as to get an understanding of what problematics may be influencing trafficking policies within a state. However true it may be that a state's behaviour is influenced by the international system, domestic factors also play a role. Government ideologies shape how policies are implemented within a state. The question becomes how do government ideologies shape specifically anti-trafficking directives? As certain political groups project themselves as vindicating for social justice and human trafficking tends to target vulnerable groups, we could expect a correlation between these parties' strong political representation in the cabinet or parliament and more or stronger anti-trafficking directives. On the other hand, other parties' ideologies have a more populist and nationalist trend to it which might result in harsher migration policies which leave further vulnerable the already marginalized groups and have an overall negative impact on anti-trafficking policies, particularly regarding victims' protection.

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## 1. INTRODUCTION

In today's interconnected world, the issue of human trafficking has become a global concern, prompting governments around the world to develop directives and strategies to combat this heinous crime. However, the approach taken by different countries in addressing human trafficking can vary significantly, influenced by their respective government ideologies. Government ideologies, shaped by political, cultural, and social beliefs, play a pivotal role in formulating anti-trafficking directives. These ideologies influence the priorities, strategies, and resources allocated to combatting human trafficking, ultimately shaping the effectiveness and success of these initiatives. Therefore, understanding how government ideologies shape anti-trafficking directives is crucial in comprehending the diverse approaches taken by governments around the world in addressing this grave violation of human rights. This essay will delve into the ways in which government ideologies contribute to varying anti-trafficking directives, exemplifying how different political landscapes influence the strategies and outcomes in the fight against human trafficking.

## 1.1 METHODOLOGY

To begin, an extensive descriptive literature review is conducted, which involves systematically examining scholarly articles, books, reports, and policy documents related to government ideologies, anti-trafficking initiatives, international human rights instruments, and social legislation. This review serves as a foundation for understanding the existing body of knowledge on the subject.

Next, two case studies are undertaken to gain a deeper understanding of how government ideologies shape anti-trafficking directives. Hungary and Denmark are chosen as the focus of the case studies due to their distinct political contexts and approaches to combating human trafficking. Through an in-depth analysis of each country, various factors are considered, such as current political climate, domestic and international human rights instruments ratified by the government, trafficking trends, existing national anti-trafficking directives, and social legislation.

By examining the government ideology of each case study country in relation to its anti-trafficking directives and social legislation, a critical connection is established. Through this connection, the researcher seeks to explore how the principles, values, and beliefs held by the government shape the design, implementation, and effectiveness of their anti-trafficking policies.

Finally, a cross-study analysis is conducted to compare and contrast the findings from Hungary and Denmark. Through this comparative analysis, patterns, similarities, and differences can be identified, providing a broader understanding of the influence of government ideologies on anti-trafficking directives across different contexts.

Overall, this methodology combines a comprehensive literature review, in-depth case studies, and a cross-study analysis to investigate the relationship between government ideologies and anti-trafficking directives. This multidimensional approach aims to provide valuable insights into the complexities of policy-making in addressing human trafficking within diverse political landscapes.

## 2. LITERATURE REVIEW

### 2.1 GOVERNMENT IDEOLOGIES

Governmental ideologies include a broad spectrum of political convictions and tenets that influence how countries are governed and formulate their policies. These ideologies shape how the state functions in accordance to its citizens, how wealth and authority is distributed and how it interacts with other states (Schmidt, 1996). Political systems and their effects on various policy areas can only be understood by having a thorough understanding of the various types of governmental ideologies.

On one hand, liberalism is a well-known political philosophy that prioritizes individual freedoms, minimal government involvement, and free-market economies which foster economic rivalry. It values the defence of personal freedoms above all such as the right to free speech and freedom of religion. It sustains on constitutional democracy, rule of law and checks and balances as the foundation for government (Mudde, 2007; Schmidt, 1996).

Socialism, on the other hand, advocates for strong government intervention and wealth redistribution. It is an ideology that seeks to redress social and economic disparities. It promotes social welfare, resource ownership by all parties, and economic equality (Mudde, 2007). To lessen inequality and advance a more just society, socialist governments frequently give priority to social welfare programs, labour rights, and income redistribution (Cho et al., 2014).

Conservatism is a prominent political philosophy that prioritizes maintaining established norms, institutions, and social order. It encourages consistency, stability, and slow change. Conservative governments place a high priority on maintaining national boundaries and sovereignty. They emphasize the significance of preserving long-standing institutions, customs and values in determining governance and policy choices (Gallagher, 2010).

Authoritarianism is characterized by a centralized authority with little room for individual freedom and little scope for political participation. Political dissent and civil freedoms are just two examples of the many facets of society that the government tightly controls in an authoritarian state. Little involvement from the general public is wanted, as the central political entity seeks to control policies and governance decisions (Müller, 2016).

These political ideas can coexist in various degrees throughout various political regimes and are not mutually exclusive. For instance, a government might favour liberalism over other ideologies while nevertheless adopting conservative or socialist principles in its approach to policy.

Understanding the motivations and goals of governments in addressing diverse social challenges, including human trafficking, requires an understanding of the influence of governmental ideology on policy choices and governance. The priorities and tactics used in the fight against human trafficking might be influenced by various political ideologies. For instance, liberal governments may prioritize human rights, international collaboration, and victim-centred strategies (Belser, 2005). For the purpose of preventing trafficking and preserving national security, conservative administrations may give priority to border control and law enforcement initiatives (Chuang, 2006).

## 2.2. POPULISM

A thin-centred ideology known as populism views society as being divided into two homogenous and adversarial groups: the honest masses and the corrupt ruling class. It places a strong emphasis on the popular will, frequently undermining established political institutions (Akkerman et al., 2014).

Populism has attracted a lot of attention as a political phenomenon because of how it affects government and policymaking. A thorough description of populism is provided by Akkerman, Mudde, and Zaslove (2014), who define it as a socio-political movement defined by strong hostility to elites and the assertion that it stands for the true interests of the people against allegedly corrupt institutions. Müller (2016) expands on this definition by adding to the described anti-elitism, an anti-pluralist character. The populist figure refuses to acknowledge a convergence of ideas as beneficial and seeks to concentrate political power (Müller, 2016). Albertazzi, D., & McDonnell, D. (2008) emphasizes how it positions itself as the people's voice, representing their concerns and ambitions.

A vital component of its investigation is the effect of populism on government and policies. Although populism can reflect a left-wing as much as a right-wing ideology, economic protectionist measures, nationalistic stances, and the development of social welfare systems are the policies most frequently prioritized as it appeals to their voters

(Akkerman et al., 2014). Understanding how populism affects governance can provide you important insights into how policy is directed and how the political landscape is changing.

### 2.3. HUMAN TRAFFICKING

The recruitment, transportation, transfer, harbouring, or receiving of people for the purpose of exploitation through coercion, fraud, or force constitutes the crime known as trafficking in human beings (Annex II, 2000). The commodification and mistreatment of people constitutes a serious violation of human rights. Victims of this crime are treated inhumanely and as mere commodities to be purchased, traded, and exploited for traffickers' financial gain (Brysk & Choi-Fitzpatrick, 2012).

Human trafficking distinguishes itself from other migration or labour patterns by its exploitative character. Forcible labour, sexual exploitation, domestic servitude and the removal of organs are just a few examples of how exploitation can occur that cause victims to suffer significant bodily, emotional and psychological trauma (Bartilow, 2008).

Sex trafficking and labour trafficking are the two most common types of human trafficking, although it can take many different forms. Recruitment, hosting, or transportation of people for the purpose of sexual exploitation constitutes sex trafficking (Raymond, Hughes, & Gomez, 2001). It encompasses forced prostitution, pornography, and other types of sexual abuse perpetrated against the victims.

Labour trafficking, on the other hand, entails using people as slaves in a variety of industries, including manufacturing, household labour, construction, and agriculture (Amahazion, 2015). These people are forced to work in abusive circumstances by coercion, deception, violence or threat thereof, receiving little to no compensation and losing control over their work.

It is crucial to acknowledge that a behaviour can still constitute human trafficking with the victim's (initial) authorization. Even if consent is given to their smuggling, migration or employment, human trafficking can still happen if they are later subjected to coercion, fraud, or force. Understanding and preventing this crime requires considering the power imbalance, misuse of power, and vulnerability of the victims (Aradau & van Munster, 2011).

Human trafficking can also take place within and outside of boundaries. It is not exclusive to a single area or nation. Trafficking networks frequently operate globally, utilizing open borders, ineffective law enforcement, and corruption (Cho, Dreher, & Neumayer, 2011). False documentation, smuggling routes, or corrupt officials' assistance can all be used to enable the transit of victims across borders (Kouskouna & Kyriazi, 2016).

In addition, a variety of individuals and groups are involved in human trafficking. Traffickers are crucial in the selection, movement, and management of victims. They frequently work inside organized criminal networks and take advantage of people's weaknesses in order to profit (Brysk, 2011). However, this crime is not just committed by traffickers, it is perpetuated by additional people or groups, including recruiters, employers, facilitators, and even customers of exploitative services (Kara, 2017).

Understanding the characteristics of human trafficking lays the groundwork for creating preventative, safety, and legal action strategies that work. Policymakers, law enforcement agencies, and civil society organizations can cooperate to address the underlying causes, safeguard victims, and hold offenders accountable by understanding the characteristics that characterize this crime.

Seeing as human trafficking is a clandestine crime and traffickers use deceitful methods, it can be difficult to identify victims. However, some demographics are thought to be more vulnerable to falling prey to trafficking. Vulnerable populations like migrants, refugees, women and girls, children, LGBTQ+, ethnic minorities, homeless individuals and substance users are among these at-risk groups (Gozdziak & Collett, 2005). Different genders and age groups are usually exposed to different forms of exploitation.

The frequency and continuation of human trafficking are influenced by several important components and circumstances. A major cause behind this crime is the demand for inexpensive labour, commercial sex, and organs (Belser, 2005). Traffickers take advantage of the situations created by global economic inequities, where people are desperate for work and better life opportunities. Their susceptibility to trafficking is exacerbated by elements including economic inequality, a lack of education, social exclusion, violent conflicts, and political unrest or corruption (Auriol & Mesnard, 2010). The susceptibility of women and girls to human trafficking is also exacerbated by gender inequality and prejudice (Brysk, 2011).

## 2.4. ANTI-TRAFFICKING STRATEGIES

Anti-trafficking strategies are the planned and co-ordinated actions done to stop human trafficking by international organizations, governments, and civil society groups. These tactics combine governmental initiatives, policy frameworks, institutional frameworks, and operational efforts to address various trafficking-related issues, such as prevention, victim identification, prosecution, and survivor support (Bosma & Rijken, 2016).

Development and implementation of comprehensive plans and policies at the national level to fight human trafficking are common initiatives. These plans offer a structure for coordinating efforts amongst pertinent government departments, law enforcement groups, non-governmental organizations (NGOs), and other parties engaged in the fight against trafficking. Taking into mind each country's unique setting, legal systems, and resource availability, they establish the scope and approach to be used (Kutnick, Belser, & Danailova-Trainor, 2007).

National anti-trafficking strategies typically encompass a range of objectives and components aimed at addressing the different dimensions of trafficking. While the specific objectives and components may vary across countries, the 4Ps are the structural background: Prevention, Protection, Prosecution and Partnerships.

1. **Prevention:** To address the underlying causes of trafficking, this component emphasizes increasing awareness, fostering education, and putting preventive measures in place. Public awareness campaigns, training sessions for front-line staff, and programs focused on lowering vulnerabilities among at-risk groups are a few examples of prevention strategies (Bryant & Landman, 2020).

2. **Victim Protection and Support:** One of the most important aspects of anti-trafficking efforts is ensuring the safety and support of victims. This entails developing systems for victim identification, offering accommodations that are safe and secure, facilitating access to medical and counselling services, providing legal support, and providing assistance with rehabilitation and reintegration (Dell et al., 2019).

3. **Law Enforcement and Prosecution:** Holding traffickers accountable and destroying trafficking networks need effective law enforcement and prosecution. This part entails expanding legal frameworks, bolstering law enforcement capabilities, and making it easier to investigate and prosecute incidents of human trafficking (Baer, 2015).

4. **International Cooperation:** International collaboration is essential to the fight against trafficking because it is a transnational crime. This element concentrates on developing ties with international organizations and NGOs, boosting international cooperation and information sharing, and promoting cooperation in areas including victim identification, investigation, and repatriation (Schönhöfer, 2017).

## 2.5. THE ROLE OF GOVERNMENT IDEOLOGIES IN SHAPING ANTI-TRAFFICKING STRATEGIES

### Impact of Government Ideologies on Strategy Design and Implementation

Government ideology shape the general strategy, priorities, and techniques used in the creation of anti-trafficking measures. Different beliefs could place a stronger emphasis on preventing trafficking, helping victims, or enforcing the law. For instance, liberal administrations may place a higher priority on individual liberties and stress preventative initiatives through outreach, public awareness campaigns, and assistance for vulnerable groups (Simmons, 2013). Governments with a more conservative mindset, on the other hand, would prioritize law enforcement efforts, tighter border controls, and harsher penalties for traffickers (Potrafke, 2012). Socialist governments may prioritize reducing socioeconomic inequalities and enhancing labour rights in order to address the root causes of trafficking (Cho et al., 2014). In contrast, neoliberal governments may prioritize market-based strategies and public-private partnerships to combat trafficking (Akkerman et al., 2014).

Simultaneously, the prioritization of anti-trafficking initiatives and the allocation of resources are both impacted by political views. A government's budgeting choices, resource distribution, and capacity-building programs are influenced by its ideological perspective. Governments with an emphasis on human rights, for instance, may devote large resources to victim assistance programs, rehabilitation services, and legal assistance for survivors (Avdeyeva, 2012). On the other hand, administrations with an ideology that places a higher priority on security may give law enforcement and border control measures top priority (Charnysh et al., 2015).

Different government ideologies may influence how anti-trafficking initiatives are prioritized. While some countries may prioritize international collaboration and

addressing the global causes of trafficking, others may place a greater emphasis on combating the problem within their own borders. Additionally, the level of attention paid to certain types of trafficking, such as sex trafficking, labor trafficking, or child trafficking, can be influenced by official ideologies (Cho & Vadlamannati, 2012).

## 2.6. INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

The United Nations Convention against Transnational Organized Crime (UNTOC) supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air. Since 2020, this convention and its supplemental protocols have the UNTOC Review Mechanism executed through the UN Office on Drugs and Crime (UNODC) as to assist state parties with its effective implementation, technical assistance and international cooperation (UNODC, 2023).

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, also referred as Palermo Protocol, defines trafficking in Human Beings in its Article 3:

*'For the purposes of this Protocol:*

*(a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;*

*(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;*

*(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article;*

*(d) "Child" shall mean any person under eighteen years of age.'*

Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000

Its focus is on preventing and combating the trafficking of persons, particularly women and children. The protocol aims to criminalize all forms of trafficking, protect victims, promote awareness and enhance cooperation amongst countries as to fight more effectively this organized crime.

The 'Council of Europe Convention on Action against Trafficking in Human Beings' followed the same definition as the one set out at the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. It added the clarification that a "Victim" shall mean any natural person who is subject to trafficking in human beings as defined in this article.' (Council of Europe Convention on Action against Trafficking in Human Beings, Art. 4(e)). This convention has a very-specific victim-centred approach focusing on their safety and well-being. It emphasizes measures for the identification, protection, and assistance of victims through access to medical care, legal aid, and social services. Moreover, the convention promotes cooperation between states and their national anti-trafficking policies. It establishes a monitoring mechanism the 'Group of Experts on Action against Trafficking in Human Beings' which monitors the country's adherence to the convention's provisions.

Furthermore, as my case studies both integrate the E.U., there is the 'Anti-Trafficking Directive' (Directive 2011/36/EU). It defines trafficking in human beings as it is established in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000) (Directive 2011/36/EU, Art. 2(1)). Overall, this directive seeks to criminalize all forms of participation in trafficking in human beings: from recruitment, transportation, harbouring to the act of exploitation. It is also deemed of utmost importance to provide support to victims by guaranteeing access to medical care, legal assistance and safe accommodation. Lastly, it emphasizes the coordination amongst member states and other international actors as it is a transnational issue (Directive 2011/36/EU).

The International Labour Organization also encompasses certain conventions specifically designed to prevent trafficking in human beings under the form of labour exploitation. There is the 1930 Forced Labour Convention (C029) as well as its 2014 Complementary Protocol. Furthermore, there is the 1957 Abolition of Forced Labour Convention (C105) and the 1999 Worst Forms of Child Labour Convention (C182) (ILO, 2023).

The UN Convention on the Elimination of All Forms of Discrimination Against Women requests State Parties to address trafficking in women, particularly in forms of sexual exploitation. Article 6 declares ‘States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.’ (CEDAW, 1979). The CEDAW Committee that monitors state parties’ implementation of the Convention has also recently adopted General Recommendation on Trafficking of Women and Girls in the Context of Global Migration in 2020, recognizing women’s exploitation as ‘unequivocally a phenomenon rooted in structural sex-based discrimination, constituting gender-based violence’ (General Recommendation No. 38, 2020).

The UN Convention on the Rights of the Child also addresses the exploitation of children in its Article 35 ‘States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of the sale of or traffic in children for any purpose or in any form.’ (UNCRC, 1989).

### 3. HUNGARY

#### 3.1 POLITICAL CONTEXT

Since the fall of the communist ideology in 1989, Hungary was well-established as a multiparty parliamentary democracy. A constitution was assembled at the time in order to outline the legal framework of this new political era, where a representative government, a parliamentary system, an independent judiciary, ombudsmen for fundamental rights and a Constitutional Court were instituted. It was heavily based on the German system which shows a weakened president in favour of the prime minister, which is, in turn, the head of the executive (Kovács, 2011).

However, in 2010, Hungary underwent a radical political transformation with the 2010 elections' victory of the alt-right party coalition Fidesz-KNP, which won them 68% of the seats in parliament. According to Kovács (2011), the 1989 Constitution of Hungary included provisions that allowed for constitutional amendments or the adoption of a new Constitution with the approval of two-thirds of the seats in parliament (Art. 24(3), Hungarian Constitution, 1989). Even though this was intended initially to enforce that any change would require a common agreement between opposing parties, the overwhelming victory of Fidesz-KNP enabled them to alter the constitution according to their interests, as they had over the established numbers. The two-thirds control guideline failed in its initial function to balance out the governing majority (Kovács 2011).

The Fidesz-KNP took on a populist discourse while running for elections in 2010. It presented itself as a representation of the 'pure nation', the hardworking Hungarians. It placed itself against the elite that abused the everyday people and expressed nationalist values. While a democratic party's campaign can also convey certain feelings of belonging and exclusiveness, the populist character of Fidesz-KNP was made clear by the intensity of the barrier created between the 'us' and the 'them' – 'they' were a threat to the Hungarian people. As Viktor Orbán is the party leader, he established himself as the defender against the enemy, fighting for national unity and collective good (Körösenyi, 2020). As such, he refused to participate in debates making it clear he only saw a non-debateable solution, which was common sense for the 'true people' (Müller, 2016). His campaign strategy revolved around identity politics focusing on 'national interests, cultural homogeneity, and religious guidance' (Körösenyi, 2020) as well as anti-elitism, stating he would make Hungary a 'plebeian democracy' (Müller, 2016).

In order to present a foundation for these viewpoints, Orbán framed the Hungarian socio-political situation at the time as a crisis. Times of crisis can be used as a pretext to extreme behaviours because they exhibit a need for a threat to be tackled. Since it is a 'matter of interpretation' his subsequent actions could always be justified by this perspective (Müller, 2016). The idea transmitted in Fidesz-KNP's campaign was, ultimately, that Hungary was being compromised by 'the financial institutions and the greedy bankers who tried to evade responsibility for the 2008 financial crisis, Ferenc Gyurcsány and the socialist-liberal governments who failed to protect the people against them, the multinational companies that owned public utility services and overburdened the common Hungarian people, the bureaucrats in Brussels aligning themselves with these companies, liberals and technocrats of the old elite mismanaging and weakening Hungary, migrants threatening the disappearance of the European, Hungarian, and Christian way of life, opposition politicians who work for Brussels in planning to settle migrants, the hostile media undermining the government, and George Soros, who is claimed to stand behind most of these' (Körösenyi, 2020), which made it impossible for 'real Hungarians' to prevail. Therefore, radical measures were the only solution to assure the Hungarian system protected conservative Christian values, starting with a new constitution that ingrained these.

At first, after the victory, Fidesz-KNP made some amendments towards restricting media and the judicial power as well as forming new local government positions to be filled by party affiliates. However, these adopted principles took on a temporary character as the newly elected prime minister Viktor Orbán had made clear that his government would look to draw and adopt a new constitution. A council was organized for this purpose specifically, where all members were hand-picked by the prime minister. Parliamentary opposition dropped from the proposal as soon as they noticed the Constitutional Court's competence being interfered with. The new constitution was then determined to be drafted by a three-member panel of politicians instead, making the framework the council prepared a support-material for this panel (Kovács, 2011).

Early on, the Venice Commission expressed its concerns regarding the lack of transparency and public debate pertaining to the constitution drafting process, which exposed a very evident Fidesz-KNP agenda. As to contradict this image, a National Consultation body whose function was collecting information from the Hungarian public by form of a questionnaire was created. The questions pertained 'the relation between

fundamental rights and obligations; the restriction of the public debt; the role of the family, public order, labour and the health; the need for extra votes for mothers as a proxy for their children; the ban on levying taxes on the expenses related to child rearing; the protection of future generations; the conditions of public procurements; the togetherness of Hungarians across frontiers; the protection of natural diversity and national treasures; the protection of land and water; the need to write the possibility for a life imprisonment sentence into the Constitution, and the obligation to testify before a parliamentary commission if a person is summoned.’ (Kovács, 2011). Nonetheless, even though 920,000 questionnaires were collected, the answers were still being processed when the new constitution was presented in the parliament, meaning it had no real interference in the process (Kovács, 2011) (Müller, 2016).

Viktor Orbán took on a classic populist role of a ‘caretaker’ as he pretended to consult with the people in the constitution building process but refused to put the already developed constitution through a popular vote (or any kind of public discernment). The questionnaire put forward was made to confirm what he had already decided was the popular interest and not to start a dialogue. The objective was to establish that he, as a leader, would know people’s interests beforehand. Simultaneously, he built on the idea of identity to promote an ‘authentic national constitution’: what the real Hungarians wanted was obvious and unquestionable and he, as the elected voice of ‘the people’ would assure it was heard (Müller, 2016).

The 2012 constitution was named ‘The Basic Law’ or ‘The Fundamental Law of Hungary’ and it was promulgated April 25th, 2011. It entered into force January 1st, 2012. Its adoption came to confirm the beginning of a populist regime in Hungary, as it came to fully alter the civil service law and preserve Fidesz- KNP ideological values.

The Basic Law instilled traditional religious, familiar and patriotic values on a once secular state. The preamble, or ‘National Creed’, acknowledged the Catholic Church as ‘nation-preserving’: ‘We are proud that one thousand years ago, our King Saint Stephen established the Hungarian State on solid foundations and led our country to become part of Christian Europe’, ‘the Holy Crown, which embodies the constitutional continuity of the state and the unity of the nation’. (Fundamental Law of Hungary, 2012) (Kovács, 2011). Hungarians are distinguished from other religious minorities for their faith (Müller, 2016).

Concurrently, it negated the communist and post-communist period after World War II by stating the Hungarian state lost its autonomy from March 19, 1944, to May 2, 1990 (Fundamental Law of Hungary, 2012). Since it establishes the first written Hungarian constitution in 1949 was adopted under 'occupation' it negates the 1989 Constitution's validity - as it was a succession of the 1949 one (Kovács, 2011).

The nationalist ideals are also written into the constitution as the 1989's 'We the people' was replaced with a 'We the nation'. At its core, the Basic Law looks to address all Hungarians independent of residence, as it seeks to unite the Hungarian people. This way, it instils rights and responsibilities through an ethnic viewpoint. Simultaneously, it neglects those residing in Hungary with a different ethnic background. The main problematic is that non-resident Hungarians can now make political decisions, such as voting for the parliamentary elections, while it does not affect their routine or carries any consequence into their life. In the meantime, those most affected by it as migrants residing in Hungary do not have the same legal rights but face the aftermath of others' choices (Kovács, 2011).

At the same time, 'we the people' is also used to symbolize popular sovereignty, which is severely compromised with the Basic Law, which enforced a two thirds parliament majority to pass basic legislation. This allows the current government to realize their biased goals while it severely compromises future governments' ability to implement their own political programs (Art. 40, Fundamental Law of Hungary). The objective is made obvious: Fidesz-KNP's legacy will be solidified against a future other party's majority (Kovács, 2011; Müller, 2016).

The Basic Law also affects the checks and balances of the previously established Hungarian democracy, as the independence of the Constitutional Court is compromised. The president of the Court is no longer elected by the other judges - he is instead selected by the parliamentary majority. Furthermore, his position is now extended to twelve years, when it was previously three. The Court's membership is concurrently enlarged from eleven to fifteen members, being that all new justices are now elected by the ruling majority for twelve years. Specific requirements regarding age and qualification were imposed as to drive out judges that were aligned with the party. This means that the Fidesz-KNP government not only possesses the ability to elect four new members but also the next Court's president for the next three electoral terms, swaying significantly the Constitutional Court, as well as the replacements for those that no longer fill the

requirements. Once again, the extension of the pre-established time periods in the 1989's Constitution make it so Orbán's ideology is deeply ingrained and hard to remove by future governments (Kovács, 2011).

The Constitutional Court is simultaneously affected by the a priori review that is established in the new constitution. This constitutional control that was once limited to the request of the President is now extended to the government, the speaker of the parliament and the ones submitting the bill. The ex post review is also compromised by the abolishment of the action popularis which prevents regular citizens from requesting a constitutional review of an act. The Basic Law established that solely the government, the ombudsperson and a corresponding quarter of the parliament could request this (Art. 24, Fundamental Law of Hungary). At the time that this is promulgated, it means that if Fidesz-KNP passes an unconstitutional legislative act, the remaining opposition, from various parties, would have to unite to request a review as it makes up 32% of the parliament, barely over the necessary quarter (Kovács, 2011). Similarly, when it comes to financial matters, the Court is again restricted to reviewing and, if deemed necessary, annulling budgets in relation to 'the right to life, dignity, the protection of personal data, freedom of conscience and the rights related to Hungarian citizenship.' (Kovács, 2011) – therefore, limited in circumstances and regarding a particular area of the constitution (Art. 37, Fundamental Law of Hungary).

The Fundamental Law of Hungary came to solidify Orbán's populist ideology into the legal system and consequently seriously compromised the Hungarian democracy. The anti-elitist perspective is displayed throughout the constitution, as I continuously mentioned previously, while the constitution itself is a manifestation of the anti-pluralist sentiment exhibited in populist regimes. The Basic Law's end goal is to leave very little manoeuvre space for other political parties. It changes the majority ruling and the Constitutional Court's composition so that other parties don't get to contest Fidesz-KNP's political decisions even in the future. At its core, it restrained opposition in two ways: their involvement in the writing of the constitution, and their future policy choices – it is 'purely a partisan instrument' (Müller, 2016). As elections still occur, pluralism hasn't fully vanished, and Hungary can't be assumed as an autocracy. However, it is clear the democratic foundations were torn down. The popular term 'illiberal democracy' is therefore incorrect, despite Orbán's acceptance of the designation. The new government

isn't just waging war on liberalism, it is interfering with the democratic process. Hungary is a populist regime.

Populist governance tends to show a set of main characteristics: state colonization, mass clientelism and repression of the civil society (Müller, 2016). The new constitution was a very clear example of the first, as the full civil service law was altered to serve Fidesz-KNP ideology and preserve their power. By moving against the independence of the courts and integrating a strong political ideology into Hungary's new constitution, Orbán polluted the democratic foundations of the Hungarian legal system for his own political gain, offsetting the checks and balances system as well as interfering with the rule of law (Kovács, 2011). Simultaneously, state occupation also occurred with the creation of new jobs for party affiliates and the widening of the term of officeholders chosen by the government (mostly to nine years). This not only extended the reach of Fidesz-KNP's influence but also seriously restricted future governments, once more (Müller, 2016).

Mass clientelism, on the other hand, pertains to a reward system that favours the loyal supporters of the populist parties. In Hungary, Fidesz-KNP has established a group of followers demonstrating conservative family values, economic stability and Christian faith. It then benefits them legally by determining that this set of people get to enjoy the full protection of the law as the true representation of the Hungarian people. Simultaneously, it discriminates against those that do not fit these ideals – discriminatory legalism (Müller, 2016). This is also evidenced in the new constitution since it specifically addresses Hungarians from an ethnic and religious viewpoint (Kovács, 2011).

The repression of civil society manifests itself with the criticism, harassment and oppression of non-governmental organizations since these tend to be highly critical of the government and their infringement of human rights. Orbán's defensive tactic against these "attacks" has been to declare them as foreign agents, either sent from or highly influenced by the EU or western countries, and therefore not truly defending the Hungarian people (Müller, 2016). In complement to this, the 'Draft Law on the Transparency of Organisations Receiving Support from Abroad of Hungary' was passed in 2017 that demanded NGOs to disclose as 'foreign-backed groups' (Hungary Today, 2017) if their donations from abroad surpass 7.2 million forints (23.400 euros) (Hungary Today, 2017). This makes it so civil society agents are branded publicly as agents of the 'others', enemies of the 'pure Hungarian people'. Even though Orbán and his party claimed it was meant to prevent money-laundering schemes and terrorism financing, there

was already standing legislation that mandated NGOs to publicly register all their funding. In face of this, the Venice Commission was quoted saying in its essence, the law was carried out ‘in the context of a virulent campaign carried out by some Hungarian authorities against foreign-funded NGOs’ (Venice Commission, 2017). Due to the backlash, this law was eventually repelled in 2021, but just the four years of application proved to be a powerful propaganda tool (Hungary Today, 2021). Furthermore, some legislation came about to limit NGO’s course of action, such as the ‘Stop Soros’ Law, which makes it punishable by law to assist asylum-seekers with their migratory status (United Nations Human Rights Office of the High Commissioner, 2018).

For Orbán to maintain these governance tactics without damaging his relations with the people he seeks to represent, an open line of communication is formed. Regular speeches, a weekly radio interview and the regular use of referendums (that are not as regularly considered) are therefore his way to retain a proximity to the people. As he typically communicates very strong anti-elitist values, it is imperative that he prevents the Hungarian people from seeing him as a constituent of the elite. Orbán is the head of government, meaning he concentrates more power than anyone in Hungary – he would be widely considered part of an elite otherwise (Müller,2016).

In conclusion, Fidesz-KNP’s government in Hungary shows a very strong right-wing populist character. It establishes itself as fighting for the people, while affirming only some of them are the ‘real people’ – the pure Hungarians. Thereby, it attaches Hungarians to an ethnic and religious definition and seeks to legally discriminate against those that do not fit the established prototype. Orbán then searches for different ways to connect with those he looks to ‘protect’: in his speeches, in the weekly radio interview, through referendums. It’s not the charismatic personality of the leader but the personal bond he looks to grow in populist regimes. On the other hand, ‘outsiders’ are deemed enemies of Hungary, an elite that inevitably harms ‘real Hungarian people’ which leads to a situation of crisis. It is then easy for Orbán’s government to justify their repressive actions as ‘in times of war, the law falls silent’.

The new constitution showed itself to be a very powerful populist tool, as it ultimately led to a dismantlement of the checks and balances system. It not only allowed Fidesz-KNP to rule as they want now but made it close to impossible for other parties make a political impact in the future, as their ideals are ingrained into it. The Fundamental Law of Hungary serves as an anti-pluralism instrument that allows the populist government to

occupy the state and legally discriminate. As the populist governance doesn't align with other states, international organizations or local NGOs' beliefs, the relations between these and the Hungarian government progressively deteriorate. International organizations such as the E.U. are criticized for wanting to erase Hungarian values, while NGOs are then inevitably linked to these foreign forces – all, in the end, enemies of the 'real hungarians'.

## 3.2 HUMAN TRAFFICKING POLICIES IN HUNGARY

### 3.2.1 CONTEXT

Hungary demonstrates an unusually high rate of human trafficking cases as a member-state of the E.U., with a reported 223 victims in 2023 (TIP, 2023). Percentage wise, the Hungarian State qualifies as one of the top five E.U. member states with most trafficking in human beings, with a whopping 51 victims per million in 2015-2016 registering Hungary as their country of origin. There are several causal explanations for this, starting with the fact that it is simultaneously a source and transit country of trafficking in human beings (Windt, 2020).

This can be traced back to Hungary's historical background and the political transformations that followed the fall of the Berlin wall. Hungary was under the Eastern Bloc throughout the Cold War, situated next to the Iron Curtain in its border to Austria – as it was militarily non-aligned. Following the end of the Cold War in 1989 and the subsequent lifting of travel restrictions between blocs, Hungary - as a border area - experienced an inflow of passengers looking to reach Western Europe for better opportunities. As some people from South and Eastern Europe as well as the former USSR struggled to access 'the other side', some fell trap to smuggling schemes and a rising in trafficking in human beings surged (Surtees, 2008). While smuggling is simply defined as 'the facilitation, for financial or other material gain, of irregular entry into a country where the migrant is not a national or resident.' (UNODC, 2023), it is still interconnected with human trafficking. This is because smuggling targets vulnerable people and places them in at-risk situations, which can prompt a trafficking process (IOM, 2023).

Concurrently, the disorganized transition from a communist regime to a democratic one in Hungary had massive economic and political consequences. As the state-controlled market shifted to a free-market approach, a rise in unemployment and a collapse of the welfare system resulted in prevalent poverty. Politically, many of the official posts were taken over by corrupted and criminal actors. As Hungarian citizens searched to escape these conditions, they resorted to migration. However, they were often misled about the type and conditions of the work and consequently exploited. Women were the most affected by unemployment and therefore the most frequent victims of trafficking, usually of a sexual character (Surtees, 2008).

These conditions came to set a pattern of trafficking in human beings in Hungary that has been hard to combat ever since. Even as the Hungarian state focused on joining the EU and sought to develop its economy and stop corruption, its strategic geographical placement between the East and Western Europe found itself to be problematic. It became an accession point to the Schengen area, which exacerbated the migration flow. This was made worse by the Great Financial crisis which led to the proliferation of criminal groups exploiting marginalized and vulnerable groups (European Commission, 2023) (Windt, 2020).

Given this context, Hungary has concentrated numerous efforts dedicated to fighting trafficking in human beings through the ratification of international human rights instruments as well as the promulgation of national legislation. The regulation is extensive, therefore the analysis will be kept to the integral and recent directives.

### 3.2.2 INTERNATIONAL HUMAN RIGHTS INSTRUMENTS IN HUNGARY

Hungary ratified the United Nations Convention against Transnational Organized Crime (UNTOC) supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, in 2006 (UNTC, 2023).

Later, Hungary signed the ‘Council of Europe Convention on Action against Trafficking in Human Beings’ in 2007 and ratified it in 2013 by Hungary. So far, its monitoring mechanism the ‘Group of Experts on Action against Trafficking in Human Beings’ has analysed the country’s adherence to the convention’s provisions on two occasions: 2015, 2018 (COE, 2021). It has also formulated an ‘Urgent Procedure’ Report in 2018 examining the identification and assistance efforts directed to asylum seekers who were trafficked.

Furthermore, as a member of the E.U., Hungary executed the ‘Anti-Trafficking Directive’ (Directive 2011/36/EU), accomplishing its implementation obligations by transposing it into national law before the 6th of April 2013.

Hungary has also ratified several International Labour Organization (ILO) conventions, such as the Forced Labour Convention (C029), Abolition of Forced Labour Convention (C105), and Worst Forms of Child Labour Convention (C182) (ILO,2023).

Additionally, it has ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women in 1980, as well as the UN Convention on the Rights of the Child in 1991, which further include obligations to prevent abduction, sale and trafficking in women and children (UNTC, 2023).

### 3.2.3 NATIONAL ANTI-TRAFFICKING POLICIES

The Hungarian state had obligations established from the 1926 Slavery Convention and over 90 legal acts referring to trafficking in human beings, however, it was in 1998 that the specific offense was first criminalized under Hungarian Legislation. It underwent multiple amendments to align with the requirements of the Palermo Protocol (Windt, 2020). In the previous amendment of the Hungarian Criminal Code - Act IV of 1978 - the offence fell under Chapter XII Crimes Against the Person, Title III: Crimes Against Freedom and Human Dignity in Section 175 - Violation of Personal Freedom and 175/b - Trafficking in Human Beings. This paper will extensively analyse the crime of trafficking in human beings in accordance with the previous Hungarian Criminal Code and the current one applied under the populist regime, as to examine the extent of the changes. I will further extend this research to the new anti-trafficking legislative tools, including the Hungarian National Strategy against Trafficking in Human Beings from 2020 to 2023.

#### 3.2.3.1 ACT IV OF 1978 ON THE CRIMINAL CODE OF THE REPUBLIC OF HUNGARY

The Criminal Code of the Republic of Hungary, as amended by the Act IV of 1978 established:

‘Any person who acquires another person through trafficking in human beings and maintains the status of deprivation of the victim's personal freedom, and forces such victim into forced labor, is guilty of a felony punishable by imprisonment between two to eight years’

Criminal Code of the Republic of Hungary, as amended by the Act IV of 1978, Section 175- Violation of personal freedom, Art. 2

‘Any person who sells, purchases, conveys or receives another person or exchanges a person for another person, also the person who recruits, transports, houses, hides or appropriates people for such purposes for another party, is guilty of a felony punishable by imprisonment for up to three years.’

Criminal Code of the Republic of Hungary, as amended by the Act IV of 1978, Section 175/B - Trafficking in Human Beings, Art. 1

Section 175/B (2) further clarified if the victim is: underage, kept in captivity, subject to forced labour, sexually exploited, used unlawfully for their body, or if the crime is committed under a criminal conspiracy or business operation – it is an aggravating factor, leading to imprisonment between one to five years (Section 175/B, Art.2, Act IV of 1978)

Section 175/B (3) determined a penalty of imprisonment between two to eight years if the victim is someone under the care of the perpetrator, or someone subjected to forced labour, sexual exploitation or unlawful use of their body by the means of force, or threat thereof, deception or torment to an injury (Section 175/B, Art.3, Act IV of 1978)

Section 175/B (4) dictated an imprisonment time from five to ten years for aggravated circumstances. It is applicable if the victim is underage, kept in captivity or under the care of the perpetrator, and exploited sexually, for forced labour, unlawful use of their body or illegal pornographic material by means of (or threat of) force, deception and torment to injury (Section 175/B, Art. 4, Act IV of 1978).

Section 175/B (5) stated the perpetrator may face imprisonment from five to twenty years or life imprisonment if the victim is under twelve years old used for forced labour, sexual exploitation, unlawful use of their body or illegal pornographic material by means of force (or threat of), deception and torment to injury (Section 175/B, Art.5, Act IV of 1978).

Section 175/B (6) implemented a penalty of a misdemeanour punishable by imprisonment for up to 2 years for anyone engaging in the planning of trafficking schemes (Section 175/B, Art.6, Act IV of 1978).

Furthermore, throughout the Hungarian Criminal Code (Act IV of 1978), further clarifications regarding the offense of trafficking in human beings were made: incarceration for over three years is served in a penitentiary for crimes of human trafficking (Chapter IV, Section 42, Art.2b2, Act IV of 1978); parole is excluded in aggravated cases of trafficking in human being (Chapter IV, Section 47/A, Art.3, Act IV of 1978); in cases of unlawful employment of third-country nationals, the employer will face an imprisonment of one to five years if the third-country national is a victim of trafficking in human beings (Chapter XV, Section 214/b, Art.2c, Act IV of 1978); permanent expulsion of non-nationals is applicable in trafficking cases where the sentence was higher than 10 years (Chapter IV, Section 61, Art.3, Act IV of 1978); trafficking in human beings consists of a violent crime (Chapter IX, Section 137, Art. 17, Act IV of 1978); the crime of trafficking in human beings' statute of limitations period is extended

until the victim reaches twenty-three years of age’(Chapter III, Section 33, Art. 1a, Act IV of 1978).

### 3.2.3.2 ACT C OF 2012 OF THE HUNGARIAN PENAL CODE

In 2012 the Hungarian Penal Code was amended by Act C of 2012, as part of the Fidesz-KNP government first policy changes. This new reform has been mentioned to as penal populism, due to its emphasis on punitive measures ‘hard-on-crime’ approach, like the ‘three-strikes’ principle - a policy implemented for repeated serious offenders to receive harsher penalties, the third offense often leading to life imprisonment (Boda, Tóth, Hollán, Bartha, 2022).

In the Hungarian Criminal Code as amended by Act C of 2012, trafficking in human beings is comprehended extensively under Chapter XVIII, Offences against Personal Freedom, Section 192. It is established as:

Criminal Code of the Republic of Hungary, as amended by the Act C of 2012, Chapter XVIII, Section 192 – Trafficking in Human Beings, Art. 1ab

‘Any person who:

- a) sells, purchases, exchanges, or transfers or receives another person as consideration; or
- b) transports, harbors, shelters or recruits another person for the purposes referred to in Paragraph a), including transfer of control over such person; is guilty of a felony punishable by imprisonment not exceeding three years.’

Criminal Code of the Republic of Hungary, as amended by the Act C of 2012, Chapter XVIII, Section 192 – Trafficking in Human Beings, Art. 2

‘Any person who - for the purpose of exploitation - sells, purchases, exchanges, supplies, receives, recruits, transports, harbors or shelters another person, including transfer of control over such person, is punishable by imprisonment between one to five years.’

Clarification: Criminal Code of the Republic of Hungary, as amended by the Act C of 2012, Chapter XVIII, Section 192 – Trafficking in Human Beings, Art. 8: ‘In the application of this Section, ‘exploitation’ shall mean the abuse of power or of a position of vulnerability for the purpose of taking advantage of the victim forced into or kept in such situation.

In Section 192, Art.3 some aggravating factors are mentioned which increase imprisonment for the crime of trafficking in human beings for two to eight years. These are if the victim is held in captivity or in the care, custody and supervision (including medical) of the perpetrator; if the perpetrator is in a position of power over the victim or is a public official, acting in an official capacity; if it is by means of force or threat thereof, deception or torment; if it is in a criminal or commercial association; and if it for the unlawful use of the victim's body (Chapter XVIII, Section 192, Art.3, Act C of 2012).

In Section 192, Art.4, further aggravating circumstances are listed with an associated incarceration term of five to ten years. These are if the crime of trafficking in human beings corresponds to the description in Art.2 of Section 192 (mentioned above) and is committed against an underage person (below 18 years old) or under the conditions described in Art. 3 or if the crime resulted in great damage to the victim (Chapter XVIII, Section 192, Art.4, Act C of 2012).

In Section 192, Art. 5, details that the penalty for trafficking in human beings according to Art.2 of Section 192 is five to fifteen years if: the victim is under fourteen years of age; the victim is under eighteen years-old and any aggravating circumstance under Art.3 of Section 192 applies; the victim is under eighteen years of age and the crime resulted in great harm; and if the victim is underage (below eighteen) and was submitted to trafficking under the purpose of child pornography (Chapter XVIII, Section 192, Art.5, Act C of 2012).

In Section 192, Art. 6 enforces a sentence of five to twenty years or life imprisonment if the crime of trafficking in human beings is committed according to the description in Art. 2 against someone under fourteen years-old and if: any of the aggravating circumstances detailed under Art. 3 are present; it results in great harm, potentially life-threatening; it is made with the intent of making child pornography (Chapter XVIII, Section 192, Art.6, Act C of 2012).

According to Art.7, Section 192 the preparation for trafficking in human beings is considered a misdemeanour with a maximum punishment of two years in prison (Chapter XVIII, Section 192, Art.3, Act C of 2012).

There is also a section particularly dedicated to Forced Labour – Section 193, Chapter XVIII, which is considered a felony leading from one to two years incarceration (Section 193, Art. 1, Act C of 2012). Aggravating circumstances are considered: tormenting the

victim, causing significant injury or if the victim is under eighteen, which increases the prison sentence from two to eight years.

There are other articles throughout Act C of 2012 mentioning the crime of trafficking of human beings. Firstly, relating to the statute of limitations which clarifies the limitation period is extended until the victim reaches twenty-three years of age, if the crime was committed when they were underage (Chapter V, Section 26, Art.2, Act C of 2012). Secondly, imprisonment for this crime is imposed in a penitentiary (Chapter VII, Section 37, Art.3 (ad)) and, in case of a life sentence, parole may be denied if the crime is aggravated (Chapter VII, Section 44, Art.1 (j)). Thirdly, an employer that unlawfully employs a third-country national who is a victim of trafficking, may be sentenced to a felony of a maximum three-year penalty (Chapter XXXIV, Section 356, Art.2 (c)). Finally, harbouring a criminal guilty of human trafficking carries a penalty of one to five years (Chapter XXVI, Section 282, art.3b).

It is also important to note that in Act C of 2012, trafficking in human beings consists of a crime against humanity, dictated by Chapter XIII, Section 143, Art.1d – ‘engages in the trafficking in human beings or in exploitation in the form of forced labour’ (Chapter XIII, Section 143, Art.1d, Act C of 2012). It is also always considered a violent crime, according to Section 459, Art.26d in the Closing Provisions.

With Act V of 2020, significant amendments were made to the Hungarian Criminal Code Act C of 2012 (European Commission, 2023) . These changes involved the merging of the legal definitions of human trafficking and forced labour (Chapter XVIII, Section 192 and 193, Act C of 2012), a decision that can be seen as a rational simplification of the regulation due to the conceptual relationship between these two forms of exploitation. Simultaneously, the penalty rates for these offenses were increased, with the standard punishment now including imprisonment for up to 5 years instead of the previous 3-year term. Furthermore, the act of knowingly utilizing the services or engaging in other activities connected to victims of human trafficking and forced labour will also now be considered punishable. In the case of child sexual exploitation: “who pays for sexual intercourse with a minor under 18 years of age is guilty of a felony punishable by imprisonment between 2 to 8 years” (Chapter XIX, Section 203, Act C of 2012).

In conclusion, Hungary has implemented severe penalties for offenders of trafficking in human beings and broadened the scope of the offenses with Act C of 2012. Amendments

to the Hungarian Criminal Code have been made to align with international standards, such as the Palermo Protocol and the EU Anti-Trafficking Directive.

### 3.2.3.3 HUNGARIAN LEGISLATIVE TOOLS AGAINST HUMAN TRAFFICKING

Several regulations have been made in order to combat human trafficking in Hungary since the new government has taken over, starting with the enforcement of the new penal code in 2012, as I previously discussed.

Still in 2012, the Government Decree No. 354/2012. (XII.13) was implemented regarding the identification of trafficking victims. It limits the identification efforts to Hungarian citizens and foreigners with legal permits while establishing that accommodation and healthcare are within these victims' rights. The decree also establishes the protection of minors according to the Child Protection Act (Act XXXI of 1997 on Child Protection and Guardianship Administration).

In 2019, Decision 1125/2019 (III.13.) of the Government on the measures necessary to increase the efficiency of combatting human trafficking was enforced. It approved of an Action Plan regarding identification of victims, reintegration of exploited children, development of professional methodology in child protection services and cooperation with the Unified System of Criminal Statistics of the Investigative Authorities and of Public Prosecution as to collect data. It also sets the objective of providing care to victims, establishing a procedure and a 'rescue vehicle' (Decision 1125/2019 (III.13.)) for underage people that were sexually exploited.

In 2020, Act V of 2020 was enacted with the purpose of amending laws fighting trafficking of human beings. The first amendment related to the Act XXXI on the protection of children: children involved in sex work were now presumed victims of trafficking, special children's homes should now offer psychological and rehabilitative care where child victims are placed. The second amendment clarifies that a person below eighteen years of age can not consent to perform sexual services. The third amendment states a sexually exploited child is not liable to punishment and may be heard in preliminary proceedings related to the circumstance. Once again it clarifies that the police must take general protection measures relating to the underage victim. The fourth amendment was related to the Penal Code Act C of 2012 and is therefore clarified in the chapter above.

Lastly, Hungary's National Strategy against Trafficking in Human Beings (2020–2023) was adopted in February 2020 by Government Decision No. 1046/2020 (II.18) from 2020 to 2021 and further extended by Government Decision No. 1228/2022. (IV. 14.) implemented through the period 2022-2023. Though two action plans were formulated according to the different decrees, they have the exact same objectives as part of the wider National Strategy.

Hungary's National Strategy against Trafficking in Human Beings focuses on the improvement of the 4Ps of trafficking in human beings: Prevention, Prosecution, Protection and Partnership.

For each of the P's four guidelines are established: a strategic objective, the reasoning behind it, the responsible governmental organ and the resources required. Withdrawing from Government Decision No. 1046/2020 (II.18), these are the major changes the National Strategy deems to impose.

The Prevention measures pay special attention to minors and marginalized groups. An interest into the internet as a recruitment method and the use of awareness' campaigns are also highlighted, particularly in public education.

The Protection act seeks to implement a consistent procedure for victims in terms of identification as well as provision of healthcare and adequate guardianship (particularly for minors).

The Prosecution is strengthened by judiciary reforms that aim to exempt victims (particularly minors) from criminal charges, considering their vulnerability gives their consent a null capacity. It also aims to reduce the time of law enforcement procedures and reduce the use of services provided by exploited victims, mostly by criminalises the demand side of exploited work.

By Partnership, the Hungarian government seeks to overall improve on its communication with NGOs, IOs and other states as to collaborate on research on trafficking in human beings as well as on providing better reintegration opportunities for victims. It also establishes it will continuously comply with the ratified international conventions.

Concluding, the government has enacted various laws and decrees to improve the identification and protection of trafficking victims, especially children. The National

Strategy against Trafficking in Human Beings demonstrates Hungary's commitment to combating this crime through prevention, prosecution, protection, and partnership measures. However, it is important to continue monitoring the implementation and effectiveness of these policies to ensure adequate support and justice for victims of trafficking in Hungary.

### 3.2.4 LEGISLATION REGARDING VULNERABLE GROUPS

As a consequence of Orbán's right-wing populist regime, several transformations have occurred within Hungarian's legal system that might be discussed as having led to the further marginalization of certain vulnerable groups. Considering the discussion in this thesis, I will be focusing on migration and asylum, drug use, LGBTQIA+ and homelessness related policies that have been imposed since 2010.

Hungary is currently under a 'state of crisis due to mass migration' that has been repeatedly extended since 2015. As a result, the Hungarian Defence Forces handle the armed protection of the borders and assist in migration-related issues. Police are allowed to expel migrants off Hungarian territory with no legal comeback and judicial reviews of denied asylum applications have a deadline of three days to be submitted (Hungarian Helsinki Committee, 2023).

The Governmental decree 233/2020 and the Transitional Act from 2020 introduced the 'Embassy Procedure' that only allows for asylum-seekers to lodge their declaration of intent at the Hungarian embassies in Kyiv and Belgrade. The only exceptions to this are beneficiaries of subsidiary protection, family members of recognised refugees and beneficiaries of subsidiary protection and those being subject to forced measures, and measures or punishments affecting personal liberty if they entered legally (Hungarian Helsinki Committee, 2023). This was first introduced as a response to COVID-19 but its maintenance since is an infringement on the Asylum Procedures Directive of the EU (Directive 2013/32/EU).

Besides strict asylum and migration laws, Hungary also employs a zero-tolerance policy towards drug offenses, even small quantities of illegal drugs can lead to criminal charges and imprisonment. As Act C of 2012 was imposed, consumption was reintroduced as a criminal offence, punishable by up to two years in prison when it had previously been repelled in 2003 (European Crime Prevention, 2019; European Monitoring Centre for Drugs and Drug Addiction, 2017). Possession carries a sentence up to five years (Section 178, Art.1, Act C of 2012) and trafficking can go up to life imprisonment (Section 177, Art.2, Act C of 2012). The only exception is made 'if the perpetrator has admitted to have committed the criminal offense and if able to produce a document before being sentenced in the first instance to verify that he has been treated for drug addiction for at least six consecutive months or that he has participated in a drug rehabilitation program or a

preventive-consulting service relating to dependency.’ (Section 180, Art.1, Act C of 2012).

Simultaneously, LGBTQIA+ individuals are facing discriminatory laws. Same-sex marriage is banned on the account of traditional family values on the 2012 Hungarian Constitution (Article L, Fundamental Law of Hungary, 2012). The right to change legal gender and for same-sex couples to adopt has also been made illegal from 2020 (Art. 33, Omnibus Bill, 2020; EQUALDEX, 2020). As of the same year, LGBTQIA+ representation in any content turned towards a younger audience was prohibited, based on ‘children protection’, in a court-ruling against Labrisz Lesbian Association (Gomes & Menezes, 2023). Despite there being anti-discrimination laws being enforced, particularly in relation to employment and housing, these new laws make LGBTQIA+ people more vulnerable each day; ILGA Europe, 2020).

Furthermore, an amendment was made on the Constitution which states ‘habitual residence in a public space is forbidden’ (Article XXII, Fundamental Law of Hungary, 2012), which effectively criminalizes homelessness. As a complement, homelessness was made into a misdemeanour by a 2018 law: ‘Police must order the homeless to move into shelters, and if they fail to comply with the regulations after being ordered three times in a 90-day period, they can be imprisoned.’(ESPN Flash Report 2018/62).

In summary, the right-wing populist regime of Orbán in Hungary has implemented policies that have led to the marginalization of vulnerable groups, including migrants and asylum-seekers, drug users, LGBTQIA+ individuals, and the homeless population. These groups face discriminatory policies and laws that infringe upon their rights and further ostracize them from society, leaving them susceptible to traffickers and exploitative schemes.

### 3.3 THE HUNGARIAN POPULIST REGIME'S EFFECT ON THE ANTI-TRAFFICKING POLICIES

The Hungarian populist regime's approach to combating trafficking in human beings has been a complex and contradictory one. On one hand, the regime has implemented a 'hard on crime' lens, developing new anti-trafficking legislation and taking measures to strengthen law enforcement and border security. On the other hand, the regime's simultaneous passage of hard asylum and migration laws, discriminatory legislation against LGBTQIA+ individuals, and criminalization of homelessness and drug use have created a socio-political environment that may further marginalize certain susceptible groups, thereby increasing their vulnerability to trafficking.

The Fidesz-KNP party has pursued a penal populist approach during its thirteen-year tenure in government, as evidenced by the enactment of the new Hungarian Criminal Code Act C of 2012 and its subsequent amendments in Act V of 2020, which have resulted in stricter punishments and the introduction of a 'three-strike' principle (Boda, Tóth, Hollán, Bartha, 2022).

When comparing it with the previous penal code Act IV of 1978, notable changes have occurred in relation to the crime of trafficking of human beings. The overall penalty for human trafficking has been increased to five years in all circumstances under Act V of 2020. Furthermore, aggravating factors, such as the abuse of power and the cause of significant bodily harm, have been included, expanding the scope of offenses (Title III, Section 175/B, Art.3,4, Act IV of 1978; Chapter XVIII, Section 192, Art.3,4, Act C of 2012). Cases involving the exploitation of children under the age of fourteen and the aggravated crime of trafficking of children under eighteen have had their sentence extended to a maximum of fifteen years (Chapter XVIII, Section 192, Art.5, Act C of 2012). The punishment for exploiting children under the age of fourteen under aggravating circumstances has been expanded to include twenty years or life imprisonment (Chapter XVIII, Section 192, Art.6, Act C of 2012), when previously the age of the victim had to be under twelve for this sentence to be applied (Title III, Section 175/B, Art.5, Act IV of 1978). Overall, these changes reflect a significant shift towards more stringent penalties and a more comprehensive approach to combat child exploitation. Consequently, these reforms can be interpreted as an improvement in Hungary's prosecutorial measures in its anti-trafficking approach.

In its further legislative tools, there is a noticeable priority given to exploited children and their identification, care, protection and guardianship. Decision 1125/2019 (III.13.) of the Government underlines a procedure to attend to this vulnerable group, while Act V of 2020 protects children from criminal responsibility.

The National Anti-Trafficking Strategy of 2020-2023 sets out a comprehensive list of objectives aimed at increasing law enforcement capacity and improving victim protection, reflecting a commitment to addressing the issue of trafficking in human beings. It addresses prevention, protection, prosecution and partnerships practices by looking to strengthen legal frameworks, increase penalties for traffickers, enhance trafficking victims' identification efforts, provide improved support for victims and resort to awareness' campaigns. It has, again, a strong emphasis on child protection. However, it is important to note that these implemented efforts are undermined by the Government Decree No. 354/2012. (XII.13) regarding the identification of trafficking victims, which neglects the protection of third-country nationals by only directing efforts at Hungarian citizens and legal migrants.

These efforts are noted by the 2023 Trafficking in Persons (TIP) Report by the U.S. Government which acknowledges the effort in the prosecutorial reform, as it 'created a network of specialized prosecutors at the county level and introduced a new provision outlining prosecutors' responsibilities relating to investigations' (TIP, 2023). It also commended the creation of victims' support centres and the new labour law regulating third-country nationals' employment. It also developed a set of questions on asylum interviews focusing on identifying foreign victims of trafficking. These are conducted before asylum-seekers even enter Hungarian territory, as established by the Embassy Protocol – which can be significant in dealing with cross-border trafficking networks. Overall, the implementation of the National Anti-Trafficking Strategy and its complementary legislation regarding trafficking in human beings was praised (TIP, 2023).

However, Hungary still fell in Tier 2 of the TIP Report, which means the government does not fully comply with the minimum standards, despite its significant efforts (Human Trafficking Institute, 2022; TIP, 2023). The Hungarian state seemed to fail in its duty to protect foreign victims of trafficking, particularly illegal migrants. The government's mechanism for identifying trafficking victims failed to include foreign victims without legal residency, thereby leading to insufficient screening for trafficking indicators. This results in an overall failure to identify victims among third-country nationals as well as

other vulnerable populations including unaccompanied children and children in state-run institutions. Despite the creation of victim support centres, the provision of assistance for victims was overall limited and uncoordinated, especially for foreigners, resulting in numerous trafficking victims not receiving the necessary support. Moreover, the government extended the declaration of a 'crisis situation due to mass migration' which allowed the police to automatically deport third-country nationals without screening them for trafficking indicators, potentially subjecting some of these individuals to trafficking (TIP, 2023).

Orbán's government prides itself to be an 'illiberal democracy', although incorrectly, as the democratic foundations themselves have been compromised through their political agenda – mainly the Basic Law of 2012 (Müller, 2016). Its populist discourse gained them popularity through the elections these last thirteen years and their legislative 'follow-up' maintained their political success. When analysing this government's course of action, their right-wing populist ideology can be connected to social policies that have had detrimental effects on the anti-trafficking strategy. Fidesz-KNP has exploited their current unrestricted authority to enact laws that promote nationalism, uphold traditional family values, and wage a war on crime, despite its detriment on vulnerable groups (Uitz, 2013).

Hungary's restrictive migration and asylum directives are strongly intertwined to the regime's right-wing populist ideology, as they demonstrate simultaneously the government's 'hard on crime' discourse and nationalist values. As Fidesz-KNP attributes the high levels of criminal activity to foreigners, migrants are perceived as both a threat to Hungarian values and to national security (Hameleers, 2019). Through an anti-trafficking lens, these migration policies can be seen as the government's attempt to prevent the movement of traffickers and victims across national borders.

However, the Hungarian government's efforts to combat trafficking in human beings by applying these policies may be undermined by its same unintended consequences. The passage of hard asylum and migration laws has raised concerns about the implications for trafficking victims. The restrictions imposed on asylum seekers and migrants may inadvertently push vulnerable individuals into the hands of traffickers. Limited legal pathways and access to protection may force them into irregular and dangerous migration routes, exposing them to higher risks of exploitation and trafficking.

Additionally, the criminalization of drug use and homelessness as well as the continuous passage of discriminatory laws against LGBTQIA+ individuals created an environment where certain groups are further marginalized and vulnerable to trafficking. It is essential to recognize the interconnections between marginalization, vulnerability, and trafficking. By further stigmatizing certain groups, the Hungarian regime inadvertently amplifies their vulnerability to exploitation and trafficking. The government therefore fails in its anti-trafficking strategy by not considering the socio-political factors that contribute to vulnerability and enforcing policies that further marginalize or harm already vulnerable groups.

As a reflection of its harsh crime policy, the Hungarian government formulated and implemented a new Criminal Code relatively more extensive, as previously discussed. On one hand, this resulted in a more comprehensive anti-trafficking legislation. On the other, Act C of 2012 also imposed criminal sanctions on activities that were previously devoid of legal ramifications. This included the criminalization of homelessness and drug consumption.

The criminalization of homelessness through Article XXII in the Fundamental Law of Hungary of 2012, can make individuals experiencing homelessness more susceptible to trafficking. The government is further marginalizing and stigmatizing this vulnerable group, making it even more difficult for them to access resources and support. Homeless youth are already heavily targeted by traffickers, and the 'mistrust of the system, fear of involving the police if reported, not wanting to interact with the mental healthcare system, and stigma are barriers to disclosing human trafficking' (Messing, 2019; Mostajabian et al. 2019).

Moreover, while the government may point to shelters as an alternative for those facing homelessness, it is not always a viable option. Shelters may be limited in capacity or may not meet the specific needs of individuals, and therefore they may not provide a safe and suitable environment for everyone. This lack of accessible alternatives further increases the vulnerability of individuals experiencing homelessness and leaves them with few options for survival outside of potentially exploitative situations. Traffickers often manipulate the vulnerable by offering the promise of a better life, and the criminalization of homelessness adds to the desperation and limited choices these individuals face (Messing, 2019).

The post-2012 criminalization of drug use elicits contentious discourse with respect to combating trafficking in human beings. Human trafficking and drugs have a complex intertwined relation as 'Drugs are used to recruit new victims, to retain them in an exploited state and to maximize their exploitation.' (Shelley, 2012). While one could argue that its criminalization could make it a less accessible tool for traffickers, there is another side to the discussion. As consumption is made illegal, a victim that has been exploited through drug use may feel reticent to reach for help in fear of the legal repercussion they might face.

Fidesz-KNP employs right-wing populist rhetoric to justify their defense of traditional family values, which manifests as stigmatization and discrimination against members of the LGBTQIA+ community in Hungary. This has resulted in their heightened social exclusion and vulnerability (Gomes & Menezes, 2023). The continuous assaults against LGBTQIA+ individuals in political and public discourses increase their likelihood of losing support systems within both social and familial spheres. Moreover, as legislation is enacted and discriminatory behaviours become more normalized, the prospects of seeking assistance from civil and governmental organizations become increasingly daunting. Consequently, LGBTQIA+ individuals may find themselves more easily isolated, and some may even become homeless due to a lack of available resources to facilitate survival. Therefore, members of the LGBTQIA+ community, particularly those already experiencing homelessness, are at a heightened risk of being targeted by traffickers who offer promises of survival (Roe-Sepowitz & Rogan, 2023).

In conclusion, the Hungarian populist regime has demonstrated a commitment to combating human trafficking by enhancing prosecutorial measures. Nonetheless, there is a neglect of anti-trafficking prevention and protection strategies. It is imperative for the regime to address the potential consequences of its new legislation that further marginalizes vulnerable groups. To effectively combat trafficking and ensure the protection of all individuals, irrespective of their background or circumstances, a comprehensive and inclusive approach against human trafficking is indispensable.

## 4. DENMARK

### 4.1 POLITICAL CONTEXT

#### 4.1.1 CHARACTERISTICS OF THE POLITICAL SYSTEM

The Danish political system is a combination of a constitutional monarchy and a multiparty parliamentary system. It was first established as a democracy in the Danish Constitutional Act, promulgated in 1849 which ended the absolute monarchy and gave citizens the right to vote. Since then, it has only been amended four times. The last amendment corresponded to the Constitutional Act of 1953, which officially established parliamentarism, despite it already being practiced since 1901. Simultaneously, a tripartition of powers was established, so to prevent abuse of power and establish a system of checks-and-balances in the Danish democracy. The Constitutional Act to this day does not mention political parties, but they have become a fundamental in the Danish multiparty parliamentary system (Folketinget, 2023).

As a constitutional monarchy, Denmark has a hereditary monarch as the ceremonial head of state and government, which is currently Queen Margrethe II. The Monarch's power is mainly symbolic as its political role is extensively limited by the Danish Constitutional Act. Theoretically, Section 3 of the Constitutional Act defines the tripartition of powers as 'Legislative authority shall be vested in the King and the Parliament conjointly. Executive authority shall be vested in the King. Judicial authority shall be vested in the courts of justice.' (The Constitutional Act of Denmark, 1953). However, today this article is understood differently. Essentially, since the introduction of parliamentary sovereignty, the Monarch does not have independent power: 'The King has been replaced by a government. The legislative power is thereby vested in both the government and Parliament. But the fundamental principle of the tripartition of power is still a core principle upon which the Danish democracy rests.' (Folketinget, 2023; Global Edge, 2023).

This way, even though the Monarch is Head of State, their executive function is restricted to the official appointment of the government, after it has been determined in the parliament. Furthermore, its legislative authority as formal Head of Government means they preside over the Council of State where the government makes decisions that must be signed both by the Monarch and the Prime Minister. It is also the Queen's role to officially appoint and dismiss civil servants (after the government's recommendation),

host official visits, represent Denmark abroad, hold audiences to citizens and confers knighthoods as well as public service medals. Besides these symbolic acts of agreement, the government has come to replace the role of the 'King' (Det Norske Kongehus, 2021; Folketinget, 2023; Kongehuset, 2023).

In a simplistic practical manner, Denmark's executive branch is ruled by the government, while the legislative body consists of the parliament and the judiciary of the tribunal system, whose last instance is the Supreme Court (Folketinget, 2023; Global Edge, 2023).

As a parliamentary democracy, Denmark's entire political system relies on its parliament – the Folketing – which is the supreme legislative body. It is a unicameral body comprising of 179 seats: 2 of which are specified for Greenland's representation and other 2 for the Faroe Islands.

The elections for the parliament are held every four years, except if the Prime Minister calls for an anticipation of the electoral process under extraordinary circumstances (Section 31, The Constitutional Act of Denmark, 1953). Denmark's suffrage consists of Danish citizens of or above 18 years of age with a permanent address in Denmark and full legal capacity, the only exception being if you're a Danish citizen working abroad for the state or living out-of-state temporarily. Denmark has a very good election turnout, usually ranging from 80 to 90% of the suffrage (Folketinget, 2023; IPU, 2023).

The right to vote in Denmark is allied to the right to stand as a candidate in the general elections – the same requirements are needed. However, you have three options to run for office: standing for an elected party, for a new party, or independently. After the elections take place and the votes are counted, the seats in Parliament are attributed according to the proportion of votes a party gets. The elected candidates are then assessed as being worthy of their role by the Parliament itself. As the elections define the Parliament, the government is formed subsequently (Folketinget, 2023).

In a 'Queen's Round' each elected party representative advises the Queen on who should be the Prime Minister. Based on these recommendations, the Monarch then appoints someone to become Prime Minister and form a government, or someone to lead the negotiations on who the position should go to. In simplified cases, the role of the Prime Minister will go to the leader of the party or coalition holding the majority, in which case no further parliamentary approval is needed (Folketinget, 2023).

However, it is also possible for Denmark to have a minority government, when it holds fewer than 90 seats in the Parliament. To bridge this gap in parliamentary support, the government must seek support from other parties – government's parliamentary support. These supporting parties express their commitment to not overthrow the government and their intent to assist in obtaining a majority for the government's policies. Once guaranteed the ninety seats, the government and its parliamentary support draft a platform outlining proposed legislation that is expected to garner majority support (Folketinget, 2023).

The Parliament also has the option of sanctioning the government. This varies from criticizing a minister's performance, establishing a commission of inquiry or scrutiny or charging a minister in the Court of Impeachment. Furthermore, if a majority of Parliament, for some reason, garners mistrust in the Prime Minister or the government than a vote of no-confidence can be passed to overturn the government or recall a general election (Section 15, Constitutional Act, 1953). Therefore, the Danish government is entirely reliant on the Parliament, which is formed after and through parliamentary elections and is dependent on its majority support through its whole functioning (Folketinget, 2023).

#### 4.1.2. CURRENT POLITICAL CLIMATE

Since 1909 no single party has had the majority to rule on its own. The Danish political reality consists of minority governments - a consensus in a multi-party system, where parties with similar interests align together. Currently, there are sixteen parties officially registered in the Danish Parliament: The Social Democratic Party, The Socialist People's Party, The Unity List, The Social Liberal Party, The Alternative, The Liberal Alliance, The Conservative Party, Venstre, The Danish People's Party, The New Right, The Denmark Democrats, The Moderates, Inuit Ataqatigiit, Siumut, Sambandsflokkurin/Javnaðarflokkurin, (Denmark.dk, 2023; Folketinget, 2023).

Summarily, most current parties are organized in two blocs: centre-left parties encompass the Red Bloc while the Blue Bloc claims centre-right parties (IPU, 2023).

Currently, the Red Bloc is comprised of five parties: the Social Democratic Party (SD), the Socialist People's Party (SF), the Social Liberal Party (RV), the Unity List (EL) and the Alternative (A). The Social Democratic Party is the oldest and largest party within the centre-left coalition and its ideology stems from nineteenth-century social democratic reformism. The Socialist People's Party is a left-wing party predominantly guided by principles of democratic socialism and concerns surrounding environmental and social justice. The Social Liberal Party is a party with a liberal economic ideology, but with a progressive left-leaning agenda on moral and societal issues. The Unity List, also known as the 'Red-Green' alliance, was established in 1989 by the merger of former minor radical left-wing parties. Lastly, and most recently, the Alternative was founded in 2013 and focuses on sustainable development at the environmental, economic, social and cultural level, resisting neo-liberal economic thinking and political makeshift solutions (DIPD, 2023; Meret, 2020).

The Blue Bloc encloses four parties: Venstre (V), the Conservative Party (K), the Liberal Alliance (LA) and the Danish People's Party (DPP). Venstre is a longstanding party with a classic liberal ideology rooted in the Nordic agrarian tradition. The Conservative Party adopts a neo-liberal economic stance coupled with a defence policy combining conservative nationalism and internationalism. The Liberal Alliance is a more recent political entity, which advocates for liberal economic policies, such as tax reduction and public sector reforms. Lastly, the Danish People's Party, established in 1995, is a populist radical right party that recently experienced a surge in popularity - and a

subsequent downfall. This party is characterized by its Euroscepticism, anti-immigration and anti-Islam values. Interestingly, despite its right-wing ideology, the economic policy it advocates for is left leaning with a focus on nationalist welfare (DIPD, 2023; Meret, 2020).

In this chapter, I will be reviewing elections from 2011 up to the present day as to get an understanding of the last decade's political climate in Denmark. I will place a particular emphasis on the popularity and legislative role of the DPP, as to understand the influence of a right-wing populist party in a functioning multiparty parliamentary democracy.

#### 4.1.2.1. 2011 TO 2015 ELECTORAL MANDATE

From 2001 to 2011, Denmark was governed by a centre-right coalition formed by Venstre and the Conservative People's Party with the Danish People's Party's parliamentary support. During these years, the DPP enjoyed the role of external support as it did not carry the responsibility of holding office but had enough influence to exert pressure on the government. A 'reward' system was implemented: as its budgetary views differentiated from the rest of the coalition, the DPP would approve of the other parties' liberal economic policies in exchange for a more restrictive approach on migration. This collaboration with the 'mainstream' parties also allowed it to increase its political legitimacy (Meret, 2020).

The Prime Minister remained Anders Fogh Rasmussen, party leader of the Venstre, up until 2009 when he took on the role of Secretary General of NATO. Afterwards, Prime Minister Lars Lokke Rasmussen assumed the role both as prime minister and as head of the Venstre Party.

Early Parliamentary Elections were called on the 26th of August of 2011 by then Prime Minister Lars Rasmussen.

The governing coalition promised to tackle the economic crisis in the country by maintaining austerity plans and engaging in further spending cuts such as the early retirement pension schemes. On immigration policy, the coalition's parliamentary support DPP made itself heard by suggesting the delocalization of asylum centres from Denmark to the regions of origins of asylum-seekers (IPU, 2023).

This was challenged by the centre-left coalition, consisting of the Social Democratic Party, the Social Liberal Party and the Socialist People's Party. It vowed to raise taxes on

banks and high earners as well as increasing value-added taxes on cigarettes and junk food, as to combat the country's debt. The resulting funds would then be invested into education and infrastructures. The opposition coalition also defended a strategy of adding twelve minutes of work each day, as an extra hour of work per week for each worker could boost economic growth. The Social Democrat's party leader Helle Thorning-Schmidt promised humane migration policies but clarified it would not intervene with the last government's imposed measures (IPU, 2023).

On election day, there was a voters' turnout of 87.71%. Venstre remained the most voted party, winning 47 seats. However, the centre-right coalition won only 86 of the parliament seats when the centre-left coalition took 89. As a result, Prime Minister Rasmussen conceded defeat and tendered the government's resignation (IPU, 2023).

This shift in government came as the financial crisis made voters increasingly concerned with economic policies, opposed to socio-cultural issues that were so emphasized in the right-wing alliance. 'This helped the centre-left parties, which were more focused on socio-economic issues, to oust the centre-right government after ten consecutive years in power.' (Meret, 2020).

On 2 October 2011, the Social Democratic Party, the Social Liberal Party, and the Socialist People's Party formed a coalition government under the leadership of Helle Thorning-Schmidt, who became the first female Prime Minister in Denmark. Mr. Mogens Lykketoft of the Social Democratic Party was elected the Parliament's new Speaker (IPU, 2023).

In these elections, a total of eight political parties achieved parliamentary representation, which included the parties aligned with both the centre-right and centre-left coalitions, as well as the Unity List and Liberal Alliance which secured twelve and nine seats respectively. The DPP emerged as the third most popular party, securing 22 seats with 12.3% of the total votes, trailing only behind the Social Democratic Party and Venstre (IPU, 2023).

During this time period, Denmark found itself to be particularly vulnerable economically, given the European Debt Crisis. As the Danish people sought new solutions, the right-wing populist discourse of the DPP gained popularity. Its harsh discourse on migrants and asylum-seekers and its conservative economic policies resonated with a struggling

population that embraced the message of preserving their already weakened welfare state to themselves (Nicolaisen, 2023).

During its governing time, the centre-left coalition passed mostly modest legislation regarding migration and integration which was strongly opposed by Venstre and DPP that demanded stricter measures (Nicolaisen, 2023).

However, this started to change in 2014 as the Socialist People's Party left the government in January 2014 over economic policy disputes, leaving the centre-left governing coalition weakened. The Prime Minister Thorning-Schmidt noticed that the rising popularity of DPP was posing a threat to the Social Democrats' electoral base. As a result, the Social Democratic Party declared its intention to co-opt DPP's stances on asylum, supporting a denial on family reunifications within the first year of arrival and a status of temporary residency on refugees (Nicolaisen, 2023; Reuters, 2014).

#### 4.1.2.2. 2015 TO 2019 ELECTORAL MANDATE

The elections were called four months early on the 18th of June 2015, as the Prime Minister Thorning-Schmidt pointed to an economic growth in Denmark, which set a good timing for the electoral process (IPU, 2023).

In the prelude of the 2015 elections, the contested political topics revolved immigration, welfare, employment and economic growth (IPU, 2023).

The centre-right alliance expanded as the Blue Bloc added the Liberal Alliance to its coalition. It remained strict on welfare spending, particularly unemployment benefits, and even more so on immigration policies, urging to restrict asylum policies. The main concern publicized was the abuse of welfare benefits by migrants (BBC News, 2015). Differentiated work permits for westerners and non-westerners as well as reduced social rights were the initiatives that marked the political campaign of the Blue Bloc (Nicolaisen, 2023).

The centre-left coalition also expanded to include the Unity List and the Alternative into the Red Bloc (IPU, 2023).

The Social Democrats saw their re-election chances slimming as DPP's popularity rose. Once the DPP surpassed them in the 2014 European Parliament elections, the Social Democratic Party decided to change their political strategy in order to attract voters from the DPP's voter base. The refugee crisis framed the opportunity for the Social Democratic

Party to regain their supporters through the advocacy of stricter asylum policies: ‘poster campaigns showed images of SD party leader Helle Thorning-Schmidt stating: ‘Tighter asylum regulations and more duties for immigrants’, or ‘If you come to Denmark, you must work’. (Meret, 2020). Furthermore, it co-opted DPP’s protectionist populist campaign ‘Denmark You Know’ with an anti-immigrant rhetoric, urging refugees and immigrants to be self-sufficient (Nicolaisen, 2023).

While this remained a controversial debate amongst the centre-left coalition, given the other constituents did not approve of this political campaign which compromised their parties’ principles, the Red Bloc stood united in the discussion surrounding welfare benefits, establishing itself as the most “generous” (BBC News, 2015).

The elections gave the victory to the Blue Bloc that won ninety seats, opposed to the Red Bloc which gained eighty-five seats. Although the most voted party was the Social Democratic with forty-seven seats, the Prime Minister Thorning-Schmidt conceded as the Red Bloc did not assure a majority parliamentary support. Nine parties won seats: all constituents of the Blue and Red Blocs. (IPU, 2023).

The DPP became the second most popular party overall, and the first within the Blue Bloc, securing 37 parliamentary seats with 21% of the votes. However, it turned down the opportunity to form a government. Its party leader Dahl stated ‘[...] for the time being there is not enough interest [from our side] to get the DF into government [...] as our [political] influence will not be as strong by pursuing that strategy’ (Meret, 2020). Remaining as an external backer was a way to exert its power without the responsibility (Meret, 2020).

A minority government was then formed by Prime Minister Rasmussen comprising only of the Venstre party with the Conservative People’s Party and the Liberal Alliance’s endorsement and an ad hoc parliamentary support from DPP (Nicolaisen, 2023).

During Venstre’s government further restrictive legislation on asylum and migration was passed and DPP’s populist anti-Islamic rhetoric was felt. Danish citizenship was made harder to obtain while welfare benefits were lowered for immigrants. Free speech was restrained in its religious capacity as to stop ‘hate preachers’ of Islamic faith, a ‘ghetto law’ was promulgated that established a neighbourhood quota for non-westerners and an anti-mask law was adopted, prohibiting certain coverings. The country also stopped welcoming UN quota refugees, applied a ‘jewellery law’ that stripped refugees of any

valuable belongings and created deportation camps for rejected asylum seekers and their children. Additionally, it started the process of making refugee status temporary, as one of DPP's demands. (Meret, 2020; Nicolaisen, 2023).

Following the Red Bloc's electoral defeat, the Social Democrats' party leader Thorning-Schmidt resigned and Mette Frederiksen was appointed as her successor. Under this new leadership, the party's stance in migration policies shifted immensely. Both a new party manifesto as well as a policy program named 'Fair and Realistic' were introduced highlighting a concentrated effort to curtail the influx of non-Western immigrants and to strategically relocate asylum centres outside of Europe. 'The Social Democrats presented strict immigration policies as integral to a new class-struggle about protecting national culture, rural communities, and working-class identities from the threats of immigration, centralization, and the creative class.' (Nicolaisen, 2023). Consequently, the Social Democrats assumed an unexpected role as advocates of restrictive immigration measures within the left spectrum and were colloquially dubbed the 'anti-immigrant left' (Nicolaisen, 2023).

The Social Democratic Party began supporting the DPP's 'paradigm shift' proposal of refugee repatriation and even collaborating with it in parliament, blocking proposals and advocating for retirement rights. There was even a noticeable difference on how the party chose to rebrand itself as more approachable, following the populist footsteps of DPP (Nicolaisen, 2023).

#### 4.1.2.3. 2019 TO 2022 ELECTORAL MANDATE

Elections were called upon the legislated end of mandate of the previous Blue Bloc government on the 5th of June 2019.

The major electoral issues discussed during the political campaign revolved immigration, climate change, healthcare reforms and the retirement age.

Within the Red Bloc, parties focused on different issues. The Social Democratic Party kept campaigning for stricter immigration and asylum laws, aligning itself with the DPP on these issues. Frederiksen declared her intention to form a single-party government since their proposed restrictive legislation on migration had continuously been swayed by the Social Liberals. (Nicolaisen, 2023).

The Social Liberals as well as the Alternative party did not fully support the migration policies announced, threatening to remove themselves from the coalition if no concessions were made. The other Red Bloc constituent parties' campaigns argued for better environmental policies and stood by the Social Democrats' campaign for an increase in public spending as to uphold the deteriorating welfare state, particularly on healthcare, public schools and care homes (Euronews, 2019; Europeelects, 2019; Guardian, 2019).

The Blue Bloc emphasized unanimously stricter immigration policies and a general disregard towards climate change. The DPP stood out for their more conservative socio-economic political stand (C-REX, 2021; Euronews, 2019; Europeelects, 2019; Guardian, 2019).

However, internal opposition within Venstre arose as key political figures sought to disassociate from DPP and its controversial immigration discourse. Venstre struggled to justify its migration policies as a Liberal Party passing restrictive measures 'The solution was to frame illiberal proposals so as to assume a defence of liberal principles (...) The party debate surrounding a DPP-inspired proposal to ban burqa and niqab serves as an illustrative example. Proponents within the Liberal Party picked up the issue after a verdict of the Belgium High Court, arguing that "niqab and burqa is violating personal freedom and equality" (Schmidt 2017). In contrast, opponents within the party maintained that a ban would violate the Basic Law, stating that "it must not be the case that we preach freedom of speech, but that it does not apply to Muslims" (Klarskov 2017)." (Nicolaisen, 2023).

Simultaneously, DPP sought more affirmative power in socio-economic issues as its centre-left economic ideology was consistently being blocked within the Blue Bloc. Hence its collaboration with Red Bloc parties, particularly the Social Democratic Party (Nicolaisen, 2023).

As a result, Prime Minister Lars Rasmussen abandoned the idea of a government coalition with DPP and instead publicized the possibility of a cross-bloc governing coalition; (The Local, 2019).

These elections also counted with the participation of two new alt-right parties. New Right, on one hand, presents extremely restrictive views on migration policies and defends liberal economic policies. Hard Line, on the other, has advocated for an

ethnonationalist approach to migration policies, arguing for the mass deportation of migrants with other ethnic and racial background as well as a ban on Islam altogether in Denmark.

In these elections, the Social Democrats came out the most voted party, securing 48 parliamentary seats. Its political strategy of alignment with the DPP did not improve the party's popular vote but increased the Red Bloc's political success at the expense of DPP's electorate (IPU, 2021; Nicolaisen, 2023).

As a result, the Red Bloc came out victorious in these elections, securing 96 parliamentary seats. Given the afore mentioned conflicts, the Social Democratic Party promised to cut greenhouse emissions by 70% before 2030 and increase welfare spending as a compromise to maintain the full Red Bloc's support (IPU, 2023).

On the 27th of June, a minority government comprising only of the Social Democratic Party was formed by Prime Minister Frederiksen, as it had been her stated intention (IPU, 2023; Nicolaisen, 2023).

In comparison, the Blue Bloc took hold of 75 seats. This significant drop from the last elections was not a reflection of Venstre's political setbacks, as it gained nine more seats in comparison to 2015. Instead, it was the DPP that dropped significantly in the polls, going from 37 parliamentary seats in 2015 to 16 in 2019 (IPU, 2023).

However, the DPP's voter loss wasn't caused by a sudden change in the Danish electorate's perspective on migration issues. Instead, this drop in votes can be explained by the mainstream parties' strategy of incorporating key issues previously associated specifically to the DPP. This allowed them to win over a fraction of DPP's voter base. Additionally, the DPP's supporters expressed their disappointment following their party's decision in 2015 to not form a government and their confusion regarding collaborative efforts with centre-left parties (Meret, 2020; Nicolaisen, 2023).

Another factor to consider was the creation of new alt-right parties that might have attracted the most radical DPP voters. In fact, both far right political entities critiqued the DPP for trying to integrate mainstream parties and adopting 'lenient' migration policies. This campaign proved successful enough as the New Right gained four parliamentary seats already in its first elections. (Europeelects, 2019; Meret, 2020; Nicolaisen, 2023).

#### 4.1.2.4. 2022 ELECTORAL MANDATE

The 2022 elections were held earlier over the controversy of the mink massacre during COVID-19. As it was a widely criticized move that drew international attention with a strong environmental impact, a parliament-appointed commission was set to investigate. It concluded that the government lacked a legal justification for this act, which led to the Social Liberal Party's threat of a confidence vote unless early elections were mandated (IPU, 2023).

On the 5th of October, Prime Minister Frederiksen called for elections on the 1st of November.

These elections stood out from previous ones, as the governing Prime Minister, leader of the Social Democratic Party integrated in the Red Bloc, campaigned for a government with a broader political spectrum. Citing the times of crisis, she affirmed her willingness to form a government incorporating parties from the Blue Bloc, as to incorporate different perspectives (DR.dk, 2022; IPU, 2023).

Among this suggestion, some debate amongst the parties came forward.

Opinions diverged amongst the Red Bloc. The Social Democratic Party stated that, despite its intentions on forming a wider government, it refused to form a government solely with the Social Liberal party. Given their divergent ideas on migration policies, a middle party was deemed necessary. The Social Liberal party showed support for a broad government (DR.dk, 2022).

Simultaneously, the Socialist People's party disagreed with the principle but did not fully reject it. The Alternative did not state a preference for the constitution of the government, but for its ecological principles. Lastly, the Unity List fully stood by the idea of a red government and opposed the 'middle-ground' idea (DR.dk, 2022).

Within the Blue Bloc, the idea was overall rejected. Venstre as well as the Conservative People's Party, the Liberal Alliance and the DPP all denied their support for a broad government (DR.dk, 2022).

'Outside of the blocs', the New Right did not support a middle government (DR.dk, 2022).

These elections also counted with newly formed parties, which expressed their thoughts on the idea of a broad government. The Moderates, a centre-right party led by the former prime minister and head of the Venstre's party Lars Rasmussen welcomed the initiative. The Danish Democrats, a right-wing populist party also accepted the idea. The Independent Greens, a left-wing party, argued for a fully red government (DR.dk, 2022).

Besides this issue, each party advocated for its own principles.

The Social Liberal Party rejected a second instalment of a Social Democrat minority government. The party also established it would not support a government that adopted the continuous plan of a refugee's centre in Rwanda and advocated instead for the assembly of reception centres outside of Europe. Lastly, it demanded a labour supply increase by 50,000 by 2030 in order to give its parliamentary support (DR.dk, 2022).

The Socialist People's Party argued for legislation on Danish agricultural practices as to reduce greenhouse gases. Furthermore, the party demanded for politicians' lucrative pensions to be abolished (DR.dk, 2022).

The Alternative advocated for a reduction of meat production in Denmark (DR.dk, 2022).

Together, the Socialist People's Party, the Unity List, the Alternative and the Social Liberal Party have also established that the adoption of a biodiversity law with binding targets is essential for their support in a new government (DR.dk, 2022).

The Independent Greens have twelve requirements: six on climate change, such as the introduction of a CO2 budget, and six on immigration policies, where it's demanded that the plans for a reception centre in Rwanda be stopped (DR.dk, 2022).

The New Right advocate for three restrictive migration policies: a total ban on asylum, mandatory deportation after the first criminal offense, and an inaccessibility to welfare benefits to foreigners (DR.dk, 2022).

The electoral process resulted in a big win for the Social Democratic Party, that secured 50 parliamentary seats. As it had been proposed during the political campaign, Prime Minister Frederiksen moved to form a broad government. On the 15th of November a coalition government was announced, consisting of the Social Democratic Party (50), Venstre (23), despite its previous oppositional statement, and the Moderates (16) – the three biggest parties these elections (IPU, 2023).

Meanwhile, the DPP's votes continued to drop, being now the smallest party in parliament with only 5 seats. Nicolaisen (2023) called it a victim of its own success – as other parties adopted the rhetoric that made it so popular once they felt threatened by it.

Currently, the DPP, the Social Liberal Party, the Conservative People's Party, the Socialist People's Party, the Liberal Alliance, the Unity List and the Alternative all stand in opposition to the centre coalition government (DIPD, 2023).

#### 4.1.3. POPULIST IDEOLOGY IN A MULTIPARTY PARLIAMENTARY DEMOCRACY

The conclusion of the article is that the Liberal Party and Social Democrats in Denmark have responded to the Danish People's Party (DPP) with increased intensity and a variety of strategies, including co-optation and cooperation. They have recognized and adopted some of the policies, values, and populist style associated with the DPP. However, while these strategies have allowed political collaborators and institutions to align with their traditional constituencies, the radical/extreme right has not been contained. The DPP, despite its initial success, has faced electoral defeats in recent years. Overall, the liberal democratic principles and rights have been negatively affected, particularly in relation to immigrants and refugees.

The Danish mainstream parties on the left and right have employed various strategies in response to right-wing populism. These strategies have ranged from dismissing the challenge posed by the populist Danish People's Party (DF) to cooperating with its representatives. The DF's inclusion in government formation was facilitated by the country's proportional voting system, tradition of consensus politics, and the legacy of the Radical Liberal Party (FrP). The mainstream right parties, Liberals (V) and Conservatives (K), accepted the DF as a political ally when it gained significant votes in 2001, but could easily distance themselves from it when necessary. However, by cooperating with the DF, the mainstream right parties helped legitimize the populist party and increased the prominence of immigration, integration, and asylum policies, which were key issues for the DF. On the other hand, the Social Democrats (SD) initially tried to dismiss the DF's challenge by focusing on economic and welfare issues that were not associated with the populist party. However, after the 2015 refugee crisis, the SD was forced to shift its stance and adopt stricter immigration policies in response to the political debate on socio-cultural issues. It remains to be seen if these strategies have effectively countered the populist threat, as the DF experienced a significant defeat in the 2019 general election, and the SD returned to power, although their party did not reverse its electoral decline. The long-term impact of these developments and whether they will lead to a redefinition of policy priorities in Denmark is still uncertain.

## 4.2 HUMAN TRAFFICKING POLICIES IN DENMARK

### 4.2.1 CONTEXT

Denmark remains primarily a country of destination for victims of trafficking in human beings, although it is also used as a transit point to Scandinavia. Historically, the main form of exploitation in Denmark is the transnational trafficking of women for sexual exploitation. However, in 2021, the gendered difference in human trafficking isn't felt so much in numbers, counting 37 male victims and 42 female victims. It remains, though, on the form of exploitation each gender is exposed to (Danish Centre Against Human Trafficking, 2021).

Overall, there has been a steady increase in victims of trafficking in human beings, from 29 in 2008 to 80 in 2021 (GRETA, 2011; GRETA, 2016; GRETA, 2021).

Foreign nationals are disproportionately targeted as victims of human trafficking. Nigeria, Thailand, Romania, Uganda, the Philippines, Vietnam, China and most recently Morocco were noted as some of the most common countries of origin of the victims in GRETA's three evaluation rounds. Criminal networks involved in human trafficking are typically from the victim's home country (Global Organized Crime Index, 2021; GRETA, 2011; GRETA, 2016; GRETA, 2021).

In the context of gender, women constitute the majority of sex trafficking victims in Denmark. This is facilitated by the legality of selling and buying sex, which allows traffickers to disguise their illicit activities as legitimate operations through the presence of brothels. The majority of women exploited in the commercial sex industry come from Nigeria and Thailand (Global Organized Crime Index, 2021; GRETA, 2011; GRETA, 2016; GRETA, 2021; TIP, 2023).

Labour trafficking remains the second most common form of exploitation, predominantly affecting males in industries such as cleaning, construction, restaurant services, domestic work, and cannabis cultivation. Over recent years, the Philippines, Romania and China have emerged as the primary countries of origin for victims of forced labour in Denmark (Global Organized Crime Index, 2021; GRETA, 2011; GRETA, 2016; GRETA, 2021).

Furthermore, there has been a rise in trafficking victims subjected to forced involvement in criminal activities. Men and boys have been particularly vulnerable to this form of

exploitation, particularly from Vietnam, Romania, Morocco and Nigeria (Danish Centre Against Human Trafficking, 2021; TIP, 2023).

Traffickers have also recently taken to target unaccompanied children, particularly Moroccan, in sex trafficking, forced labour, and forms of forced criminality. The recent surge in child trafficking victims can be attributed to this, from 1 in 2008 to 6 in 2019 (GRETA, 2021; TIP, 2023).

In Denmark, most victims fall into trafficking schemes as third country nationals who look to enter the country over the promise of a better life. Since the migration and asylum policies are so restrictive, they are smuggled in and then coerced and threatened into repaying their "debt" to their smugglers (Global Organized Crime Index, 2021).

#### 4.2.2 INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

In 2000, Denmark ratified the United Nations Convention against Transnational Organized Crime (UNTOC) supplemented by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air, in 2003. However, the Faroe Islands and Greenland are exempted from this legal instrument and its obligations. (UNTC, 2023).

The 'Council of Europe Convention on Action against Trafficking in Human Beings' was signed in 2006 and ratified in 2007 by Denmark. Its entry into force was in 2008. So far, its monitoring mechanism the 'Group of Experts on Action against Trafficking in Human Beings' has analysed the country's adherence to the convention's provisions on three occasions: 2011, 2016, 2021 (COE, 2021).

Despite being a member of the EU, Denmark has an opt-out on justice and home affairs, which means that the 'Anti-Trafficking Directive' (Directive 2011/36/EU) is not applicable in Denmark. However, through Act no. 275 of 27 March 2012, the Danish criminal legislation has been aligned with the provisions of the Directive (CMM, 2023).

Denmark has also ratified several International Labour Organization (ILO) conventions, such as the Forced Labour Convention (C029), Abolition of Forced Labour Convention (C105), and Worst Forms of Child Labour Convention (C182). Furthermore, on 14 July 2017, Denmark officially endorsed the 2014 ILO Protocol, an addition to the Forced Labour Convention of 1930 (CMM, 2023; ILO, 2023).

Additionally, it has ratified the UN Convention on the Elimination of All Forms of Discrimination Against Women in 1983, as well as the UN Convention on the Rights of the Child in 1991, which further include obligations to prevent abduction, sale and trafficking in women and children. The latter is not applicable to the Greenland and the Faroe Islands (UNTC, 2023).

### 4.2.3. NATIONAL ANTI-TRAFFICKING POLICIES

#### 4.2.3.1 DANISH PENAL CODE, GREENLANDIC CRIMINAL CODE, FAROESE PENAL CODE

The 2023 TIP Report by the U.S. Department of State as well as unofficial translations were used to obtain information on the crime of trafficking in human beings in Denmark, as the original sources were only available in Danish. While this was enough to get a detailed scope of the crime in the Danish Penal Code and the Faroese Penal Code, the information obtained about the Greenlandic Criminal Code is much more limited.

The Danish Penal Code of 1930 includes the crime of trafficking in its Chapter 26 ‘Offenses against Personal Liberty’ in Section 262(a) and, recently, 262(b).

Article 1 of Section 262(a) defines the crime of trafficking in human beings in three sections: the act, the method and the purpose. The act refers to the recruitment, transportation, transfer, housing or receiving of a person. The method could be unlawful coercion, deprivation of liberty, threats, unlawful inducement or other inappropriate conduct. The purpose regards the category of exploitation the individual is subjected to: sexual immorality, forced labour, slavery, or removal of organs. It attributes a prison sentence of ten years maximum for this crime (Section 262(a), Art. 1, Danish Penal Code of 1930).

Article 2 of Section 262(a) imposes an equivalent penalty for the offense of trafficking in human beings in two distinct scenarios. First, to perpetrators who exploit individuals under the age of eighteen. Second, to criminals who manipulate their victims' legal guardians into granting consent for the exploitation through the provision of benefits, and to the guardians who acquiesce to this (Section 262(a), Art. 2, Danish Penal Code of 1930).

Section 262(b) criminalizes labour exploitation under extremely dangerous or unreasonable conditions where a victim is manipulated through their significant financial and personal difficulties or existing dependency. Labour, in this section, includes commercial sex acts (Section 262(b), Danish Penal Code of 1930).

The Faroese Penal Code defines the crime of trafficking in human beings in the same exact manner under Section 262(a).

The Greenlandic Criminal Code identifies the crime of trafficking in human beings in a similar manner under Section 93. However, the judiciary in Greenland operates differently as it does not contain punishment frameworks, solely the crime. Instead, the court decides a measure best suited to rehabilitate the criminal. The measures for mentally stable adults range from a warning, a fine, conditional detention, supervision, community service, combined supervision and short-term detention to detention for an indefinite period.

#### 4.2.3.2. DANISH LEGISLATIVE TOOLS AGAINST HUMAN TRAFFICKING

Denmark has been promulgating Anti-Trafficking Action Plans since the ratification of the Palermo Protocol in 2002. In total it has implemented six. The first one was called Government's Action Plan to Combat Trafficking in Women and its execution ran from 2002 to 2005. In 2005, an amendment was made to extend the initiatives to children. Afterwards, this anti-trafficking strategy was renamed the 'Action Plan to Combat Human Trafficking' and a new one was promulgated every three years. I will be focusing on the Action Plan to Combat Human Trafficking from 2011 to 2014, 2015 to 2018, 2019 to 2021 and 2022 to 2025 as they have been the years I have focused my study on. Once again, the original documents are available only in Danish, so an unofficial translation was used for the analysis.

While the Action Plan 2011-2014's long-term objective is to reduce the number of victims of human trafficking in Denmark, it also sets out a realistic short-term goal to provide the best possible support for the victims identified in Denmark.

Firstly, it aims to develop better mechanisms towards victim identification. This involves outreach work in the field of prostitution and investing towards educating and raising awareness about human trafficking Danish citizens, particularly children.

Secondly, it strives to improve their provision of care towards victims by extending access to healthcare, psychological treatment, legal assistance or any pedagogical support. A protected housing facility and a prepared repatriation are also offered.

Thirdly, the plan seeks to cut demand for services provided from trafficked individuals by increasing awareness of what trafficking in human beings implies.

Fourthly, it establishes international partnerships since human trafficking is a transnational issue. Denmark cooperates with several international organisations, such as the UN, EU, OSCE and CoE and allocates 29.5 million DKK in the 'Neighbourhood Program' to combat this issue in Eastern Europe. Besides, embassy officials are trained to assist a potential victim of human trafficking.

Lastly, the plan focuses on the maintenance of effective investigation and prosecution of criminal acts related to human trafficking.

The Action Plan 2015-2018 outlines five priority areas, aligned with the 4Ps of Combating Trafficking in Human Beings: Prevention of human trafficking, Identification of victims, Coordinated support and protection, Prosecution of the Perpetrators and Partnership.

The Prevention measures outlined in this plan are to prepare front-line workers to identify victims as well as limiting demand from services deriving from the exploitation of individuals in Denmark. Simultaneously, international cooperation is deemed as essential since victims often come from countries stricken by poverty and are lured over the promise of better opportunities.

The Protection policies are meant to identify victims and offer adequate support. It consists of outreach work on the streets, massage parlours and sex work environments so that the victims can establish trust with authorities and feel safe reaching out. In addition, the Danish Centre Against Human Trafficking employs social workers to participate in police operations regarding sex work, suspicions of forced labour and trafficking for criminal purposes. It's fundamental for individuals found in these situations to feel safe to reach out in case they are victims.

After victims are identified, an adequate tailored support should be offered. For legal residents a restitution period is also offered. For illegal residents a 30 to 120 days reflection period is established in Denmark until their mandatory deportation. All victims are also offered a prepared repatriation along with reintegration support as to ensure they are received safely in their home country.

The Prosecution efforts consist of the attribution of guidelines detailing the various types of human trafficking to help the police force and the prosecutors detect a case of trafficking in human beings. Furthermore, it details various steps to take in the processing

of these crimes such as securing witness statements, granting residence permits to foreign witnesses, placing victims in crisis centres and dropping the less serious offenses.

The Partnership dimension is developed through the coordination and collaboration amongst various Danish actors, such as the police, social workers, different ministries, the Immigration. NGOs are not undervalued in this category as they possess a valuable set of skills regarding vulnerable groups that the government seeks to explore in this fight against human trafficking.

The Action Plan 2019-2021 has four focus areas: prevention and outreach work; identification, assistance and support; prosecution of ringleaders; and coordination and knowledge.

The first focus area encompasses outreach and trust-building work. It is necessary to build trust and provide knowledge about support and assistance options among potential victims of human trafficking. For this, a broader range of actors should have the skills to establish a secure communication. Furthermore, information should be made more accessible, particularly to landlords, and an anonymous reporting option should be provided on the website of the Danish Centre Against Human Trafficking. Beyond these measures, a special task force should be established specifically to address new target groups and regions, NGOs work should be monitored, and health drop-in services should be distributed to provide assistance to potential victims.

Concurrently, education and training fulfil a big role in preventing human trafficking. Offering education to new professional groups within danger areas, developing coordinate efforts between key actors and exploring new technological initiatives allows key actors to assist pre-emptively.

The second focus area comprises of victim identification efforts so they can recover before repatriation, which is fully offered and prepared by the state. In order to get victims to cooperate success stories of reintegration should be told. Simultaneously, authorities should enhance their knowledge regarding the victims' stories.

After identification, victims should receive support. This can be done by providing accommodation, strengthening counselling, guiding victims in regard to their testimonies, informing them of possible compensation and enhancing their legal protection by facilitating the exchange of information between NGOs and authorities.

For foreigners without permits who must repatriate, the sending organization should make an effort to be flexible in accommodating the victim's needs and provide an informative report on the reintegration process as to better inform victims. It should also expand its collaboration with the victim's home country and establish if a reintegration support can be granted to a close relative when the victim is particularly traumatized.

The third focus area works on discussing the prosecution of human trafficking within judiciary professional networks and establishing a key person scheme as to facilitate collaboration amongst relevant police districts. It also seeks to ensure all professionals in contact with potential victims know the correct procedures and that the Prosecutor writes about the process of a criminal case and the right of the victim. Furthermore, the Danish Centre Against Human Trafficking and the National Police's offer to educate relevant stakeholders.

The fourth focus area establishes a coordination of efforts through the development of a reference group system and creating or developing new forums with the relevant actors where knowledge and experiences related to human trafficking can be exchanged. It also seeks to disseminate information through themed days for relevant professional groups and establish a research network that discusses theory and practices of selected human trafficking topics. Finally, it aims for international cooperation between the Danish and development projects.

The Action Plan 2022- 2025 is divided in three parts.

The first draws a plan incorporating several measures to strengthen authority efforts, outreach work and identification. The strengthening of the CMM's proactive work by granting them more authority is one of them, while the conduction of identification interviews by the CMM and the Danish Immigration Service instead of NGOs is another. Additionally, a consideration is being put forward about the possibility of a systematic sharing of confidential trafficking information between the CMM and relevant authorities. CMM will distribute their functions through other NGOs as to be more proactive. Lastly, a research study on the protection of victims of human trafficking in Denmark will be conducted.

The second focuses on a better victim protection practice. Firstly, there will be reforms on the accommodation services, as the provided housing will be better accommodated to victims particular situation and needs, depending on the trauma. Although, for this to

happen, accommodation is dependent on approval and consistent supervision. Finally, CMM will take on the official role of the contact person for victims requiring support under the action plan and the process of repatriation.

The third regards a strengthened prosecution. For this purpose, there will be an allocation of six additional police officers to monitor and allocate pressure in environments where human trafficking is likelier to occur. Additionally, a National Unit for Special Crime (NSK) has been established to combat organized crime such as trafficking in human beings. Section 262(b) to the Danish Penal Code, which I mentioned previously, was also added recently in scope of this Action Plan. The collaboration between the police and the prosecution in dealing with human trafficking cases will be further enhanced, as the latter will now participate in the authority group combating forced labour. The judicial system will continue to prioritize gaining knowledge about human trafficking, including through CMM's training.

#### 4.2.4 LEGISLATION AGAINST VULNERABLE GROUPS

It is imperative to examine how legislation has evolved or stagnated in relation to vulnerable groups during this period so we can subsequently examine the influence that various parties might've had on different policies in a complex legislative multiparty system.

This chapter will focus on analysing the changes in migration and asylum policies, drug use regulations, LGBTQIA+ rights, and initiatives addressing homelessness that have been implemented since 2011.

Through 2011 to 2023, major changes have been noted in the Danish political scenario. The aftermath of the Great Financial Crisis, the European Debt Crisis and the Refugee Crisis left Danish citizens feeling uncertain about their future. As it is ever so common, the mainstream parties and their recycled answers didn't connect with their electorate, who saw a need for a crisis response.

As such, the DPP surged in popularity. Its right-wing populist rhetoric resonated with a discontent majority. This party discussed the crisis openly, accusing those that didn't fit their conception of a Danish citizen as 'stealing' from the already tired Danes. It presented a radical anti-immigration, particularly anti-Islam, ideology.

The DPP could suddenly exert a lot of influence within the Folketinget. Its large quota of parliamentary seats along with its backing from the Blue Bloc and a developed cooperative relation with the Social Democrats facilitated their policy proposals. It is important to analyse how, in consequence of this, legislation has evolved or stagnated through these years in regards to vulnerable groups.

Considering the discussion in this thesis, I will be focusing on migration and asylum, drug use, LGBTQIA+ and homelessness related policies that have been imposed since 2011 and DPP's possible impact behind them.

The main area of legislation where the DPP's impact was felt was asylum and migration policies. While the policy changes have been extensive, some have stood out for their harsher anti-immigration or anti-Islam rhetoric.

In 2011, Denmark reintroduced temporarily internal border controls at the Danish-German border to monitor and limit cross-border movements (The Guardian, 2011). In

the same year, a law was passed that increased the waiting time for family reunification from one to three years (Section 9, Danish Aliens Act, 2005).

Act No. 102 of 3 February 2016 was adopted which enforced a controversial ‘jewellery law’. This allowed for asylum-seekers to be searched and confiscated of personal belongings exceeding 10000DKK (excluding objects of sentimental value) and cash from 3000 to 10000 DKK. It also promulgated a postponement of the right to family reunification for three years for refugees with a temporary protection status (Danish Aliens Act, 2016; Vedsted-Hansen, 2016)

In 2017, the Aliens Act was amended to include Article 29c which gives the Ministry of Immigration and Integration the authority to install a two-year ban on ‘extremist’ foreign religious figures without a residence permit from entering the country. A national sanctions list was instituted where these individuals are listed. This was considered a restraint on freedom of speech and freedom of religion and a specific attack on followers of the Islamic faith. (Aliens Act, 2005; Office of International Religious Freedom, 2019)

In 2018, a prohibition of face coverings, including burqas and niqabs, in public spaces was enforced, punished by a fine ranging from 1,000 to 10,000 DKK (Office of International Religious Freedom, 2019). That same year, a ‘ghetto law’ was promulgated that established a neighbourhood quota for non-westerners.

In 2019, Law No. 140 decreed a ‘paradigm shift’ from asylum integration to repatriation policies, which established the residence of refugees in Denmark as temporary. This was later amended to allow the exception for a full-time employed refugee to be able to extend their permit while they are employed. It opened the possibility to withdraw residency permits for refugees and their families as the goal was established as ‘sending them back quicker’. Residency permits became harder to obtain altogether. The integration benefits were also lowered. (ECRE, 2019; Law 140, 2019).

Another policy field Denmark stands out in is its hard penalization of drugs. For 35 years, personal use of drugs was decriminalized until the Danish Parliament reintroduced a repressive drug legislation in 2004. The centre-right government at the time called it a ‘zero-tolerance policy’ in its white paper ‘The Fight Against Drugs’ which deemed to explain the principle behind it. Specifically, it aimed to prevent young Danes from falling into addiction. Therefore, increased penalties were attributed to those selling at ‘younger’ venues, night-time venues and for those possessing for personal use. However, a ‘strategic

moralisation' was employed so socially disadvantaged drug users wouldn't be punished (Houborg et al., 2020).

This policy did not result in a decrease of drug users or people with substance problems. It did, however, result in a larger number of incarcerations related to drug charges. Criminalised individuals present a marginally secluded section of society. Therefore, despite the policy's moral clause on social disadvantage, its restrictive character seemed to contribute to the social exclusion of a wider gap of Danish Society (Houborg et al., 2020).

Homelessness is another area of concern in Denmark. As it is a social-democratic welfare state with low levels of poverty, homelessness is not associated with unemployment or economic difficulties as much as it is in other places. Instead, substance abuse problems and mental illness tend to be the determinant factors (Benjaminsen, 2016)

Denmark adopted its first Homelessness Strategy in 2009, later than most countries. This program determined four goals: 'no one should live on the streets, young people should not stay at homeless hostels, no person should have to stay in a homeless hostel for more than 120 days, and better accommodation solutions must be in place for people being released from prison or leaving institutional care.'. In order to reach this, the government implemented three measures: it provided 500 million DKK towards housing and social work initiatives, it established an ongoing dialogue between the Ministry of Social Affairs and the municipalities, and it supported research development on homelessness (Hansen, 2010)

Given the social and economic context provided, the Danish government followed through with a 'housing first' approach that deems to secure accommodation for those struggling with addiction or mental illness so that homeless people can safely improve their health (Benjaminsen, 2016; Hansen, 2010)

Lastly, the evolution of LGBTQ+ rights need to be analysed. Denmark is considered the third most accepting country of the LGBTQ+ community. Same-sex unions have been recognized since 1989, same-sex adoption is legal since 2009 and same-sex marriage since 2012. Denmark imposes no censorship regarding LGBTQ+ topics. The right to change legal gender without surgery is accepted since 2014, but it doesn't fully recognize the non-binary gender. Discrimination based on gender and sexuality are overall

forbidden. There is a three-month deferral for gay men who seek to donate blood and conversion therapy has just been defunded but not banned.

Overall, the analysis of Danish legislation on vulnerable groups reveals a complex landscape. While Denmark has implemented policies that have had a negative impact on certain vulnerable groups, such as immigrants and drug users, it has also demonstrated a commitment to addressing homelessness and promoting LGBTQ+ rights. Although, these four groups are commonly targeted by traffickers, the restrictive migration and narcotic policies have led to the continuous isolation of migrants, refugees, drug users leaving them more at risk. Furthermore, the 'zero-tolerance' policy also contributed to the social exclusion of a bigger sector of society through the imprisonment of recreational drug users.

#### 4.3. THE DANISH PLURALISTIC POLITICAL SYSTEM'S EFFECT ON ANTI-TRAFFICKING POLICIES

Denmark is multiparty parliamentary system that usually forms minority governments, making the parliament's integrating political parties more dependent on one another. As no political entity has the majority, parties are forced to converse amongst each other in order to form alliances and pass legislation. Denmark is very traditionally divided amongst these terms as the left-wing and right-wing tend to separate into their own blocs.

However, the rise of the DPP changed the traditional political reality. Its right-wing populist character attracted voters in a time characterized by crisis: the Great Financial Crisis, the European Debt Crisis and the Refugee Crisis. The mainstream parties lost their appeal by giving their traditional answers or swerving from controversial issues. As they kept losing their electoral support to the DPP, a need to change their political campaign was felt and to associate with this party was felt.

This is how the DPP managed to exert such a powerful influence within the legislative landscape without ever forming government.

Through 2001 to 2011, the centre-right alliance counted with the parliamentary support of the DPP in a mutually beneficial relation. DPP's electoral base was smaller then but it was enough to decide whether the government could count with a majority support in the parliament. As such, the government conceded to restrictive migration and asylum legislation and the DPP helped approve their governmental budgets, despite its contradictory economic beliefs.

As the party grew and became a threat to the Social Democrats when they were holding the office from 2011 to 2015, the mainstream party started to feel the need to co-opt DPP's issues as to take from their electoral base. After a leadership change, the Social Democrats were suddenly the 'anti-immigrant left'.

The 2015 elections marked the peak of DPP's popularity as it was the second most voted party, only behind the Social Democrats. However, even though the Blue Bloc won, and it had the opportunity to form a government, it refused. The DPP sought to exert influence from behind the scenes. Venstre formed a minority government by itself but completely dependent on DPP, that was the highest voted party in the Blue Bloc.

DPP was at its most powerful as the mainstream parties looked to cooperate to guarantee its parliamentary support.

As the two mainstream parties now aligned with his populist rhetoric, the 2015 to 2019 electoral mandate was characterized by extremely controversial and restrictive legislation regarding migration, asylum and Islam. The process of obtaining Danish citizenship became more challenging, while welfare benefits for immigrants were reduced. There were also restrictions on freedom of speech in the religious context, aimed at curbing Islamic preachers. The "ghetto law" was enacted, setting a quota for non-westerners in certain neighbourhoods, and an anti-mask law was passed, prohibiting specific facial coverings. Denmark ceased accepting UN quota refugees and enacted a "jewellery law" that confiscated valuable possessions from refugees. It also started the procedure of making refugee status temporary and established deportation campus for asylum seekers and their children.

Even after DPP's downfall its influence on migration policies is felt, as they are still in place. Furthermore, the Social Democratic government keeps legislating for stricter measures after its right turn which was motivated by the DPP's popularity.

This, however, reflects poorly on Denmark's anti-trafficking directives, particularly in its victim protection strategy. Instead of prioritizing the identification of trafficking indicators, the government persisted in deporting certain foreign victims. It failed to effectively motivate victims to cooperate with investigations, and its quick repatriation of foreign victims hindered successful prosecutions and exposed them to the risk of being trafficked again, discouraging them from seeking help from the police. Additionally, the government lacked well-defined protocols for identifying child victims, especially those who were unaccompanied (TIP, 2023).

It is known that most trafficking victims in Denmark are third-country nationals and that their exploitation comes from criminal networks connected to their home country. However, in every Action Plan one of the victim's protection measures involves their deportation. This is contradictory. Not only does this hinder victims' safety but it also has a backlash effect as other victims refuse to come forward.

Furthermore, such extreme migration policies might lead to the smuggling of individuals as they find no legal leeway. This leaves them at a higher risk of being trafficked.

However, it is not the only policy that hinders anti-trafficking measures. The 'zero-tolerance' to drugs implemented in 2004 under the centre-right coalition government had an adverse effect to what was expected. The numbers of people consuming drugs was not altered, but the ones of people jailed for it did.

Former offenders have a difficult time reintegrating society, be it for the isolating experience or the lack of structural support after incarceration. This can reflect in a diaspora of other factors that make them more prone to being trafficked, all spanning from the social exclusion experienced after serving a sentence.

Nonetheless, Denmark had very inclusive social legislation in regards to LGBTQ+ individuals and homelessness, which lessens the risk of trafficking for these vulnerable groups, as they don't get so socially excluded.

## 5. DISCUSSION AND CONCLUSION

The two case studies show a link between government ideologies and anti-trafficking strategies. Due to the limited scope of my research and the complexity of the topic discussed at hand, it is not to be assumed to be a strict causality. Each country has a different historical background, geographical position and socio-economic factors that cannot be removed from a comprehensive analysis of human trafficking.

In Denmark, the rise of the DPP, a right-wing populist party, resulted in a shift in political dynamics and policy decisions. The mainstream parties, in order to maintain electoral support, started adopting restrictive migration and asylum legislation, which had a detrimental impact on victim protection and deterred victims from seeking help. The government's focus on deportation rather than identifying trafficking indicators hindered successful prosecutions and left victims at risk of being trafficked again.

By analysing Hungary's policies, a populist regime, a similar case is drawn. Their restrictive migration and asylum policies interfere with their otherwise progressive anti-trafficking strategy. The new penal code along with its amendments and the National Anti-Trafficking Strategy have been strengthened the prosecutorial dynamic of anti-trafficking measures.

However, Hungary also enacted social legislation that criminalized homelessness and drug use and passed discriminatory legislation against LGBTQIA+ individuals. These policies have created a socio-political environment that further marginalizes vulnerable groups and increases their vulnerability to trafficking, making them more susceptible to exploitation. This way, Hungary fails in its prevention and protection measures regarding trafficking in human beings.

Denmark, on the other hand, has progressive social legislation regarding LGBTQIA+ and homelessness. Although it fails in its victim protection policies, their socially inclusive legislation is a good remark as a prevention measure, since traffickers target marginalized groups. Policies regarding asylum, migration and integration as well as the criminalization of drug use is what ultimately sets Denmark back.

To conclude, Hungarian shows a much more restrictive migration and social legislation that reflects poorly on its anti-trafficking measures. This legislation is heavily associated with the ideology carried by the right-wing populist regime.

Denmark, on the other hand, has restrictive asylum policies enacted when DPP, the right-wing populist party, concentrated more power. However, DPP never formed a government in Denmark and its strong legislative influence was felt only in these policies. Otherwise, Denmark shows a socially progressive agenda that could be viewed in a positive light regarding trafficking prevention.

Overall, these case studies highlight the importance of taking into account the broader political and social context in understanding anti-trafficking strategies. Government ideologies and policies can either support or undermine these efforts, and it is crucial for governments to adopt a comprehensive and inclusive approach to effectively combat human trafficking and protect vulnerable populations.

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