Understanding Trafficking in Persons in the MENA region: the Causes, the Forms, the Routes and the Measures to Combat a Serious Violation of Human Rights

Training Manual to Combat Trafficking in Persons

The Arab Initiative to Combat Human Trafficking
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For further information regarding The Protection Project, please go to its website at www.protectionproject.org. The Protection Project can be contacted by email at protection_project@jhu.edu, and by phone at (+1) 202 663 5896.
INTRODUCTION

1. The scope of the training manual

In today’s globalized world in which many principles and traditions are being called into question, few rights such as the right to freedom and security enjoy such broad consensus. Trafficking in persons and all forms of enslavement, states around the world agree, must be confronted relentlessly and with all means available.

Since the adoption of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons in 2000, many countries have therefore reformed their legislation to criminalize trafficking in persons within their jurisdictions and have taken concrete steps to eradicate the problem through the engagement of civil society, law enforcement personnel and the judiciary.

To assist governments and the international community in implementing these new laws, a plethora of excellent training manuals on trafficking in persons have been published by national and international institutions. Some of these manuals are sector-specific, some of them focus on a region; others provide a general overview of the problem of trafficking without a specific regional or functional focus.

Drawing from over 10 years of experience in providing capacity building trainings on trafficking in persons to all levels of society and to the governments in the greater MENA region, The Protection Project at the Johns Hopkins University, School of Advanced International Studies wrote this training manual with two objectives in mind: firstly, developing a training manual for practitioners specifically tailored to the forms and routes of trafficking in
persons in the MENA region; secondly, addressing in detail some of the specific and particular issues of the region, including the Islamic law perspective on the combat against trafficking in persons.

In referring to the MENA region the manual includes the following countries: Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Palestinian Authority, Qatar, Saudi Arabia, Somalia, Syria, Tunisia, United Arab Emirates, Sudan, Yemen.

2. The methodology of this training manual

The training manual aims at providing the reader with a useful tool to understand the problem of trafficking in the MENA region through a three level approach: firstly, it provides an overview of the forms and routes of trafficking in persons in the MENA region; secondly, it analyzes the measures either taken or that should be taken to address the problem of trafficking in the region through the established 4 Ps approach; thirdly, it helps the understanding and memorization of the content of each chapter through review questions and practical exercises.

2.1. A overview of forms and routes of trafficking in persons

Through best practices, case studies and victims’ stories, the training manual offers useful insights in the problem of trafficking in the MENA region to assist the reader in relating the information in the manual to real case scenarios.

2.2. Prevention, protection, prosecution and participation: the four Ps of trafficking in persons

Following an introductory chapter on the causes and consequences of trafficking in persons, the manual addresses the four main strategies that experts in the field of trafficking in persons have developed to confront and combat the crime, namely prevention, prosecution, protection and participation. In addressing these measures, a special emphasis is given to the international, regional and domestic legal frameworks that have come to shape these policies in recent years. When appropriate, the manual also mentions the Islamic law perspective, in order to encourage the reader to approach each issue in a comprehensive and comparative manner.
2.3. Review questions and practical exercises

Each chapter concludes with review questions and practical tasks. The goal of the exercises is to assist the reader in memorizing the key concepts presented in the chapter and to develop his practical skills to prepare him to be an active player in the anti-trafficking movement in the MENA region.
CHAPTER I: The Underlying Causes and Consequences of Trafficking in Persons

1. A human rights approach to combating trafficking in persons

1.1. A debate on the nature of trafficking in persons

Trafficking in persons is a complex crime that affects many spheres of law and criminal justice. Since the passage in 2000 of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Supplementing the United Nations Convention against Transnational Organized Crime\(^1\) (hereafter U.N. Protocol), international legal experts have been debating to which discipline does trafficking in persons belong to.

Today, many experts agree that the human rights approach to trafficking in persons is the most appropriate as it recognizes the trafficked person as a victim entitled to human rights and, as such, entitled to protection and assistance if those human rights have been violated, regardless of the sex, age, or nationality of the victim.

1.2. Shifting the focus to the human rights of the victims

The same approach is supported by the Office of the High Commissioner for Human Rights (OHCHR) which prescribes in its Recommended Principles and Guidelines on Human Rights and Trafficking in Persons provide that:

“Violations of human rights are both a cause and a consequence of trafficking in persons. Accordingly, it is essential to place the protection of all human rights at the centre of any measures taken to prevent and end trafficking. Anti-trafficking measures should not adversely affect the human rights and dignity of persons and, in particular, the rights of those who have been trafficked, migrants, internally displaced persons, refugees and asylum-seekers.”\(^2\)

2. The Recruitment of Trafficking Victims

2.1. The recruitment techniques

A variety of techniques are used by traffickers to recruit their victims, ranging from kidnappings to the simple promise of a low wage job. Traffickers intentionally seek out the weakest and most vulnerable members of society
in order to exploit them for personal gain, frequently by taking advantage of conditions of poverty, economic collapse, civil unrest, and social upheaval. Often, the trafficker gains the confidence of the victim through a combination of flattery and physiological manipulation. At times, unscrupulous employment agencies deceive workers into entering abusive work situations, and what first appears as a legitimate job can easily turn into forced labor or sexual exploitation. Women and children are especially vulnerable to trafficking and are often trafficked by their own communities, families, and in public places of business and commerce. Promise of an immediate payment may lead families to sell their children to traffickers.

3. Demand and trafficking in persons

Discouraging demand for trafficking victims is increasingly at the heart of many anti-trafficking policies focusing on preventing the crime. For instance, Article 9(5) of the U.N. Protocol makes it clear that addressing the demand for the services of trafficking victims is an essential part of effectively preventing and combating trafficking in persons. The Article states: “States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”

4. The causes of trafficking in persons

The causes of trafficking are economic, social, cultural, legal and political in nature. Populations that are rendered vulnerable by one or more of these factors have a higher rate of trafficking in persons. Traffickers intentionally target the weakest and most vulnerable members of society in order to exploit them. Among the major causes of trafficking are: poverty and underdevelopment, social and cultural traditions, weak legal institutions, civil war and political unrest and corruption.

4.1. Poverty and underdevelopment

Economic factors are directly addressed in the U.N. Protocol, which mentions poverty, underdevelopment and lack of equal opportunities as being the main root causes of trafficking in persons. Economic vulnerability may also include unemployment and lack of access to opportunities, which make people want to migrate in search of better conditions. Even a normal, legitimate
flow of economic migration from a poor country to a richer one provides opportunities for traffickers to victimize immigrants who are more vulnerable having left their home areas.

4.2. Social and cultural traditions

Social exclusion relates to a lack of access to social rights and prevents groups from receiving the benefits and protection to which all citizens should be entitled. Marginalization from social security derives from complex factors, including gender, ethnicity and the low status of groups within societies. This involves discrimination in education, employment practices, access to legal and medical services and access to information and social welfare. Social exclusion is particularly important when discussing how to prevent re-victimization and re-trafficking. Trafficked persons face considerable obstacles upon their return home, including the attitudes and biases within their own communities. Social and cultural practices are sensitive to context and therefore must be considered with special caution so as to avoid generalization.

For example, cultural practices such as arranged, early or forced marriages, and other practices such as temporary marriages, marriages by catalogue or mail-order brides, if they lack consent and they entail an element of exploitation, can all contribute to trafficking in persons. Furthermore, in many societies, cultural norms affect the manner in which women are treated, making gender-based discrimination a contributing factor to women’s vulnerability to trafficking. In addition, women from certain societies who are trafficked into prostitution find it more difficult to reintegrate into their families and communities after being freed from exploitation.

4.3. Weak legal institutions

Legal factors are manifested in the lack of access to the criminal justice system, which occurs either because the trafficked person is a foreigner or lacks access to legal representation, or the system itself does not offer an appropriate remedy.

In addition, insecurity may be fostered by the “double witness” or “corroborative evidence” rule which disqualifies the evidence unless a witness’s testimony is corroborated by another witness or other material evidence implicating the accused. A possible consequence of this rule is that victims of trafficking are not given a chance to be heard in court.
4.4. Civil war and political unrest

In addition to economic, social and cultural factors, political instability, war and conflict may contribute to trafficking in persons. This is particularly the case in transitional societies where civil unrest, loss of national identity and political instability may create a favorable environment for organized crime, including trafficking in persons. In such cases, the disruption of traditional community life, along with its protective framework, make people extremely vulnerable to exploitation.

In cases of civil war and ethnic conflicts, there is often a single, targeted minority group who suffers a complete breakdown of social mechanisms, increasing their vulnerability. Finally, the resulting displacement of people in cases of strife leads to isolation of people, increasing the ease by which traffickers can victimize them.

4.5. Corruption

Corruption is one of the major contributing factors to the crime of trafficking in persons; it is both an underlying root cause and a facilitating tool. It is important to remember that trafficking in persons may thrive in no small part due to the implicit or explicit participation or inaction on the part of public officials. An example is represented by a border control officer turning a blind eye on people without legal documents crossing the border accompanied by their trafficker. There have also been cases reported in which officials accepted or extorted bribes or sexual services, falsified identity documents, discouraged trafficking victims from reporting their crimes, or tolerated child prostitution and other trafficking in persons activities in commercial sex sites.

5. The consequences of trafficking in persons

5.1. The harm suffered by a victim of trafficking

Trafficking is a crime against the human being and against State security that has both long and short term effects on the victim and State institutions. A victim will suffer from both physical and psychological harm. Even if eventually rescued, the trauma suffered by victims of trafficking is long-lasting and may never fully dissipate. Victims of trafficking generally work in sub-standard conditions, under increased risk of injuries or death while on the job, due to unregulated and unsafe working conditions or to lack of proper health care. Workers in the construction industry may suffer exposure to dust, chemicals and other hazardous materials that can cause respiratory infections, scabies,
tuberculosis and other diseases associated with overcrowded, unsanitary conditions. Victims of sexual exploitation are more susceptible to contracting HIV/AIDS or other sexually transmitted diseases, but rarely report them due to fear of stigmatization and of retaliation by the traffickers, thus aggravating their health conditions. Among the most common psychological consequences of trafficking are depression, memory loss, dizziness, suicidal thoughts and many forms of shame, grief, fear, distrust, self-hatred and post-traumatic stress disorder.

5.2. Trafficking in persons: a crime against the State

Trafficking in persons also undermines the legitimacy of state whose goal is that of promoting the rule of law and the respect of human rights. Traffickers are often criminals who violate the rights of the victims but also commit crimes against the state, such as violation of immigration, tax and business laws. In transnational trafficking in persons, the destination country often suffers an unlawful crossing of its borders and the country of origin suffers an unlawful loss of its people and a disruption to the social fabric of its society.

5.3. The economic impact of trafficking in persons

Trafficking in persons is an illegal criminal activity that fuels the black market and encourages money laundering practices. The lost tax revenue to the government, deriving from tax evasion and the law enforcement costs of detecting and combating money laundering are just two of the most obvious negative economic impacts of trafficking in persons. In countries with a high number of trafficked children, various reports have proven the long-term negative impact on the economy due to the decreased productivity of these children by the time they reach adulthood.⁴
**Applying Your Knowledge: Introduction**

**Exercise A: Review Questions**

1) What is a human rights approach to trafficking in persons?

2) What are the main root causes of trafficking in persons?

3) Why, in your opinion, governments in the MENA region should address the issue of demand?

4) What, in your opinion, are the main long term consequences of trafficking in persons in your country of origin?
Exercise B: Practical tasks

1) Write a one-page summary of what you believe your government should do to confront trafficking in persons in your country.
Chapter II: What is trafficking in persons?

1. Trafficking in persons under International Law

1.1. The United Nations definition of trafficking in persons

An international consensus was created in December 2000 when countries adopted the U.N. Protocol. The U.N. Protocol was the first international legal instrument to define trafficking in persons and provide for a comprehensive approach to combating the problem. Today, it remains the primary reference tool for countries in developing and implementing their national policies to combating trafficking in persons and in guiding regional frameworks and international cooperation in this field. The U.N. Protocol entered into force on 25 December 2003 when 20 countries deposited their instrument of ratification. As of April 2012, 147 countries are parties to the U.N. Protocol.

Article 3(a) of the U.N. Protocol states:

“Trafficking in persons shall mean the recruitment, transportation, transfers, harboring 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 the giving or receiving of payments or the 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 labor or service, slavery or practices similar to slavery, servitude or the removal of organs.”

1.1.1. The elements: The twenty-plus formula

Based on this definition, three elements of the crime can be identified:

1) **The act (what is done):** The act is the level of interaction a person has with the victim whether it be on the supply or demand side. It can occur on five different levels: recruitment, transportation, transfer, harboring, and receipt of persons.

2) **The means (how it is done):** Means is how the trafficker or purchaser of the trafficked person obtains the victim. Eight forms are most commonly recognized: threat or use of force/coercion, abduction, fraud, deception, abuse of power, abuse of a position of vulnerability, and the giving or
receiving of payments or benefits to achieve the consent of a person having control over another person.

Coercion may be defined as: “threats of serious harm to or physical restraint against any person; any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of law or the legal process.”

3) **The exploitative purpose (why it is done):** This element is the demand side of the trafficking market. It includes, *at a minimum*, seven purposes, including the exploitation of the prostitution of others, other forms of sexual exploitation, forced labour or services, slavery, practices similar to slavery, servitude or the removal of organs.

With five acts, eight means and seven exploitative purposes, the U.N. Protocol’s definition of trafficking can be identified by the so-called “20-plus formula”. The “plus” indicates that the list of exploitative purposes is not a closed list and that states may choose to add other forms of exploitation to define more specifically the various forms of trafficking in persons that are to be criminalized within their jurisdictions.

Although the Protocol generally requires that the crime of trafficking be defined through a combination of the three constituent elements, in some cases, the individual elements will constitute criminal offences independently. For example, the means of abduction or the non-consensual application of force (assault) will likely constitute separate criminal offences under domestic criminal legislation.

**1.1.2. The consent of the victim**

Under the U.N. Protocol the victim’s consent is linked to the means used. The Protocol states that the consent of a victim of a crime “shall be irrelevant” only in cases where illegal means have been used. This is why the U.N. Protocol is broad in defining the means element, which is not limited to force, fraud or coercion. It suffices that a case of trafficking involves abuse of a position of vulnerability. Article 3 (b) states:

“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”.
1.1.3. The forms of trafficking

Exploitation can take various forms, which may be grouped in:

**Sex trafficking:** This may include exploitation of the prostitution of others or other forms of sexual exploitation such as pornography, sexually-oriented performances and child sex-tourism.

**Case Study**

In 2010 in Lebanon, the government issued *Artiste* visa permitted the entry of over 5,000 women for the purpose of working in the adult entertainment industry. With the practice of passport confiscation and restrictions on movement, a significant amount of these women were forced to engage in prostitution and the sex-slave industry. (*United States Department of State, Office to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report – Lebanon, 27 June 2011*)

**Trafficking for non-commercial sex purposes:** This may include early marriage (child marriage), forced or servile marriage, arranged marriage, compensation marriage, transactional marriage, temporary marriage which lack consent and entail an element of exploitation, or marriage for child-bearing. In the MENA region, trafficking for the purpose of non-commercial sex most often manifests itself in the form of temporary or forced marriages. Temporary marriages often occur between daughters of poor families from Egypt and wealthy men from the Gulf States. Women in North Africa are sometimes kidnapped under the guise of temporary marriages to force them into prostitution.\(^8\)

**Case Study**

In Egypt, young girls are increasingly being trafficked through the so-called *siqueh* marriages. A *siqueh* marriage involves the marrying of young girls to wealthy men in the Gulf region that lasts for a short period of time. These marriages are illegal, yet are on the rise due to the financial gain the girl’s family receives. It is a transaction of sorts, where a broker coordinates meetings between future husbands and the families of prospective brides. Often there are several girls that the husband may choose from, and when he makes his final decision, a contract is drawn up between him and the family. A dowry is negotiated and the broker receives a percentage of the money. (*ECPAT International, Egypt, March 2002*)
Labor trafficking: This may include domestic servitude, sweatshop or agricultural or construction labor, or enforced enrollment in an armed force. Other forms may include use of the trafficked person in criminal activities or begging. By far the most common form of labour trafficking in the Arab world is domestic servitude. Often, domestic servants in the MENA region are forced to work 12 to 16 hours a day with little or no pay, very limited time off, insufficient nutrition, and often are subject to verbal and physical abuse, including sexual exploitation. The domestic servants often do not complain or report cases of this abuse because they fear imprisonment, deportation, or retaliation by their employers upon their return to the household. Domestic servants who do attempt to escape are often returned to their employer by the authorities. Employers often hold the domestic servant’s passports and travel documents, thus preventing them from leaving their job for other work and from returning home. Trafficking for domestic service involves primarily people from South and Southeast Asia. Other forms of labour trafficking in the region include begging, slavery, forced labour and recruitment into armed forces. Forced begging is especially present as a form of internal trafficking in countries such as Egypt where street children, a vulnerable population, are often subject to exploitation by human traffickers.

Case Study

Jordan: Case number 2605/2011

In this case, the defendant was charged with the crime of human trafficking as defined in Article 3 of the Jordanian law Number 9, 2009. The defendant took 265 Dinars from the plaintiff in consideration for procuring a domestic worker from Sri Lanka, without a residency ID or a work permit. The worker was never paid and she escaped. The defendant was sentenced with a fine of 1,000 Dinars.

Trafficking for the purpose of organ removal: This amounts to trafficking when it is carried out by means of a commercial transaction with or without the consent of the donor. In the MENA region, the country from which most organ “donation” originates is Egypt. The most common recipient countries are Saudi Arabia and Oman.
Case Study

In 2010, 11 people were arrested for involvement in an organ trafficking ring stretching from Egypt to Syria. Kidneys were sold, reportedly for $6,600 each, to wealthy buyers in Saudi Arabia and the UAE. The removal of the organs took place in a private hospital in Cairo. The leader of the ring, a woman named “Fadia” was charged with coordinating trafficking operations by organizing travel from Cairo to the Gulf States for donors. A kidney can sell for up to US$15,000 on Egypt’s black market. (Egypt Independent, 2010)

1.2. Trafficking in children

1.2.1. The special status of children under international law

Trafficking in children must be distinguished from trafficking in adults because the law often grants additional protection to the child victim of trafficking due to his high vulnerability. According to UNICEF, as many as two million children are subjected to prostitution in the global commercial sex trade. Sex trafficking has devastating consequences for minors, including long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and possible death.⁹

The U.N. Protocol recognizes the special status of children when, in Article 6 (4) it states that: “Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care.”¹⁰

In providing special protection for children, the U.N. Protocol prescribes that proof of means is irrelevant when trafficking children. In these cases, only the act and the exploitative purpose must be proven. Article 3 (c) reads:

“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.”¹¹

As a consequence of this provision, a child cannot give consent even if none of the means are used. Therefore, the consent of the child is, in every circumstance, irrelevant.
Yemeni children, mostly boys, are trafficked across the northern border with Saudi Arabia or to the Yemeni cities of Aden and Sana’a for forced labor, primarily as beggars, but also for domestic servitude or work in small shops. Some of these children are subjected to commercial sexual exploitation in transit or once they arrive in Saudi Arabia. To a lesser extent, Yemen is also a source country for girls trafficked internally and to Saudi Arabia for commercial sexual exploitation. Girls as young as 15 years old are exploited for commercial sex in hotels, casinos, and bars in the governorates of Mahweet, Aden, and Taiz. The majority of child sex tourists in Yemen originate from Saudi Arabia, with a smaller number possibly coming from other Gulf nations. Yemeni girls who marry Saudi tourists often do not realize the temporary and exploitative nature of these agreements and some are forced into prostitution or abandoned on the streets after reaching Saudi Arabia (United States Department of State, Office to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report – Yemen, 27 June 2011)

Certain forms of trafficking only relate to children. These include: trafficking for the purpose of illegal adoption, child sex tourism and trafficking for the purpose of pornography.

1.2.2. Trafficking for the purpose of illegal adoption

Adoption may be a form of trafficking if the child is exploited. In the absence of exploitation, adoption does not constitute a form of trafficking even if the child is being sold, although adoption in such a case would be illegal. Under Article 1(d) of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, the sale of children is considered slavery through:

“[A]ny institution or practice whereby a child or young person under the age of 18 years is delivered by either or both of his natural parents or by his guardian to another person,

whether for reward or not, with a view of the exploitation of the child or young person or of his labour.” 12

Consequently, the sale of children in the name of intercountry adoption may be considered a practice similar to slavery. As stated in the Travaux
Preparatoirs of the U.N. Protocol, Article 3, section C (Interpretative Notes): “Where illegal adoption amounts to a practice similar to slavery, it will fall within the scope of the Protocol.”

Further, the 1993 Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption sets in the preamble, as its objective: “To ensure that inter-country adoption takes place in the interest of the child and to prevent abduction, sale of, or traffic in children.”

Baby trafficking, however, is not subject to any explicit international conventional prohibition. Article 32(1) of the 1993 Hague Convention on Protection of Children and Cooperation in Respect to Intercountry Adoption merely provides that “[n]o one shall derive improper financial or other gains from an activity related to an intercountry adoption.”

The Islamic Law Perspective

Illicit sale of children for the purpose of intercountry adoption does not constitute a form of trafficking in most countries of the Middle East because Islamic law does not recognize the institution of adoption in accordance with the Qur’an, which states in Surah XXXIII: 4-5:

“...[N or] has He made your adopted sons your sons. Such is only your manner of speech by your mouths. But God tells you the Truth, and He shows the right way. Call them by (the names of) their fathers: that is juster in the sight of God.”

Islamic law recognizes Kafala, as an alternative to adoption. Kafala is a system of fosterage where a child may be placed under the guardianship of a family, but the child continues to retain his lineage. This explains why many countries of the Middle East that follow Islamic law had reservations regarding Article 21 of the 1989 Convention on the Rights of the Child, which recognizes adoption, because it is inconsistent with Islamic law. Unlike other regions where baby trafficking is prevalent, there is no demand for adopted children in the Middle East.

1.2.3. Child sex tourism

Child sex tourism amounts to trafficking when a person travels to a foreign country for the purpose of engaging in prostitution of children. Child sex tourism is not specifically defined in the Optional Protocol to the Convention on the Rights of the Child and on the Sale of Children, Child Prostitution and
Child Pornography. Article 2(b) of the Convention does however provide a definition for child prostitution which is “[...] the use of a child in sexual activities for remuneration or any other form of consideration.” Article 10(1) states that:

“States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.”

Article 10(3) also mentions that: “States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.”

Child sex tourism occurs in many countries of the MENA region. Cases of child sex tourism have been reported in Bahrain, Comoros, Egypt, Libya, Morocco, Saudi Arabia, Tunisia, UAE and Yemen. In Tunisia, children under sixteen are being trafficked for Libyan tourists. Egyptian children are trafficked for child sex tourism particularly in Cairo, Alexandria and Luxor. In Kuwait, the Ministry of Islamic Affairs asked some Sunni Mosques to give specific sermons on improper sexual behavior, including child sex tourism abroad. For its part, the government of Morocco conducted a variety of public awareness campaign focused on the issue of child sex tourism. In Qatar, the government went further in enforcing strict legislation on morality to target Qataris travelling abroad to popular child sex tourism destinations.

1.2.4. Pornography

As detailed in Article 3 of the Travaux Preparatoirs of U.N Protocol, section A (Negotiation text) “(ii) Of a child, prostitution, sexual servitude or use of a child in pornography.” In addition, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, Article 2 (c) provides that: “Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.”
Particularly active in the fight for children’s rights is the International Center for Missing and Exploited Children (ICMEC), an international NGO based in the United States. ICMEC sustains that today child pornography has become a global crisis. In an effort to promote the harmonization of the law on child pornography, in 2006 ICMEC published The Child Pornography Model Legislation. The model legislation was compiled by examining child pornography legislation in 196 countries and it details seven criminal offense objectives, including: Incorporate child pornography offenses into the penal code; Criminalize the knowing possession of child pornography, regardless of the intent to distribute; Criminalize knowingly downloading or knowingly viewing child pornography images on the Internet and using the Internet to distribute child pornography; Penalize those who make known to others where to find child pornography; Criminalize the actions of parents or legal guardians who acquiesce to their child’s participation in child pornography; Criminalize grooming offenses; and Punish attempted crimes.

1.3. Trafficking in persons under other international legal instruments

A variety of other international legal instruments have addressed trafficking in persons as an element of their provisions. Alongside the U.N. Protocol, these provisions constitute an integral part of the international legal framework on trafficking in persons. These conventions include:

1.3.1. The United Nations Declaration on the Elimination of Violence Against Women

The United Nations Declaration on the Elimination of Violence against Women was adopted in 1993 and includes trafficking in persons in the definition of violence against women. In particular, Article 2 defines violence against women to include: “rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.”
In 2008, Jordan passed a law on the protection against family violence which authorizes the competent authorities to issue an injunction to protect a victim of domestic violence and, in case of eminent danger, it authorizes the competent authorities to issue an order of restrain to prevent the offender from entering the marital home. The law also establishes family reconciliation committees aimed at assisting the parties involved in resolving the family dispute.

1.3.2. The Rome Statute of the International Criminal Court

Adopted in Rome in July 1998 and entered into force in 2002 with the ratification of the sixtieth state, the Rome Statute of the International Criminal Court represents an important cornerstone in international law as it unambiguously defines trafficking in persons as a crime against humanity, therefore falling under the jurisdiction of the international criminal court. Article 7 of the Statue defines crimes against humanity to include enslavement and defines enslavement to mean: “the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children.”

1.3.3. ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (1999)

A further international convention that sheds light on the meaning and scope of trafficking in persons is the International Labour Organization’s 182 Worst Forms of Child Labour Convention of 1999. The Convention includes trafficking in children in the definition of worst forms of child labor and states, in Article 3: “For the purposes of this Convention, the term the worst forms of child labour comprises: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health,
safety or morals of children.” 31 This Convention has been ratified by all of the MENA region countries.

1.3.4. WHO Guiding Principles on Human Cell, Tissue and Organ Transplantation (2010)

The World Health Organization was instrumental in including the removal of organs within the forms of trafficking in persons. The Commentary to Principle 5 of the Guiding Principles on Human Cell, Tissue and Organ Transplantation adopted by the World Health Assembly on 21 May 2010 states: “Payment for cells, tissues and organs is likely to take unfair advantage of the poorest and most vulnerable groups, undermines altruistic donation, and leads to profiteering and human trafficking. Such payment conveys the idea that some persons lack dignity, that they are mere objects to be used by others.” 32

1.3.5. ILO Convention Concerning Forced or Compulsory Labour (1930)

Article 2 of the ILO Convention Concerning Forced or Compulsory Labour of 1930 defines forced or compulsory labor as “...all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” 33 Article 11 also requires States parties to undertake to suppress the use of forced or compulsory labor. 34

Forced labour is criminalized in many Arab constitutions. For instance, Article 37 of the 2005 Iraqi constitution states: “Forced labor, slavery, slave trade, trafficking in women and children, and sex trade shall be prohibited.” 35 The Constitution of Jordan provides that “[c]ompulsory labour may not be imposed on any person.” 36 Similarly, the Constitution of the United Arab Emirates states that “no person shall be enslaved.” 37

2. Definition of trafficking in persons under regional law

In addition to these international instruments, a number of regional instruments have been developed and serve as important supplements to the international framework. These instruments include:

2.1. The Arab Charter on Human Rights

The Arab Charter on Human Rights adopted by the League of Arab States in 2004 does not give a comprehensive definition of trafficking. However, Article 9 prohibits trafficking in human organs and trafficking for the use
of “medical experimentation.” In addition, Article 10 prohibits: “all forms of slavery and trafficking in human beings.” Article 43 of the Charter encourages ratifying states to interpret the Charter in congruence with other international and regional human rights conventions, thereby encouraging states to interpret trafficking in persons as defined under the U.N. Protocol. Article 43 reads:

“Nothing in this Charter may be construed or interpreted as impairing the rights and freedoms protected by the domestic laws of the States parties or those set forth in the international and regional human rights instruments which the States parties have adopted or ratified, including the rights of women, the rights of the child and the rights of persons belonging to minorities.”

2.2. The Council of Europe

In 2005, the Council of Europe adopted the Convention on Action against Trafficking in Human Beings, which defines trafficking as:

“The recruitment, transportation, transfer, harbouring or receipt of persons, by means of 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.”

2.3. The European Union (EU)

Expanding on the U.N. Protocol’s definition of trafficking in persons, the Directive 2011/36/EU of the European Parliament and of the Council on Preventing and Combating Trafficking in Human Beings and Protecting its Victims of 5 April 2011 defines trafficking in Article 2 as:

“The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of 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, as a minimum, the exploitation of the prostitution
of others or other forms of sexual exploitation, forced labor or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.”

It is noted that this new definition explicitly refers to begging and criminal activity as forms of exploitation.

3. Model legislation on trafficking in persons

3.1 The United Nations Model Law against Trafficking in Persons

The United Nations Model Law against Trafficking in Persons was developed by the United Nations Office on Drugs and Crime (UNODC) to assist member states in implementing the provisions of the U.N. Protocol and ensure compliance with international human rights standards. The law therefore follows the U.N. Protocol definition but specifies, in the commentary, that it is advisable for states to include definitions that are in line with already existing definitions provided in domestic law. The law also encourages states to refer to other international human rights instruments when defining the crime, thus encouraging states to widen the definition of trafficking in persons in their jurisdictions.

3.2. The League of Arab States Model Law to Combat the Crime of Trafficking in Persons

The Arab League Model Law on Trafficking in Persons of 2006 utilizes a definition of trafficking in persons that follows the U.N. Protocol definition. Article 1 defines trafficking as: “Recruitment, transfer, harboring or receiving one or many persons by means of threat or use force or other forms of coercion, abduction, fraud, deceit, abuse of power or a situation of vulnerability, or by offering or accepting payment or benefits to obtain the consent of a person who has authority over another to for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution or other forms of sexual exploitation, forced labor or forced servitude, slavery or practices similar to slavery, or servitude or the removal of organs.”

3.3. The Model Law to Combat Human Trafficking of the GCC

The Model Law to Combat Human Trafficking of the Gulf States Cooperation was adopted in March 2006. Article 1 states that: “Trafficking includes using or recruiting or transporting or harboring or receiving a person with the
intention of misusing them by forcing, threatening, deceiving, kidnapping them or abuse of office, or using position or influence or misusing power in any other way that is illegal, whether directly or indirectly or using that person in any way such as prostitution, assault, forced work or servitude or slavery or practices similar to slavery, bondage in slavery or organ removal.”

4. Definitions of trafficking in persons in the countries of the MENA region

4.1. Thirteen Arab countries defining trafficking in persons or human trafficking

Since the passage of the U.N. Protocol in 2000, many countries around the world have adopted comprehensive anti-trafficking laws to combat human trafficking in compliance with the legislative mandate of the U.N. Protocol.

In the Arab world alone, thirteen states have adopted comprehensive anti-trafficking laws, namely: Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Mauritania, Oman, Qatar, Saudi Arabia, Syria and the United Arab Emirates. The remaining nine states members of the League of Arab States have either adopted anti-trafficking provisions in their penal codes or are in the process of drafting a law.

4.2. United Arab Emirates

Influenced by the League of Arab States Model Law to Combat the Crime of Trafficking in Persons, the U.A.E. passed in 2006 a human trafficking law that was limited to criminalization. In defining the crime of trafficking in persons, the law followed the U.N. Protocol’s definition and stated:

“The recruitment, transportation, transfer, or receipt of persons by means of threat or force or other forms of coercion, abduction, fraud, deception, abuse of power or abuse of a position of vulnerability, or of the giving or receiving of payments or benefits in order to gain the consent of a person having control over another person for the purpose of exploitation.”

4.3. Bahrain

The law of Bahrain adopts a similar approach to that of the U.N. Protocol, especially in regard to the issue of consent. The law makes consent completely irrelevant for cases involving persons less than eighteen years of age, stating:

“Recruitment, transportation, transfer, harbouring, or receiving of persons who are less than eighteen years of age or who are in a condition or personal
state in which their consent or freedom of choice cannot be guaranteed shall be deemed as trafficking in persons if the intent is to exploit them even if such act is not accompanied by any of the means provided for in the preceding paragraph.”

4.4. Algeria

Additional laws expand the U.N. definition by including other forms of exploitation and, at times, taking different stances on the issue of consent. In 2009, Algeria amended its penal code to include the definition of organ trafficking, trafficking in persons and migrant trafficking. It also added begging to the forms of trafficking in persons. Article 303 states that:

“Trafficking in persons is defined as recruitment, transport, transfer, harboring or receiving one or many persons by means of threat or use force or other forms of coercion, abduction, fraud, deceit, abuse of power or a situation of vulnerability, or by offering or accepting payment or benefits to obtain the consent of a person who has authority over another to the end of exploitation. Exploitation comprises exploitation of another’s prostitution or any other form of sexual exploitation, exploiting another’s begging, labor of forced service, slavery or practices similar to slavery, servitude or taking of organs.”

The Algerian law is however more restrictive than the U.N. Protocol in regard to the issue of consent and provides that consent of the victim is irrelevant only when illegal means are used without making a broader consent exception for children.

4.5. Oman

Oman’s Royal Decree Promulgating the Law Combating Trafficking in Persons, also followed the U.N. approach and, in Article 2, states that:

“Any individual who intentionally carries out any of the following acts with the purpose of exploitation shall be adjudged as committing the crime of trafficking in persons: a) To recruit, transport, harbor, or receive a person by instruments of coercion, threat, deceit, blackmail, or misuse of power, influence, or use of authority on that individual, or by any other illegal instrument, either directly or indirectly; b) To recruit, transport, harbor, or receive a child even without using the instruments cited in the previous paragraph.”
Article 3 also stipulates that the consent of the victim is irrelevant when any threat was used if the victim is a child, or if any circumstances renders it impossible to determine his/her consent.\textsuperscript{53}

4.6. Egypt

The Egyptian Law No. 64 of 2010 provides the most comprehensive definition of trafficking in the region since it expands exploitation of acts of prostitution and all forms of sexual exploitation, such forms of exploitation as exploitation of children in such acts and in pornography, begging, and removal of “tissues or a part thereof.” The definition is based on a general conceptualization of trafficking in persons as a transaction in persons. Article 2 of the law provides that a “person who commits the crime of trafficking in persons shall be considered one who deals in any manner in a natural person.” \textsuperscript{54} Like the U.N. Protocol, the Egyptian law defines illegal means broadly to include “exploitation of a position of vulnerability.”\textsuperscript{55} However, the law explicitly includes both domestic and transnational trafficking. This emphasis by the Egyptian legislature was important in recognizing the prevalence of internal trafficking within the country. In particular, Article 2 reads as follows:

“A person who commits the crime of trafficking in persons shall be considered one who deals in any manner in a natural person, including: the sale, offer for sale, purchase, or promise thereof; or the use, transport, delivery, harboring, reception, or receipt, whether within the country or across its national borders; if this occurred through the use of force, violence, or threat thereof; or through abduction, fraud, deception, abuse of power, or exploitation of a position of vulnerability or need; or through a promise to give or receive payments or benefits in exchange for obtaining the consent of a person to traffic another having control over him; or if the purpose of the transaction was exploitation in any of its forms, including: exploitation of acts of prostitution and all forms of sexual exploitation, exploitation of children in such acts and in pornography, forced labor or services, slavery or practices similar to slavery or servitude, or begging or removal of human organs, tissues or a part thereof.”\textsuperscript{56}

4.7. Saudi Arabia

In Saudi Arabia, The Suppression of the Trafficking in Persons Act, promulgated by Royal Decree number M/40 of 2009 includes “begging” and “subjecting a person to medical tests”\textsuperscript{57} in its definition of trafficking in persons.
4.8. Lebanon

Article 586 (1) of the Lebanese Law defines exploitation to entail forcing a person to participate in one of the following acts: a) Acts punishable by law; b) Prostitution and exploitation of the prostitution of others; c) Sexual exploitation; d) Begging; e) Slavery or practices similar to slavery; f) Forced or compulsory labor, including recruitment, forced or compulsory recruitment of children in armed conflict; g) Forced involvement in terrorist attacks; h) Removal or human organs or tissues.\(^{58}\)

4.9. Qatar

The law of Qatar includes explicitly “exploitation of children for sexual purposes, pornography, and begging.”\(^{59}\) Thus, it emphasizes the particular problem of trafficking in children. Article 2 provides that:

“Exploitation shall include acts of prostitution or other forms of sexual exploitation, exploitation of children in such acts and in pornography or begging, servitude, compulsory services, slavery and practices similar to slavery, removal of human organs or tissues or part thereof.”\(^{60}\)

4.10. Iraq

The anti-trafficking Law of Iraq makes exploiting human beings for the purpose of medical experimentation a crime of human trafficking. In particular, Article 1 specifies:

“For purposes of this law, the term “Human Trafficking” shall mean the recruitment, transportation, 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 the giving or receiving of payments or benefits to obtain the consent of a person having power or guardianship over another person, for the purpose of sale or exploitation in acts of prostitution or sexual abuse, servitude, forced labour, slavery, begging, trade of human organs or for purposes of medical experimentation.”\(^{61}\)

4.11. Syria

The Syrian law, without specifying any form of trafficking, provides for a very general definition of “illegal acts and purposes” in “consideration for material or moral gain or a promise thereof or offer of privileges or attempt to achieve any of these or others.” However, Article 5 of the Syrian law states that sexually abusing a child, including using the child in pornography, “shall be considered trafficking in persons.”\(^{62}\)
In January 2010, the government published a comprehensive anti-trafficking law, Legislative Decree No. 3, which provides a legal foundation for prosecuting trafficking offenses and protecting victims, but does not lay out a clear definition of human trafficking. This law prescribes a minimum punishment of seven years’ imprisonment, a penalty sufficiently stringent, but not commensurate with those prescribed for other serious crimes, such as rape. The law was scheduled to take effect on April 11, 2010, allowing relevant ministries time to develop protocols and standard operating procedures for carrying out its mandates; operational protocols were at the earliest stages of development at the end of the reporting period.

4.12. Are illegal means required for the establishment of the crime of trafficking in persons?

As to illegal means, there are two approaches taken by Arab trafficking laws. One, represented by the Egyptian law which follows the U.N. Protocol in defining illegal means broadly to include “exploitation of a position of vulnerability.” The other, modeled by the Syrian anti-trafficking law, does not require illegal means to establish the crime of trafficking in persons. Article 4 (1) of the Syrian law defines the crime by requiring acts and illegal purposes, while Article 4 (2) states that the criminal nature of the acts mentioned above shall not change whether they were committed by force or threat of force, by resorting to violence or persuasion, by exploitation of ignorance or vulnerability, by deception, fraud, or abuse of office, or by conspiring with or providing assistance to one who has authority over the victim. Furthermore, Article 4 (3) states that “in all cases consent of the victim is irrelevant.” According to this model, illegal means are not elements in the crime of trafficking, but instead, are aggravated circumstances that may enhance the penalty.

5. Trafficking and slavery

In its comprehensive approach to trafficking, the U.N. Protocol treats slavery as one of the purposes of trafficking. In subparagraph (a) of Article 3, it states that trafficking in persons occurs “for the purpose of exploitation” and that: “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.” The U.N. Protocol therefore makes trafficking in persons a crime distinct from that of slavery, and slavery or practices similar to slavery being
one of the purposes for which victims are trafficked. However, given that
slavery and practices similar to slavery constitute one of the exploitative
purposes of trafficking, the prohibition of slavery remains an important
element of combating trafficking in persons. Consequently, slavery remains
an important element of the definition of trafficking in persons.

The clearest distinctions between slavery and trafficking in persons may be
drawn between ownership and control and undue influence and exploitation.
A victim of trafficking in persons may not be subject to “ownership”,
although he or she may be under the control of the trafficker, such as through
physical or psychological coercion, deception or threats, as defined in the
UN Protocol. Thus the understanding of what constitutes “illegal means” has
shifted in focus from the exercise of the power of ownership as conveyed in
the 1926 definition of slavery of the Convention to Suppress the Slave Trade
and Slavery to the exploitation of a position of vulnerability and the exercise
of other forms of control.

6. Smuggling of migrants

The difference between trafficking in persons and smuggling of migrants is
not always clear and even in cases with a great deal of information, may
be difficult to discern. Though the two practices involve money, moving
of people, and often follow the same routes, the lines between them are
sometimes blurred.

According to the Protocol against the Smuggling of Migrants by Land, Sea
and Air supplementing the Organized Crime Convention, smuggling migrants
means: “The procurement, in order to obtain, directly or indirectly, a financial
or other material benefit, of the illegal entry of a person into a State Party of
which the person is not a national or permanent resident.” 68

Bearing in mind this definition, three key differences can be identified between
migrant smuggling and trafficking: trans-nationality, exploitation and source
of profit.

6.1. Trans-nationality

To smuggle a person means to facilitate the person’s illegal border crossing
and entry into another country. Trafficking in persons, on the other hand,
need not involve the crossing of any border. When it does, the legality or
illegality of the border crossing is irrelevant. Thus, while migrant smuggling
is always, by definition, transnational, trafficking need not be.
6.2. Exploitation

The relationship between the smuggler and the smuggled migrant usually ends once the migrant has crossed the border. Smuggling fees are paid in advance or upon arrival. The smuggler has no intention of exploiting the smuggled person after arrival. Smuggler and migrant are partners, albeit disparate, in a commercial operation that the migrant enters into willingly. Trafficking involves the ongoing exploitation of the victims in some manner to generate illicit profits for the traffickers. It is the intention of the trafficker to maintain the relationship with the exploited victims beyond the border crossing to the final destination. Smuggling can become trafficking, for example, when the smuggler “sells” the person and the accumulated debt, or deceives/coerces/forces the person to work off transportation costs under exploitative conditions.

6.3. Source of profit

One important distinction between smuggling and trafficking is the means by which the offenders generate income. Smugglers generate their income from fees to move people. Traffickers, in contrast, continue to exert control over their victims in order to garner additional profits through their ongoing exploitation.

7. The routes of trafficking in persons in the MENA region

People trafficked for any of the exploitative purposes defined by the U.N. Protocol may travel over international or domestic routes. They may be trafficked by individuals or organized criminal groups.

The U.N. Protocol states, except as otherwise stated therein, that the offenses of trafficking in persons occurs “where those offenses are transnational in nature and involve an organized criminal group.”

According to Article 3 (2) of the United Nations Convention against Transnational Organized Crime [hereafter the “UNTOC”], the parent convention of the U.N. Protocol, international trafficking occurs when: “It is committed in more than one State; or is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; or is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or is committed in one State but has substantial effects in another State.”
Moreover, under Article 16 (extradition) and Article 18 (mutual legal assistance) of the UNTOC, offenses are considered transnational if the person sought is located in the territory of the requested State or if victims, witnesses, proceeds, instrumentalities or evidence are located in the requested State. Article 2 (a) of the Convention defines an “organized criminal group” as: “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.”

Transnationality and the involvement of an organized criminal group are not required for the establishment of the crime of trafficking in person in national legislation. As Article 34 (2) of the Convention states: “The offenses established in accordance with Articles 5, 6, 8 and 23 of this Convention shall be established in the domestic law of each State Party independently of the transnational nature or the involvement of an organized criminal group.”

In summary, trafficking routes can be international, regional and domestic. The main routes in the MENA region are:

- Regional trafficking from the less affluent countries in North Africa to more affluent countries in the Gulf States).

- International trafficking to all Arab countries and especially to the Gulf States, from Easter Europe, the Caucasus, Central Asia, South and Southeast Asia.

- International trafficking from North Africa to Europe, the United States and Canada.

- Domestic trafficking between rural areas to the main cities in all countries of the MENA region.
Applying Your Knowledge: What is Trafficking in Persons?

Exercise A: Review Questions

1) How does the U.N. Protocol define the role of consent in trafficking in persons?

2) When does marriage become a form of trafficking in persons?

3) What forms of special protection does international law provide to children?

4) What are the three main differences between trafficking in persons and smuggling under international law?
5) What is the definition of trafficking in persons in Arab legislation?

Exercise B: Practical task

1) Compare how the U.N. Protocol and the Council of Europe Convention define trafficking in persons, identifying omissions and gaps in both.
2) Write a memo on fighting corruption in the context of trafficking in persons in accordance with the U.N. Convention against Corruption.
Chapter III. Combating Trafficking in Persons in the MENA region: Prevention

1. Introduction

1.1. Prevention: the first P of the 4 Ps approach to combat trafficking in persons

Combating trafficking in persons in the MENA region is a challenging task that requires a holistic approach and constant commitment by all sectors of the government and civil society. Although measures to combat trafficking may differ, four main strategies can be identified: Prevention, Prosecution, Protection and Participation.

The first of the four strategies, prevention, is a broad category that refers to the different potential measures that may be undertaken to keep trafficking in persons from occurring. While some may be on the international level, for example by agreements to increase the patrol of remote land borders, others may occur at the local level, including outreach efforts by schools, public interests groups, and businesses.

1.2. Strengthening prevention measures and procedures: a main goal of the Arab Strategy to Combat Trafficking in Persons

The need to prevent the crime is one of the main goals of the “Comprehensive Arab Strategy to Combat Trafficking in Persons” of the League of Arab States [hereafter the Arab Strategy]. The Arab Strategy lists eight focus areas, and for each area it identifies various strategic goals. The third focus area is dedicated to strengthening prevention measures and procedures. In particular, it calls member states to undertake to following measures:

“1. Draft policies, programs and other comprehensive measures in order to prevent and combat trafficking in persons and to prevent re-victimization;

2. Adopt programs that aim to prevent recidivism among TIP offenders;

3. Ensure that public policies on preventing trafficking in persons are in harmony with related policies and programs in the fields of migration, crime prevention, education, employment, health, security, non-discrimination, economic development, human rights protection, child protection and gender equality;
4. Focus on ensuring that the policies, programs and measures which are adopted include cooperation with NGOs, with other related organizations and with all civil society actors.”

1.3. Six main categories of preventative measures to combat trafficking in persons

Based on the Arab Strategy and on other international best practices, preventive measures can be divided into the following categories:

- Research and collection of data on trafficking in persons;
- Monitoring of the status of trafficking in persons;
- Organization of public awareness campaigns on trafficking in persons;
- Reform of school education to include trafficking in persons in the curriculum;
- Alleviation of factors that render people vulnerable to trafficking;
- Discouragement of demand for victims of trafficking in persons.

2. Measures to prevent trafficking in persons

2.1 Research and collection of data on trafficking in persons

Research is an important component of prevention, as an accurate understanding of trafficking in persons and its changing dynamics serves to inform policy development, making it more effective in eradicating the problem. Research is also an important tool in galvanizing momentum to address trafficking in persons, as accurate statistics draw attention to the phenomenon’s scope. Data collection is also crucial to setting baselines against which progress in anti-trafficking measures can be monitored and assessed. Systematic data collection, analysis and dissemination are also needed to ensure that policies are evidence-based. Data should be, at a minimum, disaggregated by age, gender, national origin and forms of exploitation and standardized across countries.
In October 2011 the United National Office on Drugs and Crime (UNODC) launched the *Trafficking in Persons Case Law Database*. The Database provides immediate, public access to officially documented instances of trafficking. It contains details on the nationalities of the victims and of the perpetrators, the trafficking routes, the verdicts and other information related to prosecuted cases from around the world. As such, it provides not only statistics on the number of prosecutions and convictions, but also the real-life stories of trafficked persons as documented by the courts. The database is aimed at assisting judges, prosecutors, policymakers, media researchers and other interested parties by making available details of real cases with examples of how the respective national laws in place can be used to prosecute human trafficking.

The need to prevent the crime through data collection is also one of the main goals of the Arab Strategy. Among its measures it lists: encourage and assist Arab states to establish unified national databases to monitor the types and characteristics of trafficking in persons cases, the legislation in force regarding these cases, as well as the data required by criminal justice agencies—in particular statistics on indictments, trials and convictions; gather information and compile statistics that help identify the obstacles and challenges to combating trafficking in persons; encourage scientific research and specialized field studies to examine and analyze trafficking in persons, explore the reasons behind this phenomenon, and clarify its nature, forms, patterns, methods and routes; and provide for the development of scientific research methods in advanced fields at both governmental and non-governmental levels.

### 2.2. Monitoring and reporting on the status of trafficking in persons

Related to the collection of data is the monitoring of the status of trafficking in persons in the country. The ultimate goal of monitoring and reporting on government anti-trafficking policies and actions is to obtain the necessary information to develop accurate policies to prevent the crime and create an effective mechanism for ensuring that promises materialize into action, and that the corresponding legal and administrative provisions are implemented.
2.2.1. Reporting models

There are three main models of monitoring and reporting: the national rapporteur, the parliamentary committees and hearings and the interministerial task forces.77

**National Rapporteur:** The appointment of a national rapporteur on trafficking in persons is one method of holding the government accountable to its implementation of anti-trafficking policies. Frequently, this model involves the choice of one national ministry to serve as the rapporteur, collect relevant information from all concerned agencies and present such information to the appropriate oversight body in the legislature. National rapporteurs can be independent government entities or national ministries.

**Best Practice**

In April 2000 the Dutch Government established an office called the Bureau of the Dutch Rapporteur on Trafficking in Human Beings. The Bureau is headed by the *National Rapporteur on Trafficking in Human Beings in the Netherlands*. The main task of the Rapporteur, Mrs. C.E. Dettmeijer-Vermeulen, is to report on the nature and extent of human trafficking in the Netherlands, and on the effects of the anti-trafficking policy pursued.

**Parliamentary Committees:** Reports may be made both to and by parliamentary committees charged with oversight of the government’s performance in combating trafficking in persons and authorized to investigate government action in this regard. Such committees may be specific to trafficking in persons or broader in scope, such as committees addressing foreign policy, human rights, women’s and children’s rights or other related topics.

**Best Practice**

The United States monitors and reports on human trafficking by means of holding Congressional hearings on the subject. Conducting investigative and legislative hearings is one facet of Congressional oversight. Hearings on trafficking in persons on the implementation of the legislative mandate in the United States and abroad are held on a regular basis and represent an opportunity to the government and representatives of civil society to publicly assess the status of compliance of the government with national legislation and discuss possible amendments to the law.
**Inter-ministerial Task Forces:** In this model, the reporting and monitoring function is entrusted to multi-agency anti-trafficking task forces. Many of these special task forces undertake research and report on the status of trafficking in human beings and government action to combat the phenomenon.

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**Best Practice**


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**2.2.2. Reporting on trafficking in persons in the MENA region**

The U.N Protocol does not provide for a periodic monitoring mechanism whereby State Parties to the Protocol may be held accountable and liable for failures to comply with the provisions of the Protocol. However, other enforcement mechanisms may be used to report on the status of trafficking in persons within a state and monitor its compliance with standards set in the U.N. Protocol and other international legal instruments.

For example, Article 18 of the United Nations Conventions on the Eliminations of All Forms of Discrimination against Women (CEDAW) calls upon states to report on the progress of its government in implementing each and every one of the rights enshrines in the convention. Article 18 states: “States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect: (a) Within one year after the entry into force for the State concerned; and (b) Thereafter at least every four years and further whenever the Committee so requests. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.” The progress reports include state efforts to combat human trafficking that is prohibited under Article 6 of the Convention which provides that: “States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”

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In its report submitted in 2008, Lebanon states that its current national law criminalizes clandestine prostitution and the exploitation of prostitution. Lebanon also reports that it has in 2005, with the help of the United Nations Office on Drugs and Crimes, “draft measures to prevent and combat trafficking.” According to this report, “Lebanese authorities have suspended the granting of new licenses for the establishment of brothels and maisons de rendez-vous.” It also notes a slight decrease in cases of prostitution and mentions its efforts to prevent and protect victims of trafficking and prostitution, namely cooperation between embassies and the opening of an International Organization for Migration office.

Similarly, State parties to the 1989 Convention on the Rights of the Child, under Articles 44 and 45, are requested to report on the progress made in their compliance with the rights and duties enshrined in the Convention, including their obligations under Article 35 to: “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.”

In 2006, the government of the Syrian Arab Republic submitted a report addressing concerns raised by the United Nations’ Committee on the Rights of the Child regarding practices incongruent with Article 35 of the Convention on the Rights of the Child. Concern was raised over a lack of implementation in legal codes prohibiting child pornography and child trafficking. The Government responded with the assertion that it was made “perfectly clear” that the sale or exploitation of children for the purposes of pornography is classified as an offense. As of 2005, the government noted that a national commission, by Decree No. 5114, had been created with the responsibility of drafting fully-inclusive legislation to contest violations involving trafficking in persons and “proposing the establishment of reception centres and labour standards to be observed by them.”

Reporting is an important element of the Arab Charter on Human Rights that imposes on states, under Article 48, the duty to: “…Submit reports to the Secretary General of the League of Arab States on the measures they have taken to give effects to the rights and freedoms recognized in the Charter.”
As previously mentioned, Articles 9 and 10 of the Charter prohibit trafficking in persons, thus imposing on states a duty to report on the efforts undertaken to confront the crime.

Following the duty imposed on signatory states by the Charter, the Arab Strategy also calls on states to report annually on the status of trafficking and encourages: “... Arab states to issue an annual report monitoring and analyzing trafficking in persons, indicating the size of the phenomenon and its various characteristics. Such a report shall also show the progress achieved in efforts to prevent and combat trafficking in persons, as well as progress in international cooperation and victim protection.”

The inter-ministerial task force is the most prevalent form of monitoring and reporting mechanism in the Arab world is. For instance, Egypt established a national coordinating committee to combat and prevent trafficking in persons in 2007. It is a consultative body for the authorities and other national institutions that provides recommendations to the Council of Ministers. Similarly, the National Committee to Combat Human Trafficking in the U.A.E. has a dual mandate: to coordinate between the federal ministries and departments working to eliminate crimes related to trafficking in persons, and to strictly monitor the enforcement of the anti-human trafficking law. The Committee has also been authorized to prepare reports on national efforts to fight human trafficking.

2.3. Organization of public awareness campaigns on trafficking in persons

Public awareness serves as an important tool to not only inform the public about the dangers of trafficking in persons and the signs that help to recognize it, but also as an instrument that is helpful in rescuing those who may have already fallen victim to it, particularly among those persons who may come into contact with potential victims of trafficking, as well as the general public.

Best Practice

“Slavery: a 21st Century Evil” is a series of documentaries broadcasted by Al Jazeera to report on the striking rise in slavery and trafficking in persons worldwide. Each episode, the author Rageh Omaar embarks on a worldwide journey to uncover the truth about the reality of modern slavery and explain the reasons why slavery continues to persist. Episodes include: Sex Slaves, Food Chain Slaves, Bonded Slaves, Child Slaves, Bridal Slaves, Charcoal Slaves, and Prison Slaves.
2.3.1. The role of civil society in raising awareness

The United Nations Global Plan of Action of August 2010 champions the importance of public awareness campaigns when it calls for civil society engagement in raising awareness among persons vulnerable to trafficking. In particular, Section 18 states:

“Promote awareness-raising campaigns aimed at persons at risk of being trafficked and at the general public through education and the effective involvement of the mass media, non-governmental organizations, the private sector and community leaders with a view to discouraging the demand that fosters the exploitation of persons, especially women and children, and that leads to trafficking, and collect and disseminate best practices on the implementation of those campaigns.”

2.3.2. The role of religious leaders in raising awareness

The Arab Strategy emphasizes the important role of religious leaders in raising awareness when it urges states to:

“Increase the role of religious institutions in raising awareness about the dangers of trafficking in persons and its various dimensions, while highlighting the role of divine law (shari’a) in prohibiting it.”

2.3.3. The role of the arts in raising awareness

Of special note is the Egyptian National Action Plan Against Trafficking in Persons (January 2011-January 2013) implemented by the National Coordinating Committee on Preventing and Combating Human trafficking, which encourages states to develop public awareness materials and information, including multimedia materials and to establish a National Day against Human Trafficking by making use of the arts.

2.4. Reform of school education to include trafficking in persons in the curriculum

Akin to public awareness and research, education is another important tool towards the prevention of trafficking in persons. Educational programs should be aimed at teaching young people about the modus operandi and dangers presented by trafficking crimes, the opportunities for legal migration and foreign employment and of the grave risks involved in irregular migration.

The need to include trafficking in persons in the academic curriculum was among the recommendation issued during the Doha Foundation Forum
organized by the Qatar Foundation for Combating Human Trafficking in March 2010. In particular, the Forum participants emphasized the importance of including the concept of combating human trafficking in educational curriculums in schools and universities and encouraging research and specialized studies in the field of combating human trafficking.

Similarly, the Brussels Declaration on Preventing and Combating Trafficking in Human Beings, which was adopted on November 29, 2002, explicitly states: “Closer links should be developed with educators and Ministries of Education with a view to elaborating and including relevant and realistic teaching modules in school and college curricula and to informing pupils and students of human rights and gender issues.”

States can utilize different ways of ensuring that trafficking in persons becomes part of the academic inquiry and that the educational system is also utilized to inform students about this phenomenon. In states with ample academic independence, educational institutions are also free to promote the awareness of trafficking in persons among their student bodies, regardless of State action.

**Best Practice**

In 2007, The Protection Project at The Johns Hopkins University, School of Advanced International Studies in Washington DC, launched an initiative called the Association of Scholars in Trafficking in Persons aimed at promoting the teaching of trafficking in persons at the university level all across the United States, Europe and targeted universities in the Arab world, including Alexandria University in Egypt, Beirut Arab University in Lebanon, the University of Jordan in Jordan, Naïf Arab University for Security Sciences in Saudi Arabia and the Royal Police Academy in Bahrain.

2.5. Alleviation of factors that render people vulnerable to trafficking

An additional measure to prevent trafficking in persons in the Arab world is to address its root causes and especially the economic, social, cultural, legal and political factors that render people vulnerable to trafficking.

2.5.1. Economic insecurity

Economic insecurity is addressed directly in the U.N. Protocol, which mentions poverty, underdevelopment, and lack of equal opportunities as being among the root causes of trafficking in persons. Economic insecurities may also be
extended to include unemployment and the lack of access to basic health care, education, and social welfare.

**Best Practice**

Islamic Relief (IR) is an international relief and development charity which envisages a caring world where people unite to respond to the suffering of others, empowering them to fulfill their potential. IR works in over 25 countries to promote sustainable economic and social development by working with local communities to eradicate poverty, illiteracy and disease. Islamic Relief supports over 27,000 orphans in more than 20 countries worldwide, who have lost their parents due to conflict, famine, and diseases. The orphans benefit from a sponsorship program, which ensures that they finish school and have enough money for food, healthcare and household necessities. In addition to the one-to-one sponsorship, Islamic Relief supports orphans through housing projects, summer school and vocational training.

2.5.2. Social and cultural insecurity

Social insecurity is related to lack of access to social rights. Marginalization from social security derives from complex factors, including gender discrimination, ethnical divides, and stigmatization of certain groups within societies. This often translates into discrimination in education, employment practices, access to legal and medical services, and access to information. Similarly, certain cultural practices, such as forced marriages and temporary marriages, increase the vulnerability of certain groups, contributing to the trafficking infrastructure. Many trafficked victims may also have contracted HIV/AIDS or other sexually transmitted diseases, reporting of which can be considered shameful in some societies, compounding their condition of vulnerability.

2.5.3. Legal insecurity

Legal insecurity is manifested in the lack of access to the criminal justice system, which occurs either because the trafficked person is a foreigner or lacks access to legal representation, or the system itself does not offer an appropriate remedy. In addition, the insecurity may be fostered by the double witness rule or the corroborative evidence rule, which is still applied in criminal procedure of many countries. The double witness rule does not allow treating victims of trafficking as credible witnesses, since it prohibits the admission of
Evidence of only one witness unless her testimony is corroborated by another witness or other material evidence implicating the accused. As a result of rule, trafficked persons are not heard in court.

2.5.4. Political insecurity

In addition to economic, social, and cultural insecurity, political insecurity may be a reason behind trafficking in persons. This is particularly the case in transitional societies where civil unrest, loss of national identity, and political instability may create a favorable environment for the flourishing of corruption and organized crime, including trafficking in persons.

2.5.5. Special attention to the youth

Particularly affected by these factors in the Arab world are the youth. To address the problem the Arab Strategy includes, within its strategic goals and obligation upon states to: “Attach special importance to the key, urgent needs of youth and treatment of the problems and challenges which this key segment faces in numerous areas, foremost of which are unemployment, lack of opportunities for university and graduate level education, and the weak participation of young people in the political and development process.”

Best Practice

In 2009, the International Organization for Migration and the Ministries of Internal Affairs and Education in Baku, Azerbaijan offered courses in international trafficking in persons in 16 high schools as part of the ‘The Importance of Secondary School Education in Prevention of Human Trafficking in Azerbaijan’ project. The courses aimed at deepening the knowledge of high school children, aged 15-17, on the issue of trafficking in persons, illegal migration, and preventive initiatives. At the same time, public awareness measures and round tables were conducted for parents and 800 teachers from 50 high schools, who also received training on how to incorporate the subject of trafficking in persons in the school curricula.

2.6. Discouragement of demand for victims of trafficking in persons

Demand usually refers to the desire for a particular commodity, labor or service, but in the context of trafficking in persons, the demand is for labor that is exploitative or services that breach the human rights of the person delivering them. It generally refers to the nature and extent of the exploitation
of the trafficked persons after their arrival at the point of destination, as well as to the social, cultural, political, economic, and legal and development factors that shape the demand and facilitate the trafficking process.

2.6.1. The employer, the consumer and the third party

It is often difficult to differentiate between demand for labor and services which are legal and acceptable (and a natural element of productive markets) and those that are not. The employer of labor or the consumer of services may not be aware that the labor or services are being provided by a person who has been trafficked. Analysis of demand for trafficked persons is thus best undertaken in the context of a wider analysis of certain types of labor or services in which trafficked persons could be exploited. Three levels of demand related to trafficking in persons may therefore be identified, namely, the employer demand (employers, owners, managers or subcontractors); the consumer demand (clients in sex industry), corporate buyers (in manufacturing), household members (domestic work); and the third parties involved in the process (recruiters, agents, transporters and others who participate knowingly in the movement of persons for the purposes of exploitation).

2.6.2. The United Nations’ approach to discouraging demand

Discouraging demand is increasingly considered to be an essential element of the prevention of trafficking. Article 9 (5) of the U.N. Protocol states that: “States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”

The United Nations General Assembly Resolution 61/144 on trafficking in women and girls similarly calls upon governments “to eliminate the demand for trafficked women and girls for all forms of exploitation”.

2.6.3. Prosecuting demand for victims of trafficking

A more severe position was taken by the Council of Europe through Article 19 of the Council of Europe Convention on Action against Trafficking in Human Beings, which encourages states to criminalize demand and stipulates that: “Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offenses under its internal law,
the use of services which are the object of exploitation as referred to in Article 4 (a) of this Convention, with the knowledge that the person is a victim of trafficking in human beings."\textsuperscript{92}

Worth of notice is Article 9 of the anti-trafficking Syrian law which criminalizes demand for victims of trafficking by stating: “Anyone who gains benefit, whether material or moral, from services provided by the victim, with knowledge of the act of trafficking, shall be punished with imprisonment from 6 months to 2 years and a fine between 100,000 and 200,000 Syrian Liras”\textsuperscript{93}.
Applying Your Knowledge: Combating Trafficking in Persons in the MENA region: Prevention

Exercise A: Review Questions

1) What are the four main reporting models available and what are the advantages and disadvantages of using each model?

2) Explain how does your government reports on the status of trafficking in persons.

3) How does the U.N. Protocol on trafficking addresses demand? Does the Council of Europe adopt a different approach to combat demand?
Exercise B: Practical tasks

1) Draft a national strategy to prevent trafficking in persons in your country of origin.
2) Draft a memo for your government suggesting policies aimed at discouraging demand.
Chapter IV. Combating Trafficking in Persons in the MENA region: Prosecution

1. Introduction

The second of the four strategies to combat trafficking in persons in the MENA region is to prosecute the crime by adopting and implementing anti-trafficking legislation and related laws. The following chapter looks at relevant international, regional and domestic legislation that criminalizes trafficking in persons and highlights the most important challenges to prosecuting trafficking in persons in the MENA region.

2. The prohibition of trafficking in persons under international law

2.1. The U.N. Protocol

As previously mentioned, the U.N. Protocol is the first international convention addressing trafficking in persons comprehensively and, as such, it is the primary reference in regard to the criminalization of the crime. Article 5 of the U.N. Protocol calls upon states to criminalize any offense committed internationally under Article 3. The article also mandates that states should criminalize attempts to commit the crime and participating as an accomplice in the commission of the crime. Article 5 reads:

“1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in Article 3 of this Protocol, when committed intentionally.

2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

(a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this Article;

(b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this Article; and

(c) Organizing or directing other persons to commit.”

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2.2. Other international instruments

The prohibition of trafficking under the U.N. Protocol is complemented by other international instruments which together with the Protocol constitute the international legal framework against trafficking in persons.

2.2.1. The Universal Declaration of Human Rights: A prohibition against slavery

The primary document is the Universal Declaration of Human Rights (1948) which, in Article 4, prohibits trafficking by stating that: “...No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.” Although the Declaration does not mention the word trafficking, the legislative history of the Declaration indicates that the term “slavery” was meant to include trafficking in persons.

2.2.2. The 1949 Convention: Asserting the dangers of prostitution

This position was further reaffirmed in 1949 when the United Nations adopted the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. Article 1 of the Convention stipulates that: “The Parties to the present Convention agree to punish any person who, to gratify the passions of another: (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; and (2) Exploits the prostitution of another person, even with the consent of that person.” The ethical imperative underlying the Convention is clearly stated in the Preamble of the Convention which states: “...Prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community.”

2.2.3. The CCPR: A Prohibition against slavery, servitude or forced labor

Article 8 of the International Covenant on Civil and Political Rights of 1966 further criminalizes all forms of slavery that may be considered trafficking and mandates that: “1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. 2. No one shall be held in servitude. 3. (a) No one shall be required to perform forced or compulsory labor.”

2.2.4. The CEDAW: Suppression of trafficking in women

A special protection warranted to women was recognized in the United
Nations Convention on the Elimination of All Forms of Discrimination against Women of 1979 which, in Article 6 calls upon states to take legislative and other measures to suppress all forms of traffic in women and exploitation of prostitution of women.  

2.2.5. CRC: A call for prevention of trafficking in children

The Convention of the Rights of the Child of 1989 grants protection for children from trafficking in Article 35 which states that:

“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.”

2.2.6. The Migrant Workers Convention: Prohibition against slavery, servitude or forced labor

The protection of migrant workers from exploitation is provided in the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 1990 which states in Article 11 that: “1) No migrant worker or member of his or her family shall be held in slavery or servitude; 2) No migrant worker or member of his or her family shall be required to perform forced or compulsory labor.”

2.2.7. ILO 182 Convention on Decent Work for Domestic Workers

The international legal framework on trafficking in persons was expanded in June 2011 when the International Labour Organization adopted the Convention No. 189 Concerning Decent Work for Domestic Workers. The Convention is revolutionary in that it grants domestic workers equal status as other workers. Specifically, Article 3 provides that: “Each Member shall, in relation to domestic workers, take the measures set out in this Convention to respect, promote and realize the fundamental principles and rights at work, namely: (a) freedom of association and the effective recognition of the right to collective bargaining; (b) the elimination of all forms of forced or compulsory labour; (c) the effective abolition of child labour.”

3. Regional law prohibiting trafficking in persons

3.1. The Arab Charter on Human Rights

Articles 9 and 10 of the 2004 Arab Charter on Human Rights clearly prohibit trafficking in persons. In particular, Article 9 states:
“No one shall be subjected to medical or scientific experimentation or to the use of his organs without his free consent and full awareness of the consequences and provided that ethical, humanitarian and professional rules are followed and medical procedures are observed to ensure his personal safety pursuant to the relevant domestic laws in force in each State party. Trafficking in human organs is prohibited in all circumstances.”

Article 10 of the Charter states:

“1. All forms of slavery and trafficking in human beings are prohibited and are punishable by law. No one shall be held in slavery and servitude under any circumstances.

2. Forced labor, trafficking in human beings for the purposes of prostitution or sexual exploitation, the exploitation of the prostitution of others or any other form of exploitation or the exploitation of children in armed conflict are prohibited.”

3.1.1. A distinction between slavery and trafficking

It is important to notice that the Arab Charter distinguishes between slavery and trafficking in human beings but prohibits both. While slavery requires exercise of the right of ownership over another, trafficking is about control or undue influence rather than buying and selling. Although the conventional view is that trafficking is a form of modern-day slavery, legally the distinction between trafficking and slavery is clear.

3.1.2. A prohibition of prostitution and exploitation of prostitution of others

The Arab Charter also distinguishes between prostitution and the exploitation of prostitution of others, prohibiting both forms of trafficking. Prostitution is prohibited by the domestic law of Arab countries. Unlike the Arab Charter, the U.N. Protocol prohibits only the exploitation of prostitution of others.

3.1.3. A prohibition of all forms of trafficking including forced labour

Although Article 10 (b) of the Arab Charter does not explicitly use the term labor trafficking, Article 10 makes it clear that “all forms of trafficking” are prohibited, including “forced labour.”

3.1.4. Abolition of specific forms of trafficking

The Arab Charter highlights specific forms of trafficking, including the “exploitation of children in armed conflict, trafficking in human organs,
and medical or scientific experimentation.”

In doing so, the Arab Charter recognizes the significance of these forms of exploitation and establishes that they all must be abolished.

4. Arab laws prohibiting trafficking in persons: General principles and specific rules

The countries of the Arab World can be divided into three groups based on the status of their trafficking laws. The first group encompasses those countries that have already enacted comprehensive anti–trafficking legislation, including Algeria, Bahrain, Djibouti, Egypt, Iraq, Jordan, Kuwait, Mauritania, Oman, Qatar, Saudi Arabia, Syria and the United Arab Emirates. Countries such as Kuwait are in the process of drafting laws prohibiting trafficking in human beings. Finally, those countries that still rely on existing provisions in penal codes to prosecute cases of trafficking in persons include Comoros, Lebanon, Libya, Morocco, the Palestinian Authority, Somalia, Sudan, Tunisia and Yemen.

Various legal principles characterize these laws and offer a valuable comparative prospective of the current status of anti-trafficking legislation in the Arab world. These principles are: the non-punishment of the victim; the statute of limitation; the prosecution of demand; the aggravating circumstances; and the issue of extraterritoriality.

4.1. The principle of non punishment of the victim

4.1.1. The principle of non-punishment

Recognition of trafficked persons as victims requires the application of the principle of non-criminalization, according to which the law must excuse such persons from criminal liability for acts committed as a result of being trafficked, including illegal entry, falsification of travel documents or prostitution, if criminalized in the country.

While the U.N. Protocol treats the trafficked person as a victim, it does not specifically provide for the principle of non-criminalization. Similarly, many domestic laws are silent on the issue, thus denying victims protection from liability of crimes committed as a consequence of being trafficked.
In Saudi Arabia, it is reported that many victims of trafficking are likely punished for acts committed as a result of being trafficked. Under Saudi law, foreign workers may be detained, deported, or in some cases, corporally punished for running away from their employers. Council of Ministers Decision 244 authorizes the Permanent Committee on Trafficking to exempt trafficking victims from these punishments, but victims are often detained or deported without being identified. Women arrested for prostitution face prosecution and, if convicted, imprisonment or corporal punishment, even if they are victims of trafficking. (United States Department of State, Office to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report – Saudi Arabia, 27 June 2011)

States should ensure that trafficked persons are not prosecuted for violations of immigration laws or for activities they are involved in as a direct result of being a trafficked person. States must ensure, in particular, that legislation prevents trafficked persons from prosecution, detainment or punishment for the illegality of their entry or residence or for the activities they are involved in as a direct consequence of that situation. Non-liability provisions ensure that victims of trafficking are not prosecuted or punished for offenses they commit.

The Qur’anic legislation is the first law to recognize the principle of non-punishment of the victim of a crime, especially as linked to trafficking for the purpose of sexual exploitation. In accordance with the Quran 24:33, “But force not your maids to prostitution when they desire chastity.... But if anyone compels them, yet, after such compulsion, is Allah, Oft-Forgiving, Most Merciful (to them).”

4.1.2 The two models of non-punishment: Duress and Causation

Countries follow two main models when establishing the principle of non-punishment of the illegal acts committed by victims of trafficking: the duress model and the causation model. In the duress model, the person is obliged to prove that he was compelled to commit the offenses. In the causation model, the principle will apply when the individual is able to prove that the offense was directly connected or related to being trafficked.
Duress Model: This model, established by the Council of Europe Convention on Action against Trafficking in Human Beings, states in Article 26: “Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.”

Causation Model: An example of this model is present in the Egyptian Anti-Trafficking Law according to which a victim of trafficking in persons is not punishable for the commission of any crime that is the direct result of having been trafficked. In particular, Article 21 states: “The victim shall not be criminally or civilly liable for any of the crimes of human trafficking as long as the crime occurred or was directly related to being a victim.”

4.1.3 The principle of non-punishment in Arab legislation

Only four laws in the Arab world explicitly provide that a victim of trafficking should not be punished. This principle is expressed in several ways, and is sometimes referred to as a principle of non-criminalization, immunity, excuse, non-liability, or more accurately, non-punishment.

4.1.3.1. Egypt

The Egyptian law provides for the principle of non-punishment of a victim in Article 21, by stating that “[t]he victim shall not be criminally or civilly liable for any of the crimes of human trafficking as long as the crime occurred or was directly related to being a victim.”

4.1.3.2. Qatar

An identical provision appears in Article 4 of the Qatari law. Additionally, Article 25 of the Qatari law specifically exempts a victim from all penalties stipulated in Law No. 4 of 2009 regarding violations of entry, residency, and kafalah laws (Sponsorship rule laws) by aliens.

4.1.3.3. Lebanon

Article 586 (8) of the Criminal Code of Lebanon provides that “A victim shall be exempted from punishment if he proves that he was compelled to commit acts punishable by law or if he violated the conditions of residency or work.”
4.1.3.4. Jordan

Similarly, the Jordanian law gives public prosecutors the authority not to pursue investigation or prosecution of a victim of trafficking for any of the crimes stipulated in the trafficking law. However, it must be noted that the authority is discretionary and the law does not provide any guidance on when it should be exercised.\textsuperscript{113}

**Case Study**

**Jordan: Case number (…)/2011**

In this case decided on January 24, 2011, the defendants recruited a number of victims for the purpose of inducing them to sell their kidneys. One of the victims sold his kidney for $6,000 of which $1,000 was given to the defendant. The court convicted the victim for selling a part of his body in return for a material benefit, violating the law Number 23 of 1977 in regard to human organs and was sentenced to one year in prison. The court also sentenced the defendants to six months imprisonment in accordance with Article 8 of the law on combating human trafficking Number 9, 2009.

4.2. The statute of limitation

In many States, a statute of limitations or prescription period sets forth the maximum period of time within which legal proceedings may be initiated in respect to certain events. This limitation often poses an obstacle to filing a lawsuit in cases of human trafficking in the Arab world.

For example, in the law of Algeria, the crime of human trafficking is a misdemeanor.\textsuperscript{114} Consequently, and in accordance with Article 8 of the Law of Criminal Procedures, the limitation period is three years. Although Article 8 does provide for exceptions in the application of the statute when it states that: “the public action shall not be extinguished by passage of time in cases of felonies and misdemeanors that are qualified as terrorist or destructive acts, as transnational organized crimes, as corruption, or as embezzlement of public funds,”\textsuperscript{115} trafficking in persons is not among the qualifying crimes that warrant the exception.

Recognizing the obstacle that such limitation poses on prosecuting cases of trafficking, the UNTOC requires that:

“Each State Party shall, where appropriate, establish under its domestic law
a long statute of limitations period in which to commence proceedings for any offense covered by this Convention and a longer period where the alleged offender has evaded the administration of justice.\textsuperscript{116}

States may also consider providing that no statute of limitations or prescription period applies to such crimes. Together with severe penalties commensurate with the gravity of the crime of trafficking, such a provision may serve to send a strong message of deterrence. This notion is embedded in the Rome Statute of the International Criminal Court, which states that the crimes under the jurisdiction of the Court, which include trafficking in persons, “shall not be subject to any statute of limitations.” \textsuperscript{117}

\textbf{The Islamic Law Perspective}

Islamic law abolishes the statute of limitations in cases of trafficking based upon the tradition of the Prophet that “a right of a Muslim shall not be extinguished by passage of time.”

\textbf{4.3. Aggravating circumstances}

Broadly speaking, aggravating circumstances can be divided into three groups, depending on whether they refer to the trafficking offender, the victim of trafficking, or the act of trafficking itself.

The Gulf Cooperation Council Model Law includes all three groups and, in Article 4 provides for enhanced penalties for the following aggravating circumstances:

1) Establishing or forming or organizing or managing an organized criminal group that aims at committing crimes of human trafficking;

2) If the crime is committed against children, women or people with special needs;

3) If the committing of the crime is accompanied by duress or deception of abuse of office;

4) If the perpetrator is carrying a weapon or threatening to use one;

5) If the perpetrator is the spouse of the victim, or his descendant or ascendant or guardian or has authority over or if he is a public official entrusted with the application of the law or if he seeks the assistance of others;
6) If the crime is committed by more than one person;

7) If the crime is committed by an organized criminal group;

8) If the crime is of international or transnational nature.\textsuperscript{118}

The Arab League Model Law provides for enhanced penalties when the act of trafficking: 1) is committed or facilitated by a public official; 2) is transnational in nature; 3) is committed by an organized criminal group; 4) is committed using a weapon; 5) is committed by the spouse of the victim or one of her close relatives; 6) is committed by more than one person; 7) results in a serious harm to the victim; 8) or causes harm to the disabled.\textsuperscript{119}

\subsection*{4.3.1. Aggravating circumstances regarding the offender}

The aggravating circumstances related to the offender vary greatly across the Arab region. At times, enhanced penalties are prescribed when the offense was committed within the framework of a criminal organization. This is the case of Article 2 of the anti-trafficking law of the U.A.E. which states:

“Temporary confinement shall be sentenced onto those committing the crime of human trafficking stipulated in Article 1 of this law, for a period of not less than five years. The sentence of life in prison shall be passed for any of the following: if the perpetrator has organized, planned or operated an organized criminal group, or assumed leadership or called for others to join the group.”\textsuperscript{120}

In other instances, the penalty is increased when the offender is a parent, sibling, guardian, spouse, partner or a person who exercises authority over the trafficked person. This is the case of the Algeria criminal code which, in Article 303 (4) states:“[…]Trafficking in persons is punishable by an imprisonment for three (3) to ten (10) years and a fine of 300,000 DA to 1,000,000 DA.”\textsuperscript{121}

Article 303 (5) states: “Trafficking in persons is punishable by imprisonment for ten (10) to twenty (20) years and a fine of 1,000,000 DA to 2,000,000 DA if the infraction is committed under one of the following circumstances: when the perpetrator is a victim’s spouse, relative, legal guardian, has authority over the victim or is public official whose position has facilitated the perpetration of the crime.”\textsuperscript{122}

Enhanced penalties will also be imposed if the offence is committed by a public official as in article 6 (4) of the Egyptian law which provides for: “…
life imprisonment and a fine not less than 100,000 pounds and not to exceed 500,000 pounds (...) If the perpetrator was a public official or was assigned to carry out a public service and committed the crime by exploiting the office or public service.”

4.3.2. Aggravating circumstances regarding the victim

Among Arab legislators, there is no consensus as to which victim warrants enhanced penalty. Some Arab anti-trafficking laws state that a penalty may be enhanced if the crime is committed against a child, a woman, or a person with special needs. 123

Article 4 of the Saudi Arabian law enhances the penalty “if the crime is committed against a woman or people of special needs,” or “if the crime is committed against a child, even if the perpetrator is not aware that the victim is a child.” 124 Article 8 of the Syrian law provides that a penalty shall be enhanced “if the crime is committed against women or children or person[s] with special needs.” 125 Article 4 of Bahrain’s law states that aggravating circumstances in a crime of trafficking persons include any victim who is “below fifteen years of age, a female or a person with special needs.” 126

The law in Jordan states in Article 7 (b)(2) that a penalty for the crime of human trafficking shall be enhanced “if the victim is a female, a minor, or a person with special disability.” 127

Case Study

Jordan: Case number 2036/2011

In this case, the defendants were charged with enticing a number of Asian girls for the purpose of sexual exploitation. The court referred to two specific provisions of the Jordanian law on combating human trafficking Number 9, 2009, namely Article 3 which defines human trafficking as a form of exploitation and Article 8 which provides for a penalty of imprisonment of no less than 6 months and a fine between 1,000-5,000 Dinars or both penalties. The court held that exploiting females for the purpose of sexual abuse amounts to and satisfied the elements of the crime of human trafficking, in accordance with the law. The defendants were sentenced to imprisonment for a period of 6 months.
Similarly, Article 15 of the Qatari law enhances the penalty “if the victim is a female, a child, a person with a disability, or incapacitated.” Other laws, like the Egyptian law, do not consider trafficking in women an aggravated circumstance, but it enhances the penalty to life imprisonment “if the victim was a child, was incapacitated or was a person with disabilities.”

On May 5, 2010, a Giza Criminal Court issued a sentence in the case known as the “marriage of a minor with a view to sexual exploitation,” where it sentenced the accused, Mr. Suleiman bin Abdul Rahman, a 76 year-old man of Saudi nationality, to 10 years of rigorous imprisonment and fined him 100 thousand pounds for marrying and sexually exploiting a 14 year-old Egyptian girl. The Court also sentenced the broker of the marriage, the lawyer who created the marriage contract and the parents of the girl for exploiting the victim and delivering her to the defendant in return for money. (Case No. 1658 of 2010 Criminal Court Giza Center – The Egyptian Third Annual Report of the National Coordinating Committee to Fight and Prevent Trafficking in Human Beings)

Article 9 of the law of Oman does not consider trafficking in females to be an aggravated circumstance, but if the victim is a child or a person with special needs it enhances the standard penalty of three to seven years with a sentence of imprisonment lasting not less than seven years nor exceeding fifteen years, plus an increased fine. The Lebanese law considers a pregnant woman a vulnerable victim and enhances the penalty only in such cases.

One may consider enhancing the penalty in trafficking cases that involve a female as an example of positive discrimination that is allowed under Article 3 of the Arab Charter for Human Rights. However, this proposition runs counter to the established principles in comparative models that focus on the conditions of vulnerability of females and males rather than gender status as grounds for enhancing the penalty.

4.3.3. Aggravating circumstances regarding the crime

Various circumstances regarding the nature of the crime also warrant enhanced penalties. If the offense is committed with the use of threats or violence or of other forms of coercion, the law of Jordan enhances the penalty from imprisonment of no less than six months or a fine of no less
than one thousand dinar or not to exceed five thousand dinar or both of these punishments to a punishment of hard labor not to exceed 10 years or a fine of no less than five thousand dinar and not to exceed 20 thousand dinar: “If the crime was committed by the use of weapons or the threat of use of weapons.”

The Bahraini law enhances the penalty “If the crime is of a non-national nature” or, in other words, if it is cross-border in nature.

**Case Study**

In December 2008, a Thai national, Mr. Sureerat Chaiphrom, was convicted under the Bahrain’s 2008 Anti-Trafficking law for forcing seven Thai women into prostitution in a Bahraini entertainment venue. *(United States Department of State, Office to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report – Bahrain, 27 June 2011)*

Similarly, Article 15(g) of the law of Qatar states that the penalty will be imprisonment not to exceed 15 years and a fine not to exceed 300,000 Riyal if the crime: “is transnational in nature.”

Finally, some countries impose strict sentences if the victim suffers serious injury or death as a consequence of being trafficked. This is the case of the law of the Bahrain which enhances the penalty when: “the victim suffers an incurable disease as a result of committing the crime.” The law of Djibouti talks about actions which: “caused the victim any type of medically proven physical, moral or mental harm.” Life imprisonment and a fine not less than 100,000 pounds and not to exceed 500,000 is the sentence provided under the Egyptian law when: “the crime resulted in the death of the victim or caused him to suffer a permanent disability or an incurable disease.” However, the most severe of all penalties is prescribed by the recently passed Iraqi anti-trafficking law of February 23, 2012 which, in Article 8, states: “If the act of human trafficking leads to death penalty of the victim, the sentence shall be capital punishment.”

**4.4. Extraterritoriality**

A majority of the Arab anti-trafficking laws apply to a national who commits the crime of trafficking within a state’s territory. However, there are some exceptions worth noting. For example, the Egyptian law extends its jurisdiction to non-nationals who commit the act of trafficking abroad if the
crime was committed: on any means of transportation that was registered in Egypt; one of the victims was Egyptian; the preparation for the crime or its planning, direction, supervision, or financing occurred in Egypt; the crime was committed by an organized criminal group engaged in criminal activities in more than one state, including Egypt; the crime caused harm to any citizen or resident, to the security, or to any of the interests of Egypt within the country or abroad; or the one who committed the crime in Egypt was found after the crime was committed and was not extradited.  

5. International cooperation

When trafficking occurs as a transnational activity, cooperation between countries of origin, transit, and destination is necessary to confront the problem. Hence, bilateral treaties on mutual assistance in criminal matters must be a part of any transnational legal response since the apprehension of traffickers, investigation of cases of trafficking, and prosecution of the traffickers requires cooperation especially in matters related to requests for assistance, searches, seizures, attachment and surrender of property, measures for securing assets, service of judicial decision, judgments and verdicts, appearance of witnesses and expert witnesses and transmittal of information and records.

Best Practice

Enacting a bilateral agreement providing for mechanisms to combat trafficking and protect victims of trafficking in conformity with various international human rights mechanisms: “The Parties shall undertake necessary legal reform and other appropriate measures to ensure that the legal frameworks in their respective jurisdictions conform with the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments which both Parties have ratified or acceded to and are effective in eliminating trafficking in children and women and in protecting all rights of children and women who fall victim to trafficking.” (Memorandum of Understanding between the Governments of Cambodia and Thailand on bilateral cooperation for eliminating trafficking in children and women and assisting victims of trafficking, Article 4)
5.1. The UNODC International Framework for Action to Implement the Trafficking in Persons Protocol

As highlighted in the United Nations Office on Drugs and Crime’s “International Framework for Action To Implement the Trafficking in Persons Protocol” [hereafter “The UN Framework”], the crime of trafficking frequently occurs across borders and member states are often unable to address the problem effectively because international mechanisms or structures for international cooperation are either non-existent or inadequate. This is why the UN Framework, in promoting the implementation of the UN Protocol, urges member states to: “Create the legal basis for international cooperation, including the promotion of cooperation agreement.”

5.2. The need for international cooperation agreements

To promote international cooperation, the UN Framework proposed the adoption of cooperation agreements between bordering states that establish the criteria for mutual legal assistance in the investigation and prosecution of cases, pursuant to Article 18 of the UNTOC. The cooperation agreements should also include joint regulations to coordinate the transfer of sentenced persons and the confiscation of the proceeds and property of the crime.

6. Crimes related to trafficking in persons

As prescribed in the United National Model Law on Trafficking in Persons, it is essential, while establishing trafficking offenses, to ensure that national legislation adequately criminalizes other related crimes such as participation in organized criminal groups, obstruction of justice, corruption and money laundering.

6.1. Participation in an organized criminal group

The UNTOC, the parent Convention of the U.N. Protocol, imposes on ratifying states an obligation to criminalize certain offenses when committed internationally and in participation with an organized criminal group. In particular, Article 5 urges states to criminalize the following acts:

“(i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;
(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in:

a. Criminal activities of the organized criminal group;

b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;

(iii) Organizing, directing, aiding, abetting, facilitating or counseling the commission of serious crime involving an organized criminal group.”

6.2. Obstruction of justice

Article 23 of the UNTOC also prohibits the obstruction of justice when committed internationally and defines it as: “[...] (a) the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention; (b) the use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences covered by this Convention.”

6.3. Corruption

Corruption is also prohibited under the UNTOC. Article 8 of the Convention encourages states to criminalize corruption and defines it as: (a) the promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; and (b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.”

6.4. Money-laundering

Another trafficking-related crime that is criminalized under the UNTOC is the crime of money-laundering. In particular, Article 6 prohibits:
“1. [...] (a) (i) the conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) the concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

(b) subject to the basic concepts of its legal system:

(i) the acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(ii) participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of the offences established in accordance with this article.”

7. Related human rights legislation

In addition to criminalizing trafficking related crimes, important human rights legislation must be in place to allow anti-trafficking laws to be integrated effectively into the national jurisdiction. These laws include: media laws; child protection laws; laws against violence against women; laws guaranteeing access to justice for vulnerable sectors of society; laws on freedom of information; and labour legislation.
Applying Your Knowledge: Combating Trafficking in Persons in the MENA region: Prosecution

Exercise A: Review Questions

1) How does a law on combating trafficking in persons address the related crime of corruption?

2) Should the criminal justice system prosecute demand, or only combat it through prevention?

3) Should the criminal law enhance the penalty if the trafficked victim is a woman?

4) Is a statute of limitation appropriate in cases of trafficking in persons?
Exercise B: Practical task

List the main provisions you would include in a model cooperation agreement for the joint prosecution and investigation of crimes of trafficking between two or more countries in the MENA region.
Chapter V. Combating Trafficking in Persons in the MENA region: Protection

1. Introduction

Trafficking in persons is unique, since it is the only business that specializes in humans as merchandise. Thus, a large part of combating trafficking is the treatment of and aid for the victims. The victim must be protected from retaliation by his or her trafficker, from prosecution or deportation under the country’s legal system, and from harm while they are recovering from their trauma.

In addition, victims must be given support in pursuing justice, recovering, and reintegrating into society. This means that they must be provided with legal assistance in the prosecution of the trafficker and on matters related to their immigration status. Victims also have a right to be informed of their rights and to be treated as victims of trafficking rather than criminals, despite any illegal activity they might have participated while they were being trafficked.

Finally, various procedural law principles must be in place to ensure that the rights of the victims and of their family are duly guaranteed.

The Islamic Law Perspective

Respect for the individual is the central precept of Islam—the warning against persecution of individuals is repeated 299 times in the Qur’an and the phrase “justice and equality” appears at least sixteen times. It may also be argued that equal protection is likewise a basic premise in Islamic legal theory. For example, the Prophet Muhammad declared in the Great Pilgrimage that “All Moslems are brothers unto one another,” and that “There is no superiority of an Arab over a non-Arab except as his devotion is concerned.”

2. Identifying the victims of trafficking in persons

There is no distinguishable “face of trafficked victims”. However, trafficked persons are always people who, due to poverty, war, natural disasters, gender, ethnic origins and other factors pertaining to their status or to specific circumstances, are susceptible to exploitation.
2.1. The types of victims

Often, victims of trafficking do not readily identify themselves as such. For example, individuals tricked into forced labor through the imposition of extortive “fees” may require education, or those who are psychologically attached to a sex trafficker as a “boyfriend” may require counseling before they understand that they are being exploited and their human rights are being violated.

Under international, regional and national legislation, different types of victims of trafficking can be identified. Broadly, victims can be divided in five main categories: victim, derivative victim, potential victim, vulnerable victim and presumed victim. An individual often falls under more than one of these categories. 146

2.1.1. Victim

The term “victim of a crime” has been defined in Article A (1) of the U.N. Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power as: “Persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States.” 147

Likewise, the Council of Europe Framework Decision on the Standing of Victims in Criminal Proceedings in Article 1 (a) defines a victim as: “A natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State.” 148

A similar definition of “victim” is present in the Egyptian anti-trafficking law Article 16 which defines a victim of trafficking as: “[A] natural person who suffered any material or moral harm, in particular bodily, psychological or mental harm; or economic loss if the harm or loss was caused directly by one of the crimes stipulated in this law.” 149

A reference to this type of victim is included in Article 1 of the Iraqi law which states: “The victim means, the person who suffered from material or moral damage caused by one of the crimes stipulated in this law.” 150

The Lebanese law Article 586 (1) states: “For the purpose of this law, a victims of trafficking means any natural person who is a subject to trafficking in persons or who is reasonably considered as such by the competent authorities
irrespective of whether the perpetrator of the crime was identified or arrested or tried or charged.”\textsuperscript{151}

A definition of victim is offered also by the Syrian law, Article 1, which states: “A victim of trafficking in a person against whom the act of trafficking was committed or was subject thereto.”\textsuperscript{152}

\textbf{2.1.2. Derivative victim}

Article A (2) of the U.N. Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power includes in the definition of victim, when appropriate, the family members of the victim. It states: “The term ‘victim’ includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered to assist victims in distress or to prevent victimization.”\textsuperscript{153}

\textbf{2.1.3. Potential victim}

A potential victim is a person who is part of a risk group and is vulnerable to becoming a victim of trafficking.

Common examples of potential victims in the MENA region are street children in Egypt. These risk groups are often targeted by traffickers due to their vulnerability caused by lack of economic opportunities and limited access to information and social services.

\textbf{The Islamic Law Perspective}

The holy Qur’an lays out certain regulations and mechanisms to lend additional support to women and children, especially orphans who are considered more vulnerable than other groups and states that believers are to do good to parents, kinsfolk, orphans, the needy, neighbors, strangers, wayfarers, and slaves. Women and children are granted special protection by Islam, and believers are required to provide assistance to the needy and those in distress; some contend that the failure to do so is a sin because of a generally-accepted principle of Islamic law, “whoever neglects an obligation is legally liable for the consequences of that neglect.” This protection is granted to all, as the Qur’an 5:32 states, “If anyone kills a person, it would be as if one has killed all of humanity; if anyone saves a person, it would be as if one has saved all of humanity.”\textsuperscript{154}
2.1.4. Vulnerable victim

This definition takes into account the fact that a victim of trafficking is, most frequently, a vulnerable victim. The Travaux Préparatoires to the U.N. Protocol state that: “The reference to the abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved.”

This qualification of a vulnerable victim is relevant when establishing guidelines for the status of a victim of trafficking and the types of benefits he or she may receive from the state. It is crucial to understand that victims of trafficking, as vulnerable victims, are in a situation where they have no choice but to submit to exploitation, and therefore cannot be held liable for criminal acts that may be committed under duress or as a result of their being trafficked.

Best Practice

In United States v. Verapool, the court applied the vulnerable victim enhancement doctrine which affirms that crimes committed against a susceptible victim warrant an enhanced penalty for the offender. The court stated that a person from a foreign country coming to the United States, who does not know the language or the culture, is a vulnerable person. In this case, the wife of the Thai Ambassador recruited girls from Thailand to work in her house and in the restaurant she owned in Los Angeles. She was convicted of trafficking and given an enhanced penalty as the victims were deemed to be vulnerable persons. (United States v. Veerapol, 312 F.3d 1128, 1130 (9th Cir. 2002))

2.1.5. Presumed victim

A presumed victim is a person who has already been trafficked but has not been identified as a victim of trafficking. Such a person falls outside the protection of the legal system.
Best Practice

Acknowledging the various typologies of victims and the difficulties that law enforcement officers can face in identifying victims of trafficking among various populations of vulnerable groups, the Jordanian National Strategy for the Prevention of Trafficking in Persons adopted in December 2012, urges the state to formulate and implement training programs for law enforcement personnel and personnel of civil society on methods of identification of both victims and of those negatively affected by the crime.

3. The bill of rights for victims of trafficking

Once a victim has been identified, he or she must be protected from further harm. Arab countries, to varying extents, have recognized a variety of victims’ rights in their anti-trafficking laws.

For example, the Egyptian law guarantees the following rights for victims of trafficking: the right to safety; the right to identity; the right to information; the right to be heard in court; the right to legal assistance; the right to personal security; the right to return to one’s homeland; and the right of an Egyptian victim of trafficking abroad to be returned to Egypt. The Egyptian law explicitly provides in Article 22 that: “The State shall guarantee the protection of the victim and shall work to create the appropriate conditions for his assistance, health, psychological, educational, and social care; and rehabilitation and reintegration into the society, within the framework of liberty and human dignity....”

Bahrain’s law provides for a number of protective measures for trafficking victims that must be considered during investigations or court proceedings. These include the right to information, or informing the victim of his or her legal rights in a language he or she understands, and the right to medical and psychiatric care. The Bahraini law explicitly states in Article 5 (3) that “the victim shall be examined by a specialist physician if he so requests or if it transpires that he is in need of medical or psychiatric care,” and requires in Article 5 (4) “[a]dmitting the victim into a medical or psychiatric centre or a welfare centre if it transpires that his medical or psychological condition or age so requires.”

The Syrian law also provides that victims of trafficking should be entitled to receive information regarding their legal rights “in a language that they
understand.” The Syrian law states that victims of trafficking have the right to privacy, including the right to secrecy of name, place where they are receiving care, or any other information that may reveal their identities. Similar laws guaranteeing rights for victims of trafficking are found in Saudi Arabia and Oman.

Based on these laws and on international standards, the rights of victims can be summarized as follows:

1. The right to safety
2. The right to privacy
3. The right to information
4. The right to legal representation
5. The right to be heard in court
6. The right to compensation for damages
7. The right to assistance
8. The right to seek residence
9. The right to recovery and reflection period
10. The right to return

These rights entitle victims of trafficking to benefits that should be granted irrespective of their immigration status or their willingness to testify in court.

3.1. The right to safety

The right to safety is especially relevant in states where the law requires the victim of trafficking to testify against the traffickers or to cooperate in other ways with the authorities in the prosecution of cases of trafficking.

In such circumstances, the victim should be provided with protection from possible reprisals from traffickers as a prerequisite to coming forward and testifying. Derivative victims are likewise to be considered in these cases, as family members of victims of traffickers may also be targeted as part of any such reprisals.

In this regard, the U.N. Protocol provides that: “Each State Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory” (Article 6).
Likewise, the OHCHR Principles and Guidelines on Human Rights and Trafficking provide that states should ensure that: “…trafficked persons are effectively protected from harm, threats or intimidation by traffickers and associated persons. To this end, there should be no public disclosure of the identity of trafficking victims and their privacy should be respected and protected to the extent possible, while taking into account the right of any accused person to a fair trial. Trafficked persons should be given full warning, in advance, of the difficulties inherent in protecting identities and should not be given false or unrealistic expectations regarding the capacities of law enforcement agencies in this regard” (Guideline 6).\(^{163}\)

### 3.2. The right to privacy

Victims of trafficking should be entitled to the right to privacy. Article 6 (1) of the U.N. Protocol provides that State Parties “shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.”\(^{164}\) States should ensure that the names and identifying information of trafficked persons and their family members are not disclosed to the public.

#### The Islamic Law Perspective

The right to privacy is provided for in Islamic law. It is explicitly provided for in the Qur’an, and applies both to residential privacy: “Enter not houses other than yours until ye have asked permission and saluted those in them. If ye find no one is in the house, enter it not until permission is given to you. If ye are asked to go back, go back” and communication privacy: “and spy not on each other behind their backs”. These mandates to respect privacy may be applied to victims of trafficking, for whom the breach of confidentiality can be dangerous.\(^{165}\)

### 3.3. The right to information

Victims of trafficking have the right to information. Accordingly, Articles 6 (2)(a) and 6 (3)(b) of the U.N. Protocol provide that States parties should make available to victims of trafficking “information on relevant court and administrative proceedings” and “information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand.”\(^{166}\)
3.4. The right to legal representation

Victims of trafficking must be granted the right to legal representation. Guideline 6 (5) of the OHCHR Recommended Principles and Guidelines on Human Rights and Trafficking in persons recommend: “providing trafficked persons with legal and other assistance in relation to any criminal, civil or other actions against traffickers/exploiters.”

3.5. The right to be heard in court

A victim of human trafficking should be entitled to the right to be heard during all stages of criminal and civil proceedings. The U.N. Protocol provides in Article 6 (2)(b) that the States parties should provide victims of trafficking in persons with “assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders” (Article 22). Moreover, victims of trafficking should be provided with “information on relevant court and administrative proceedings.”

Under Egyptian law, the implementation of the right to be heard in court requires that the victim’s views should be considered and that he or she has “[t]he right to legal assistance, in particular the right to counsel.”

The court or public prosecutor may assign a lawyer in accordance with the rules prescribed in the criminal procedures law, and should take necessary measures to protect the victim’s safety as well as the safety of any witness testifying on the victim’s behalf. This also requires informing the victim of his or her rights in accordance with the relevant administrative, legal, and judicial regulations.

3.6. The right to compensation for damages

Victims of trafficking in persons have a right to compensation for the trauma and exploitation that they have suffered as a result of their being trafficked.

In regard to compensation, Article 6 (6) of the U.N. Protocol states: “Each State Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.”

Article 14 (2) of the Organized Crime Convention states that:

“When acting on the request made by another State Party in accordance with Article 13 of this Convention, States Parties shall, to the extent permitted by domestic law and if so requested, give priority consideration to returning
the confiscated proceeds of crime or property to the requesting State Party so that it can give compensation to the victims of the crime or return such proceeds of crime or property to their legitimate owners.”

States around the world have addressed such obligations by developing five basic models of civil compensation of victims:

3.6.1. Mandatory restitution

Some legal systems grant victims of trafficking the right to receive restitution for their losses.

3.6.2. Confiscation of assets

Some anti-trafficking laws provide for forfeiture of assets in addition to imprisonment as the appropriate criminal sanction imposed on a trafficker. The laws thus provide that damages to victims of trafficking are to be paid out of the traffickers’ property.

3.6.3. State fund

In some legal systems, compensation to victims of trafficking is paid out of specially created State funds. An early draft of the law of Bahrain provided that “a government fund shall be established” to provide for the necessary funding for implementing policies specified in the law. However, this provision was deleted in its entirety in the final version of the law. The Egyptian law provides for the establishment of a state fund “to assist victims of human trafficking” and “to provide financial assistance to the victims who have suffered harm resulting from any of the crimes stipulated in this law.” It is significant to note that in addition to “[t]he proceeds of the fines sentenced for the crimes stipulated in this law, as well as the properties, objects, and means of transportation forfeited [which] shall be allocated directly to the fund,” the law allows the fund to “accept contributions, grants, and donations from national and foreign entities.”

3.6.4. Civil action

Other legal systems recognize the right of a victim of trafficking to seek damages in a civil court. For instance, the law of Jordan provides that a person “injured because of one of the crimes stipulated in this law may seek compensation in accordance with the general principles in the laws in force.” The law of Oman, in an attempt to enhance a victim’s access to justice, provides that a victim of trafficking shall be exempted from the fees
of a civil action that he or she files asking for compensation for the harm resulting from the exploitation.  

General rules applicable to compensation may also apply to victims of trafficking. For example, Article 3 of the Algerian Code of Criminal Procedure, gives crime victims the right to file a civil action and Article 239 states that anyone who wants to use the right conferred by Article 3, and who claims to be a victim of a crime or misdemeanor can file the civil action in the same session as the criminal proceeding already in progress. Also, a person who suffers harm as a result of a crime may file a separate civil action asking for compensation in accordance with Article 124 of the Algerian Civil Code, which provides that any act that causes harm to another gives rise to compensation. The law of Qatar provides in Article 10 that the criminal court with jurisdiction to decide a case of human trafficking shall also have jurisdiction to decide a civil action that may arise as a result of the criminal action.

3.6.5. Punitive damages

In some legal systems, victims are awarded not only damages to compensate for their losses or moral damages, but also punitive damages, which are damages whose purpose is to reform or deter the perpetrator whose conduct damaged the victim.

### The Islamic Law Perspective

Islamic law also recognizes the right of a victim of a crime to compensation in accordance with the Islamic tradition of the Prophet, la darar wa la dirar, or “no injury and no inflicting of injury.” According to this tradition, he who causes harm should repair such harm—the basis for providing compensation for damages. As stated in the Majallah-el Ahkam-i-Adliya “a person who does an act shall be held responsible if such act causes harm to another. The purpose of the principle of no injury or repaired harm is to achieve justice, a basic principle under Islamic law.”

3.7. The right to assistance

Victims of trafficking should be entitled to the right to assistance, in the form of medical, psychological, legal, and social aid. In this regard, Article 6 (3) of the U.N. Protocol states:
“3. Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

(a) Appropriate housing;

(b) Counseling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

(c) Medical, psychological and material assistance; and

(d) Employment, educational and training opportunities.”¹⁷⁹

The right to “appropriate housing” is closely related to the right to security and it imposes on states a duty to provide shelters for victims, either by operating them directly or in cooperation with NGOs and international organizations. Within the shelters, various services may be provided, depending on the type of victim and the location of the shelters.

The GCC Model Law dictates that shelter should be provided for victims of trafficking.¹⁸⁰ Most trafficking laws provide that victims of trafficking are entitled to accommodation in safe places such as shelters.

The Bahraini law, for example, allows for “admitting the victim into a special center for the provision of shelter or… with a licensed authority to undertake providing accommodation thereto if it is found that this is required.”¹⁸¹

Case Study

In September 2010, the United Arab Emirates closed a trafficking in persons case involving 20 women from the Philippines. Not only was the case seen through to fruition, but the victims were offered protection at a government-run shelter and given medical, legal, and financial help from the shelter with the ultimate goal being repatriation of the victims. *(United States Department of State, Office to Monitor and Combat Trafficking in Persons, Trafficking in Persons Report – United Arab Emirates, 27 June 2011)*
The Islamic Law Perspective

The right to assistance is covered by the Islamic principles of assistance to those in distress and those in need—victims of trafficking certainly find themselves often psychologically and physically traumatized and do require medical and psychological aid.

3.8. The right to seek residence

A victim of trafficking should be entitled to the right to seek residency in the country of destination. The immediate return of the victims to their home countries may be unsatisfactory both for the victims and for the law enforcement authorities endeavoring to combat trafficking. For the victims, return might make them, their family or their friends in the country of origin vulnerable to reprisals by the traffickers. For law enforcement purposes, if the victims continue to live clandestinely in the country or are removed immediately, they cannot give information for effectively combating trafficking. The more confident the victims are that their rights and interests will be protected, the more information they will be able to provide.

Accordingly, Article 7 of the U.N. Protocol states: “each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases” and “shall give appropriate consideration to humanitarian and compassionate factors.”

Paragraph 68 of the Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime advocates the adoption of measures providing victims of trafficking with some legal form of residency status, stating that: “there is no obligation to legislate measures relating to the status of victims. However, in several countries where measures have been adopted for the temporary or permanent residence of victims of trafficking, such as Belgium, Italy, the Netherlands and the United States of America, such measures have had a positive effect on victims coming forward to testify against traffickers and on non-governmental organizations encouraging victims to whom they provide services to report incidents to the government.”

Some states have made residency status contingent on the victim testifying in court and, more broadly, cooperating with the authorities prosecuting the
traffickers. However, it is more in line with a human rights-based approach to combating trafficking not to make residency status contingent on the victim’s cooperation with the authorities.

The right to seek residency is rarely present in Arab legislation. Article 15 (7) of the Saudi Arabian law states that “[i]f the victim is a foreigner and it is necessary for him to stay in the Kingdom during the investigation procedures, the prosecution or the competent court would assess the matter.”

Article 7 of Bahraini law states that the Minister of Social Development must form a “Committee for the Assessment of the Status of Foreigners who are Victims of Trafficking in Persons.” The law is more detailed than then the Saudi law in that it empowers the committee to examine the needs of a victim for repatriation to his or her country of origin or for a job if the victim must remain in Bahrain for an extended period. However, such employment recommendations are subject to review no less often than once every six months.

3.9. Right to recovery and reflection period

Closely linked to the concept of residency status is the option that the legislator has, in the country of destination, of granting the victim a “recovery and reflection period”. In its Toolkit to Combat Trafficking in Persons, UNODC highlights the importance of such a period, stating that:

“...Granting a reflection period, followed by a temporary or permanent residence permit, would ideally be granted to victims of trafficking regardless of whether the trafficked person is able or willing to give evidence as a witness. Such protection of the victim serves to raise his or her confidence in the State and its ability to protect his or her interests. Once recovered, a trafficked person with confidence in the State is more likely to make an informed decision and cooperate with authorities in the prosecution of traffickers.”

The European Union Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration and who cooperate with the competent authorities makes a reflection period available to those persons who are willing to cooperate with the authorities prosecuting cases of trafficking, stating that (Article 6 and Article 8): “member states shall ensure that the third-country nationals [who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration
and who cooperate with the competent authorities] are granted a reflection period allowing them to recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether to cooperate with the competent authorities.” 187

During the reflection period […] the third-country nationals concerned shall have access to [medical psychological treatment, translation services and legal aid] and it shall not be possible to enforce any expulsion order against them.

After the expiry of the reflection period, or earlier […] Member States shall consider:

(a) the opportunity presented by prolonging the third-country national’s stay on its territory for the investigations or the judicial proceedings, and

(b) whether he/she has shown a clear intention to cooperate and

(c) whether he/she has severed all relations with those suspected of [trafficking in human beings and illegal immigration].

However, the Council of Europe Convention on Action against Trafficking in Human Beings has made such a period a mandatory requirement for States party to the Convention regardless of the willingness of victims of trafficking to cooperate with the prosecuting authorities, requiring that (Article 13): “each Party shall provide in its internal law a recovery and reflection period of at least 30 days, when there are reasonable grounds to believe that the person concerned is a victim. Such a period shall be sufficient for the person concerned to recover and escape the influence of traffickers and/or to take an informed decision on cooperating with the competent authorities. During this period it shall not be possible to enforce any expulsion order against him or her. This provision is without prejudice to the activities carried out by the competent authorities in all phases of the relevant national proceedings, and in particular when investigating and prosecuting the offences concerned. During this period, the Parties shall authorize the persons concerned to stay in their territory.” 188

3.10. The right to return

Just as victims of trafficking in persons should have the right to seek residence in the country to which they have been trafficked, so should they also have the right to a dignified return to their country of origin. Countries should ensure
that victims are returned only with their voluntary and informed consent. The assistance of NGOs and other mechanisms should be called into play to ensure the victims are protected from past and potential traffickers both while they are in transit and during their reintegration.

Article 8 of the U.N. Protocol provides that States parties of which victims of trafficking are nationals or residents should “facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.” Repatriation of victims “shall preferably be voluntary.”\textsuperscript{189} Victims should be provided with all necessary assistance to ensure a dignified return.

The repatriation of victims of trafficking may be regulated through international or bilateral treaties between countries of origin and countries of destination.

4. Procedural protection of victims of trafficking

Procedural law is instrumental in ensuring that the rights of victims are guaranteed within the times prescribed by law. Effective procedural laws are also a reflection of a human rights approach to combating trafficking which strives to ensure that victims of trafficking do not endure any further abuse during the prosecution phase. In addition, procedural laws must take specific account of the special needs of child victims and child victim witnesses.

A number of principles are therefore needed to ensure that procedural law is in harmony with the protections afforded by anti-trafficking legislation.

4.1. Witness protection

Witness protection is critical to securing the safety of victims of trafficking who wish to testify against their traffickers, and the availability of strong witness protection mechanisms and procedural measures may be an important factor in a victim’s decision to cooperate with the authorities prosecuting a case. The Organized Crime Convention stipulates the following: “each State Party shall take appropriate measures within its means to provide effective protection from potential retaliation or intimidation for witnesses in criminal proceedings who give testimony concerning offences covered by this Convention and, as appropriate, for their relatives and other persons close to them.”\textsuperscript{190}
Similarly, the provision on obstruction of justice, Article 23 requires the criminalization of various forms of obstruction, including the use of physical force, threats or intimidation.

Protective measures must be in place, in particular during court proceedings. In this regard, the Council of Europe Convention on Action against Trafficking in Human Beings provides: “each Party shall adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings:

A. the protection of victims’ private life and, where appropriate, identity;

B. victims’ safety and protection from intimidation, in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children’s needs and ensuring their right to special protection measures.”

States have enacted various witness protection mechanisms that are not necessarily specific to victims of trafficking, but can and should be applied to them. Other states, however, provide for specific protection related to the crime of trafficking. For instance, Article 20 of the Qatari law states that: “Anyone who discloses or reveals the identity of the victim or that of the witness subjecting him to danger or causing him harm … shall be punished with imprisonment with a period of not more than 2 years and a fine not to exceed 50,000 Diar.”

4.2. Investigation and court proceedings

Should the victim decide to cooperate with the authorities in pursuing the prosecution of a case of trafficking, he or she will have a right to protection from possible retaliation. Having such legislation in place affords much needed security and peace of mind to victims of trafficking, who frequently fear intimidation and reprisals from traffickers. The various procedural principles needed to provide such protection include:

4.2.1. Privacy of victim witnesses

The protection of privacy in court proceedings is critical to ensuring the safety and security of a victim of trafficking who chooses to cooperate with the authorities prosecuting the case. The threat of intimidation or reprisals from traffickers targeting the victim or the victim’s family members may be heightened if the victim’s identity is not protected during court proceedings. Security promised by privacy during investigation and court proceedings will
consequently allow for more efficient disclosure of the offence of trafficking in persons. As a general rule, court proceedings should be open to the public and the media in order to promote confidence in the judicial system. However, in many trafficking in persons cases, in particular in cases involving sexual exploitation and/or children, the best way of doing justice is to declare the court proceedings closed.

4.2.2. Gender sensitivity

Since victims of trafficking are often women, it is important to ensure that anti-trafficking legislation adopts a gender-sensitive approach. For example, women (including women social welfare workers) should be involved at all stages of proceedings concerning cases of trafficking, including investigation and trial.

4.2.3. Child victim witnesses

Child victims are particularly vulnerable and therefore require extra measures of protection that go above and beyond those that should be afforded to adult victim witnesses. Children have special rights, needs and vulnerabilities that must be taken into consideration when prosecuting trafficking cases involving child victim witnesses. They are particularly vulnerable and therefore require extra measures of protection beyond those that should be afforded to adult victim witnesses. Special interviewing techniques should be developed for working with child victim witnesses, and special procedures implemented to spare them the trauma of testifying in court. Some legal systems provide for audiovisual recording of hearings of children and others allow children to appear before the court by videoconference.
Laws to protect child victim witnesses. “The court may order that the testimony of the child be taken by closed-circuit television as provided in subparagraph (A) if the court finds that the child is unable to testify in open court in the presence of the defendant, for any of the following reasons:

(i) The child is unable to testify because of fear.
(ii) There is a substantial likelihood, established by expert testimony, that the child would suffer emotional trauma from testifying.
(iii) The child suffers a mental or other infirmity.
(iv) Conduct by defendant or defense counsel causes the child to be unable to continue testifying.”

(United States, Child victims’ and child witnesses’ rights, U.S.C. § 3509)

4.2.4. Double witness rule
The “double witness rule” or the “corroborative evidence rule” disqualifies the evidence if there is only one witness, unless his or her testimony is corroborated by another witness or other material evidence implicating the accused. Some countries have applied the rule in criminal proceedings to deny victims of trafficking the status of a credible witness. Such rules must be examined and reconsidered to allow the experiences of trafficking victims to be heard in court even when some elements of their story cannot be corroborated.

4.2.5. Inadmissibility of past behavior
Another important legislative consideration concerning procedural law has to do with the inadmissibility of a trafficked victim’s past behavior in court proceedings. This is particularly important in cases of sex trafficking.

4.2.6. Avoiding over-reliance on victim testimony
The OHCHR Recommended Principles and Guidelines on Human Rights and Trafficking in persons provide that States, intergovernmental organizations and NGOs should consider (Guideline 5): “providing law enforcement authorities with adequate investigative powers and techniques to enable effective investigation and prosecution of suspected traffickers. States should encourage and support the development of proactive investigatory procedures that avoid over-reliance on victim testimony.”
Applying Your Knowledge: Combating Trafficking in Persons in the MENA region: Protection

Exercise A: Review Questions

1) Does your law provide victims of trafficking a right to legal aid?

2) Are victims of trafficking entitled to a residency status in accordance with the national trafficking law?

3) How does the domestic law allows victims of the trafficking the right to seek compensation?

4) Is a victim’s witness entitled to witness protection in accordance with the national law?
Exercise B: Practical task

Draft a law regarding the rights of domestic workers in accordance with the ILO Convention No. 189 concerning decent work for domestic workers.
Chapter VI. Combating Trafficking in Persons in the MENA region: Participation

1. Introduction

1.1. The importance of participation in the implementation of prevention, prohibition and prosecution efforts

In the area of trafficking in persons, cooperation between the relevant government agencies, between countries when the cases of trafficking have an international component and between governments and civil society are essential in guaranteeing the implementation of all prevention, protection and prosecution efforts.

Cooperation between governments and civil society organizations is equally important to identify victims of trafficking and offer direct services such as legal assistance, medical care and psychological aid throughout court proceedings. Civil Society organizations can also contribute to a dignified process of repatriation (if such is desired by the victim) and re-integration or of integration into society if the victim is granted resident status.

1.2. An International obligation of cooperation with civil society

The U.N. Protocol stipulates that the States parties must cooperate with NGOs in adopting prevention measures to combat trafficking and measures of assistance and protection. Article 9 states: “policies, programs and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.”

The Council of Europe Convention also refers to civil society and calls upon States to:

- Raise awareness about the role of civil society in identifying demand as a root cause of trafficking
- Make available to victims contact information of NGOs in their country of origin to assist them upon their return
- Adopt measures to protect NGOs offering assistance to victims of trafficking from retaliation or intimidation during criminal proceedings
2. Models of participation of civil society in government efforts to combat trafficking in persons

Two main models serve to engage civil society organizations in government efforts to combat trafficking in persons: the “representation model” and the “consultation model.”

2.1. Representation model

The representation model, which is the more inclusive model for the full partnership of civil society organizations in government anti-trafficking efforts, involves including representatives of relevant NGOs on a national inter-agency body tasked with implementing anti-trafficking policies.

2.2. Consultation model

The consultation model, on the other hand, engages NGOs on a consultative basis, as representatives of a government entity tasked with implementing anti-trafficking policies. Representatives of civil society organizations concerned with the issue of trafficking in persons are mandated by law to be regularly engaged by the government as consultants. This can include hearing testimony from such organizations as part of parliamentary hearings aimed at policy development and refinement, their inclusion as consultants in research and investigations carried out by parliament or their engagement as independent experts in policy evaluation.

2.3. The place of civil society in Arab committees to combat trafficking in persons

The GCC Model Law, while providing for coordination among state agencies, is silent about coordination between these state agencies and members of civil society. Similarly, the law of the U.A.E. makes it a function of the National Committee for Combating Human Trafficking to coordinate “between different state bodies including Ministries, Departments, Establishments and Authorities related to the combating of human trafficking,” but does not make any reference to NGOs.

Article 23 of the Omani law provides that the National Committee for Combating Trafficking in Persons shall coordinate among all competent national authorities “and relevant international organizations to set up measures and procedures capable of combating transnational trafficking crimes.” The law of Jordan gives the National Committee to Protect from Human Trafficking the authority to cooperate with all agencies to implement
programs for the physical, mental, and social rehabilitation of victims and those who are affected by the crime of human trafficking, and supervise the hosting of these persons in the places that were established for this purpose. NGOs are not represented on these national committees. The Saudi Arabian law is also silent as to any role for NGOs.

The Syrian law is clearer with regard to the role of civil society, stating that “The concerned authorities shall take measures to ensure providing victims of trafficking the appropriate protection . . . in cooperation, whenever necessary, with official institutions, popular organizations, trade unions, and NGOs that are concerned with the issue.”

The only reference in the Egyptian law to institutions other than the government is in Article 26, which states that “The competent authorities shall provide care, education, training, and rehabilitation programs to the Egyptian victims, whether through governmental or non-governmental institutions.”

In Bahrain, Article 8 of the law on human trafficking calls for the establishment of the Committee for Combating Trafficking in Persons with the purpose of coordinating among government departments, but does not call for coordination with civil society. Although the functions of the Bahraini committee do not include coordination with civil society, the law does require the Minister of Social Development to nominate “representatives of three civil societies” to the committee, a model of civil society participation that should be applauded.

It should also be noted that Arab anti-trafficking laws address preventative measures only as a part of the functions of interagency task forces. These measures include conducting research, collecting information, carrying out media campaigns and participating in international conferences related to human trafficking, amending existing legislation related to human trafficking, creating a database of information and statistics on the subject, conducting training programs for those who are in charge of implementation of the human trafficking law, and ensuring the implementation of the law by the competent government authorities. Again, these laws should have allowed for a civil society role in implementing these measures.

In defining the functions of Arab interagency task forces, the Arab laws do not distinguish between coordination and reporting, and do not emphasize reporting as one of the most important means of enforcement mechanisms.
For instance, Bahrain’s law makes it a function of the Committee for Combating Trafficking in Persons to participate with the appropriate government authorities in the preparation of reports to be presented to U.N. committees, but it does not provide for a self-reporting mechanism where the Committee itself would publish an annual or periodical report to be submitted to the Parliament. However, the Bahraini law entrusts the Committee with submitting a report to the Minister of Foreign Affairs on the implementation of international conventions to which the Kingdom is a party. The U.A.E. law includes preparation of reports on the measures taken by the government to combat human trafficking as a function of the National Committee to Combat Human Trafficking, but does not provide for the issuance of an annual report. Additionally, for the reasons detailed in the previous Sections, it is essential that NGOs and other elements of civil society be consulted in any report that assesses the scope of the problem and the appropriate responses.

3. Engaging the five elements of civil society

Civil society organizations combat trafficking in persons at the local, national, regional, and international levels. Civil society is composed of five main elements: Non-governmental organizations, corporations, academia, media and religious institutions. Each element has a separate but essential role to play in confronting and combating trafficking in persons in the Arab world.

3.1. Non-governmental organizations

Non-governmental organizations (NGOs) combat trafficking in persons in a number of ways. Among the most common forms of activities undertaken by NGOs to fight trafficking are public awareness campaigns, advocacy, research, networking, provision of direct services and policy development.
A successful example of NGO involvement is the work undertaken by the Qatar Foundation for Combating Human Trafficking (QFCHT). The QFCHT, a governmental organization with an independent status, works in cooperation with the Qatari National Office for Combating Human Trafficking and the National Lodging House to offer shelter for victims of trafficking and collect data and information on the rescued victims. QFCHT proposes policies, national work plans, and special legislations on combating trafficking in persons, and aims at the consolidation of society’s full awareness on human trafficking by acting along with the competent governmental and non governmental institutions in Qatar. In addition, once victims of trafficking are identified and rescued, the QFCHT provides medical, psychological, and social care as well as legal advice and representation and reports cases to the competent authorities. Children at the Lodging House are provided with education as well as recreational programs to help them overcome trauma and abuse. Financial aid and vocational training is offered to victims as part of a rehabilitation and reintegration program.

Best Practice

A similarly successful example of civic engagement is represented by the initiatives undertaken by Darna, an organization based in Tangiers, Morocco, which operates a Youth Center and a Farm School for street children in the city of Tangiers. The center and the school aim at providing street children with a safe environment, basic education, psychological support, and marketable skills to help them find jobs and be less vulnerable to the dangers of street life, including trafficking, abuse and commercial sexual exploitation.

3.2. Corporations

The private-sector is often overlooked in anti-trafficking initiatives despite its tendency to engage governmental, intergovernmental and nongovernmental agents of change. However, the representatives of the private sector can play an important role in combating trafficking by adopting corporate policies that aim to sever any links between legitimate businesses and trafficking in persons. Aside from ensuring the liability of legal persons, it is important to raise their awareness of the issue and encourage them to develop ethical
policies and codes of conduct that require adherence to a zero-tolerance policy when it comes to any form of trafficking and trafficking in children in particular.

3.2.1. Code of Conducts for businesses

Recognizing the important role of the private sector, with particular emphasis on international corporations, the United Nations adopted the United Nations Global Compact, a principle-based framework for businesses which utilizes ten principles in the areas of human rights, labour, the environment and anti-corruption. The Compact encourages businesses worldwide to adopt sustainable and socially responsible policies, and to report on their implementation. Principles 4 and 5 in particular encourage businesses to adopt policies to ensure the abolition of all forms of compulsory labor and child labor.

Certain areas in the private sector are especially vulnerable to trafficking in persons due to high demand for persons trafficked. The tourism sector is such an example due to the phenomenon of children and young girls being trafficked for sex tourism worldwide. To assist the businesses in the tourist industry in complying with the principles of the UN Global Compact, ECPAT International, in cooperation with UNICEF and the UNWTO, developed a code of conduct containing six criteria. The code states:

“Suppliers of tourism services should:

1. ...establish an ethical policy regarding commercial sexual exploitation of children...
2. ...train the personnel in the country of origin and travel destinations...
3. ...introduce a clause in contracts with suppliers, stating a common repudiation of commercial sexual exploitation of children...
4. ...provide information to travelers by means of catalogues, brochures, in-flight films, ticket-slips, home pages, etc....
5. ...provide information to local “key persons” at the destinations...
6. ...report annually...”
In responding to this call, the Carlson Hotels have developed a Responsible Business program that focuses on taking responsibility for diversity, inclusion, health and respect of internationally recognized labor standards, including the protection of children from forced labor and sexual exploitation within their premises. Carlson Hotels train their employees to recognize situations of human trafficking and take action against it. Carlson also communicates this Responsible Business program to customers, providing them with the opportunity to support Carlson’s commitment to social responsibility issues and benefit from the practices. Moreover, Carlson strives to purchase goods from suppliers that demonstrate social responsibility.

3.2.2. Regulating the work of private employment agencies

Private employment agencies in many Arab countries have been reported to contribute to the trafficking infrastructure by facilitating the deceptive practices of recruitment used in the trafficking business. Taking advantage of their positions as intermediaries between workers in the countries of origin and business and families in the countries of destination, employment agencies often engage in exploitative practices such as the imposition of exhortative fees, the retention of the passports of the workers, blackmailing and intimidation. To regulate the work of such employment agencies, Article 8 (1) of the ILO Convention No. 181 of 1997 on private employment agencies calls upon states:

“After consulting the most representative organizations of employers and workers, adopt all necessary and appropriate measures, both within its jurisdiction and, where appropriate, in collaboration with other Members, to provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses.”

In the MENA region, only Morocco and Algeria have ratified this Convention.
3.2.3. Limitations on match-making organizations and international marriage brokers

Transactional marriages are common in some Muslim countries, in which a foreigner finds a wife through a “marriage broker,” then takes her back to his home country where he may exploit her. Similar to the abuse and exploitation of the legitimate industry of consensual matchmaking in the West, such a practice constitutes an illegitimate abuse of an otherwise legitimate institution. Any such legal persons facilitating trafficking either knowingly or as a result of negligence should be strictly sanctioned. A variety of obligations should be placed on them, with the aim of preventing the exploitative practices before they occur. Similarly, agencies that facilitate international marriages (marriages by catalogue, transactional marriages and marriages via the Internet) or international adoptions may also engage in illicit practices, which can amount to or be directly conceived as acts of trafficking in persons.

3.3. Academia

Education is an important tool for the prevention of trafficking in persons. Education is paramount both as a means to provide young generations with the skills and knowledge necessary to be active and productive members of their society and a means to develop their conscious of their rights and duties under national and international legislation, thus reducing their vulnerability to trafficking and other forms of abuse. Education is also an effective tool in raising awareness among the wider public on the dangers of trafficking in persons and its long terms negative impact on the economic and social development of the country. Means to integrate the topic of trafficking in persons into the educational system include: curriculum reform, student group discussions, moot courts awareness raising exercises and outreach services coordinated by the educational institutes.

A recent development in the educational curriculum of various universities in the MENA region is the establishment of clinical legal educational programs. The programs are legal centers based at the law faculties of the universities that offer law students the possibility to develop practical skills by working on real cases of trafficking in persons and related crimes. Under the supervision of experienced lawyers and faculty professors, the students are engaged in providing legal consultation to victims of trafficking and other vulnerable victims in regards to their rights and duties under national and international legislation. The main clinical legal programs in the Arab
world are: the Iraq Refugee Assistance Project at the University of Amman in Jordan, the Legal Clinic at Alexandria University and the Human Rights Clinic at Al-Quds University in the West Bank. There are also law clinics in United Arab University, Beirut University, Helwan and Assuit Universities in Egypt, Baghdad and Salahaddin Universities and Iraq.

In addition to broadening the legal skills of the students, the legal aid clinics are proving to be instrumental in raising awareness on trafficking in persons among student bodies and in providing assistance to victims that would otherwise have limited access to the justice system of the country.

3.4. Media

The media can be useful in spreading awareness and understanding of trafficking in persons among national populations. Media outlets include television, radio and newspapers, all of which have helped disseminate information on trafficking in persons. Some governments have incorporated the media into their trafficking in persons prevention policy as a means of awareness-raising.

While the media are a powerful tool in influencing public opinion and raising awareness about an issue, with such power comes the responsibility to provide accurate information and at the same time ensure the protection of individual sources from any harm as a result of information disclosure. Media coverage of cases of trafficking in persons must not endanger the lives of the victims or infringe on their privacy.

Public awareness media campaigns are helpful not only in informing the public about the dangers of trafficking in persons and the signs that help to recognize it, but also in rescuing those who may have already fallen victim to trafficking, particularly by alerting people who may come into contact with potential victims and the general public.
To compensate for the still feeble government intervention on this level, some organizations have specifically decided to address trafficking in persons from the demand side. For instance, the A21 Campaign, a Greek network of individuals, organizations, and government officials who are committed to abolishing injustice in the 21st century, has worked with “Johns” to educate them on the realities of what they are engaging in. In 2010, a media campaign was launched in Greece with the purpose of informing them about the stories and backgrounds of the women working in the sex industry in Greece as well as the violence and abuse they suffer and the slavery-like conditions in which they are kept by their exploiters. The campaign intended to prompt clients to think about the consequences of their part in the sex industry and reconsider their preconceived assumptions and attitudes about those who work in the sex industry. The A21 Campaign has also designed short-courses for school boys to impact young men on the realities of human trafficking before they ever become paying clients.

3.5. Religious institutions

Religion can be a powerful influence in preventing trafficking in persons. Many faith-based organizations today work towards combating trafficking in persons through awareness raising and educational programs.

In the MENA region, various Imams and Islamic scholars have contributed to raising awareness on the problem of trafficking in the Arab world by issuing fatwas condemning the crime and urging the Muslim people to refrain from cultural practices that might be conducive to trafficking in persons in the region and around the world.

For example, on September 3, 2002, the Saudi Arabian Grand Mufti issued a fatwa against the abuse of foreign labour by Saudi employers and stated: “blackmailing and threatening [foreign] laborers with deportation if they refuse the employers’ terms, which breach the contract, is not allowed.”

Similarly, Sheik Youssef el Qaradawi, an eminent Islamic scholar, issued a fatwa in March 2008 stating that the sponsorship rule that prevails in some countries is inconsistent with the teachings of Islam and should be abolished. The “sponsorship rule” provides an employer sponsoring a worker with a variety of rights that may infringe on the rights of the employee. For example, foreign workers’ travel documents are withheld by employers; an
employee then may not leave his employer and seek another employment without approval, nor is the employee allowed to leave the country for any reason without first obtaining the approval of the employer. This may violate the worker’s right to free movement. Sheik Youssef el Qaradawi explained that the “[s]ponsorship system nowadays produced visas market[s], leaving tens [sic] of workers living in sub-human conditions, as a large number of labourers are accommodated in small areas. It is really a shame and also it is against the Islamic principles which call for respecting human rights.”

In a more recent fatwa issued on July 4 2011 in Amman, Jordan, the president of the World Islamic Sciences and Education University, Abdul Nasser Abu Basal, stated that human trafficking, if organized and conducted at a large scale, warrants the application of the hudud punishment for highway robbery or corruption in land.

4. The use of new technologies to promote effective partnership

Effective use of the Internet and other forms of information technology such as websites and computer databases can also serve to combat trafficking in persons. Statistics are difficult to collect and quickly become outdated, but information technology-related initiatives can be used to enhance coordination and information-sharing among NGOs, civil society organizations and governments, including law enforcement officials. The Internet can be used to spread information about anti-trafficking initiatives and to educate the public about the dangers and issues surrounding trafficking in persons, and to promote bilateral and multilateral networking with a view to stepping up the pressure and addressing the problem. Comprehensive anti-trafficking databases can connect isolated anti-trafficking groups across regions, provide information to law enforcement and border control officials on persons suspected of being trafficked, assist victims and provide accurate trafficking statistics.
Applying Your Knowledge: Combating Trafficking in Persons in the MENA region: Participation

Exercise A: Review Questions

1) What regulations would you suggest to monitor the work of employment agencies?

2) Does your national law regulate foreign marriages?

3) How does the trafficking law address the role of civil society in the national coordinating committee to combat trafficking?
4) To what extend do human rights organizations in your country conduct activities related to trafficking in persons?

5) Do you know of any Learning Institutions, Colleges or Universities that offer courses on trafficking in persons or related issues?
Exercise B: Practical task

1) Draft a curriculum on trafficking in persons for academic institutions.
2) Draft a code of conduct for corporations in your country of origins to combat trafficking in persons.
Endnotes

Chapter I
2. OHCHR, United Nations Recommended Principles and Guidelines of Human Rights and Trafficking in Persons
3. U.N. Protocol, Article 9 (5)

Chapter II
5. U.N. Protocol, Article 3
7. U.N. Protocol, Article 3 (b)
10. U.N. Protocol, Article 6(4)
11. U.N. Protocol, Article 3 (c)
13. Travaux Preparatoirs of the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children , Article 3 (c)
16. Qur’an, Surah XXXIII: 4-5
20 United States Department of State Trafficking in Persons Report, 2011
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25 Travaux Preparatoirs of U.N Protocol, Article 3 (a)
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27 International Center for Missing and Exploited Children
31 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, C182, opened for signature June 17, 1999, (entered into force Nov. 19, 2000), Article 3
32 Guiding Principles on Human Cell, Tissue and Organ Transplantation, adopted by the World Health Assembly on 21 May 2010, Commentary to Principle 5
33 ILO Convention Concerning Forced or Compulsory Labor, opened for signature June 28, 1930, (entered into force May 1, 1932), Article 2
34 ILO Convention Concerning Forced or Compulsory Labor, Article 11
35 Iraqi Constitution of 2005, Article 37
36 Jordan Constitution. ch. II, art. 13-1 (1952) (stating that compulsory labor may be imposed on a person in a state of necessity or as a result of conviction by a court of law).
37 U.A.E. Constitution., art. 34/3 (1971)
39 Arab Charter on Human Rights, Article 10
40 Arab Charter on Human Rights, Article 43
41 Council of Europe Convention on Action against Trafficking in Human Beings, 2005, Article 4
43 United Nations Model Law against Trafficking in Persons, Article 5 Commentary
44 United Nations Model Law against Trafficking in Persons, Article 5 Commentary
45 Model Law to Combat the Crime of Trafficking in Persons (League of Arab States 2006) [hereinafter Arab League Model Law] (adopted by the Council of the Arab Ministers of Justice, Session 21, Decision 601, November 21, 2005, and by the Council of Arab Ministers of Interior in its Session 23, Decision 473, in 2006), Article 1


50 Law No. 09-01 (Modifying and Completing the Penal Code Enacted by Order No. 66-156 of June 8, 1966) (Algeria), Article 303

51 Law No. 09-01 (Algeria), Article 303 (12)


53 Royal Decree No 126 /2008 (Oman), Article 3


55 Law No. 64 of 2010 (Egypt), Article 2

56 Law No. 64 of 2010 (Egypt), Article 2


58 Law 164 of 24 Aug. 2011 (Punishment of Crimes of Trafficking in Persons) (Lebanon), Article 586 (1)


60 Law No. 15 of 2011 (Qatar), Article 2

61 The Constitution of the Republic of Iraq of 2005, Article 1


63 Legislative Decree No. 3 of 2010 (Syria), Article 7 (2)

64 Legislative Decree No. 3 of 2010 (Syria), Article 4 (1)

65 Legislative Decree No. 3 of 2010 (Syria), Article 4 (2)

66 Legislative Decree No. 3 of 2010 (Syria), Article 4 (3)

67 U.N. Protocol, Article 3

68 Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing the Organized Crime Convention, Article 3 (a)

69 U.N. Protocol, Article 4

70 United Nations Organized Crime Convention, Article 3 (2)

71 United Nations Organized Crime Convention, Article 16
Chapter III

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93 Legislative Decree No. 3 of 2010 (Syria), Article 9
94 U.N. Protocol, Article 5
97 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Preamble
99 CEDAW, Article 6
100 CRC, Article 35
102 ILO Convention concerning Decent Work for Domestic Workers, *date of adoption* June 6, 2011, Article 3
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104 Arab Charter on Human Rights, Article 10
105 Arab Charter on Human Rights, Article 10
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109 Law No. 64 of 2010 (Egypt), Article 21
110 Law No. 15 of 2011 (Qatar), Article 4
111 Law No. 15 of 2011 (Qatar), Article 25
112 Law 164 of 24 Aug. 2011 (Lebanon), Article 586 (8)
114 Law No. 09-01 (Algeria), Section V (1)
115 Law No. 09-01 (Algeria), Article 11 (5)
117 Rome Statute of the ICC, Article 29
118 GCC Model Law, Article 4
119 Arab League Model Law
120 Law No. 51 of 9 Nov. 2006 (U.A.E.), Article 1
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