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**Legal Approaches to Trafficking as a Form of Violence against Women:
Implications for a More Comprehensive Strategy in Legislation on the
Elimination of Violence against Women**

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** The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

Introduction. The United Nations High Commissioner for Human Rights Principles and Guidelines on Human Rights and Human Trafficking has recognized that: “[T]he lack of specific and/or adequate legislation on trafficking at the national level has been identified as one of the major obstacles in the fight against trafficking.” Legislation is the key measure needed in establishing not just the effective prosecutorial regimes, but also the appropriate preventive mechanisms and broad protective frameworks against human rights violations, including trafficking in persons and violence against women. Legislative measures must be comprehensive in nature, incorporating prevention and protection mechanisms, and avoiding the exclusive focus on prosecution and criminalization. A study in the historical development of international and domestic legislation against trafficking in persons toward a progressively more inclusive legislative foundation—one which includes prevention, protection, and other measures to complement prosecution—is illustrative in this regard.

As such, the present paper intends to present the development of the anti-trafficking legislative movement over time, with a focus on elements of this movement of particular relevance to the issue of violence against women. For example, a comprehensive legislative elaboration of the various phenomena constituting violence against women may be desirable—such a process can draw on the successful story of the incorporation of all forms of trafficking in persons into one comprehensive definition. Additionally, incorporation of prevention of violence against women and the protection of victims of violence against women into comprehensive violence against women acts (rather than just their criminalization) is also important for a comprehensive legislative approach to the violence against women, just as it has been to a comprehensive framework of trafficking in persons.

Anti-Trafficking Legislation in a Historical Perspective. Prior to the passage 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 in the year 2000 [hereinafter “UN Protocol”], the vast majority of countries around the world did not have comprehensive anti-trafficking legislation in place. Instead, of the few anti-trafficking laws enacted, most constituted a part of the Penal Code or Criminal Code rather than separate comprehensive acts and, as such, only addressed trafficking in persons, (and often not specifically), as a criminal offence. Because the function of criminal law is to describe crimes and determine punishments for such crimes, protection of women and children was not part of these laws (nor was prevention).

Additionally, trafficking in persons was prohibited mainly as a prostitution-related activity. Anti-trafficking legislation during this time was influenced by the “White Slave Traffic” Conventions, in particular the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949 Convention), which replaced the 1904, 1910, 1921, and 1933 Conventions. The 1949

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Convention mandated 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; (2) Exploits the prostitution of another person, even with the consent of that person.”* Accordingly, this language was explicitly used in the Criminal Codes of many countries, and trafficking in persons was not recognized as a specific offence. Instead, it was addressed under related offences, most frequently the procurement of prostitution. Other offences were also considered, such as kidnapping, abduction, illegal confinement, deprivation of liberty, and sexual slavery. Criminal sanctions for the procurement of prostitution were limited to a small fine and/or short-term imprisonment, hardly comparable to the gravity of the crime. Finally, in cases of international trafficking, the trafficked person was treated as a criminal who was subject to deportation for the commission of the acts of illegal entry, falsification of travel documents, and prostitution. This phase of anti-trafficking legislation was marked by inadequate measures in satisfying the special needs of victims of trafficking, and only a few domestic laws which provided a limited measure of protection.

However, since the adoption of the UN Protocol—the first international document providing for comprehensive measures to prevent trafficking, prosecute traffickers, and protect victims—significant strides have been made in anti-trafficking legislation around the world. At least 70 countries have amended their Criminal Codes to recognize trafficking in persons as a specific offence; at least 38 countries have enacted comprehensive acts that not only criminalize trafficking but also provide for the necessary measures to protect and assist victims of trafficking; 14 countries passed comprehensive acts to combat trafficking in children; 9 countries criminalized trafficking in persons as part of their immigration laws; and 22 countries are in the process of passing an anti-trafficking law. Some countries have even made the prohibition of trafficking in persons a part of their constitutional law. For example, the Constitution of Iraq, promulgated in 2005, in Article 37 states that *“Forced labor, slavery, slave trade, trafficking in women and children, and sex trade shall be prohibited.”* Others have explicitly recognized in their legislation that international law will be afforded due priority in adopting state policy to combat trafficking, such as in the case of Georgia, where *“State policy in preventing and combating trafficking in persons, and in protection, assistance and rehabilitation of the (statutory) victims of trafficking in persons shall be determined in accordance with the obligations under the Constitution and international treaties of Georgia relative to combating the transnational organized crime and corruption and the protection of human rights”* (Georgia, Law on Combating Human Trafficking, 2006, Article. 4). Consequently, only 19 countries have yet to join the international community in legislating against trafficking in persons. This is a tremendous achievement, given the short legislative time-span of less than 10 years since the adoption of the UN Protocol.

In spearheading this legislative movement, the UN Protocol made some important strides in guiding anti-trafficking legislation toward a more comprehensive direction, thereby

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changing international law in a number of significant ways. While prior to the adoption of the UN Protocol, several international conventions recognized trafficking in persons as a crime amongst their other provisions, the UN Protocol became the first to address the phenomenon exclusively and comprehensively, expanding the body of international law to encompass its full breadth and scope, and the required mechanisms of intervention.

Firstly, the UN Protocol shifted the focus from the sole prohibition of the crime of trafficking to incorporate the additional needs of prevention and protection. For example, both the Convention on the Rights of the Child (CRC) in Article 35, and the Convention on the Elimination of All Forms of Violence against Women in Article 6, had prohibited trafficking in children and women, respectively, but had not addressed prevention or protection. The UN Protocol, on the other hand, in its Statement of Purpose, stated explicitly that “*The Purposes of this Protocol are: (a) To prevent and combat trafficking in persons, paying particular attention to women and children; and (b) To protect and assist the victims of such trafficking, with full respect for their human rights...*” Secondly, the UN Protocol extended the definition of trafficking in persons to include not only exploitation of the prostitution of others, but other forms of exploitation, including domestic service, begging, involvement of children in armed conflict, transnational marriages, marriages for child bearing, illegal adoption, removal of human organs and other forms of criminal activities. And thirdly, the UN Protocol expanded the traditional definition of slavery, considering trafficking in persons as a form of contemporary slavery that does not necessarily entail ownership or buying and selling—as required under the traditional concept of slavery—but rather one that is based on undue influence, control and exploitation. In its Preamble, the UN Protocol emphasized the need for such a comprehensive approach stating that “*...despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons,*” and expressed concern that “*...in the absence of such an instrument, persons who are vulnerable to trafficking will not be sufficiently protected.*” The UN Protocol was thus designed to become such an instrument.

A study of amendments in national laws enacted following the UN Protocol’s lead reveals compliance with the new international standards set out in the Protocol’s text. Laws against the exploitation of prostitution and slavery are now considered inadequate to criminalize the act of trafficking. Instead, a specific offence of trafficking in persons is explicitly recognized; generally it is one which follows the UN Protocol’s comprehensive definition of trafficking under Article 3, stating that “*“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of*

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organs.” A variety of domestic laws following this definition may be provided. For example, the most recently enacted anti-trafficking law—that of the Kingdom of Bahrain—which passed on January 9, 2008, follows this definition, stating that: “trafficking in persons shall mean the recruitment, transportation, transfer, harbouring, or receiving persons, by means of threat or the use of force or other forms of coercion, abduction, fraud, deceit, abuse of power or of position or any other direct or indirect unlawful means. Exploitation shall include the exploitation of such person or the prostitution of others or any other forms of exploitation, sexual assault, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

Some laws have even expanded on the provisions of the UN Protocol, adding new substantive elements to enhance domestic legislation. For instance, the Israeli law defined trafficking in persons more broadly than the UN Protocol did, specifying it as a “transaction in persons,” and making a specific reference to trafficking for the purpose of child bearing, expanding on the UN Protocol’s “at a minimum” provision under the various forms of trafficking provided in its Article 3. Similarly, the Malaysian anti-trafficking law of July 26, 2007 made consent irrelevant in all cases—unlike the UN Protocol, which considers illegal means of trafficking as an aggravated circumstance. The draft law of Syria is now the only law which makes trafficking in women, not only trafficking in children, an aggravated circumstance that enhances the penalty for the crime of trafficking.

In expanding on the UN Protocol’s provisions in such a way, some national laws have thus illuminated its shortcomings. Among these are a number of “omissions,” such as the Protocol’s silence on the identification of victims of trafficking and the principle of non-punishment of victims of trafficking (the principle of immunity or excuse); as well as a number of “gaps,” such as the issue of demand, which is not adequately covered in the UN Protocol. Signaling a commitment to account for these omissions and gaps, some States have enacted provisions which seek to correct the omissions and gaps.

The anti-trafficking legislative movement spearheaded by the UN Protocol has thus built on where the UN Protocol left off. The issue of demand is one such example. In Article 9(5), the UN Protocol called upon State Parties to take the necessary measures to discourage demand. However, it was not clear whether the UN Protocol referred to the necessary preventive measures, namely education and public awareness, or the establishment of a criminal liability of the customer, the client. The Council of Europe Convention on Action against Trafficking in Human Beings has, in Article 19, filled this gap by enacting its own interpretation, calling upon State Parties to consider criminalizing the use of services provided by victims of trafficking if the person has knowledge that the one who provides the service is a victim of trafficking. The same interpretation and corresponding penalties have been provided by: Article 418 of the law of Macedonia (Criminal Code of the Republic of Macedonia); Article 8 of the law of the Philippines (Republic of the Philippines Anti-Trafficking in Persons Act of 2003 (Republic Act 9208)); and Article 13 of the law of Greece (Act Number 3064: Fight

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Against Trafficking in Human Beings, Crimes against Sexual Freedom, Child Pornography, and the Financial Exploitation of Sexual Life in General, and Assistance to the Victims of these Acts of the Hellenic Republic of Greece, 2002).

Another important example is the lack of a binding obligation upon States to provide a victim of trafficking with an immigration status (Article 7 of the UN Protocol). However, a number of countries have chosen to do so, including the United States, Belgium, Italy, the Netherlands and others.

Both examples serve as strong indicators that countries are not only complying with the provisions of the UN Protocol, but are also building on its provisions, enhancing and expanding the protections available to victims of trafficking, focusing on prevention, and shifting away from a simplistic, prohibition approach of combating trafficking in persons to a victim-centered approach. Accordingly, anti-trafficking laws have begun to recognize the trafficked person as a victim who is entitled to basic human rights, signaling a new international consensus, which is driving more and more countries to adhere. This development constitutes an important expression of the anti-trafficking legislative movement which has advanced following the enactment of the UN Protocol in 2000—that of the victim-centered approach.

In summary, it may be said that the legislative movement following the adoption of the UN Protocol in 2000 has reflected an increasingly strong commitment to covering the 3 P's of trafficking in persons: *prevention*, *protection*, and *prosecution* in domestic legislation. To a lesser degree, but at the forefront of the anti-trafficking movement, have been those countries that have also legislated on the 2 additional P's of *provision* and *participation*. Finally, some countries have likewise added at H: *harmonization*. These legislative developments all reflect a continuing enhancement of domestic anti-trafficking legislation, with the UN Protocol as its flagship, but with ever more sophisticated contributions from regional, as well as domestic instruments.

Prevention. Unlike previous international and domestic instruments touching upon the crime of trafficking in persons, the comprehensive approach to combating trafficking promulgated by the UN Protocol emphasized the need for preventive measures. The UN Protocol was revolutionary in this approach, in that it made prevention of trafficking mandatory, stating in Article 9 that “1. *States Parties shall establish comprehensive policies, programmes and other measures: (a) To prevent and combat trafficking in persons; and (b) To protect victims of trafficking in persons, especially women and children, from revictimization; 2. States Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons; 3. Policies, programmes 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; 4. States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make*

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persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity; 5. 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.” As such, through the prism of the UN Protocol, prevention was viewed as a key part of any comprehensive anti-trafficking legislation and prevention policies were to strive to alleviate the major causes of vulnerability to trafficking in persons. As per the UN Protocol, these policies were to reflect a focus on the alleviation of economic, social, political, and cultural causes of vulnerability to trafficking, including both the “supply” and “demand” sides of the trafficking infrastructure.

Domestically, States have legislated accordingly. For example, the goal of conducting research toward development of accurate prevention policies has been legislated for by the United States in the Trafficking Victims Protection Reauthorization Act of 2003, which states, in Section 112A, that *“The President, acting through the Council of Economic Advisors, the National Research Council of the National Academies, the Secretary of Labor, the Secretary of Health and Human Services, the Attorney General, the Secretary of State, the Administrator of the United States Agency for International Development, and the Director of Central Intelligence, shall carry out research, including by providing grants to nongovernmental organizations, as well as relevant United States Government agencies and international organizations, which furthers the purposes of this division and provides data to address the problems identified in the findings of this division. Such research initiatives shall, to the maximum extent practicable, include, but not be limited to, the following: (1) The economic causes and consequences of trafficking in persons; (2) The effectiveness of programs and initiatives funded or administered by Federal agencies to prevent trafficking in persons and to protect and assist victims of trafficking; (3) The interrelationship between trafficking in persons and global health risks.”* The Trafficking Victims Protection Reauthorization Act of 2005 further expanded this section, to include research on the *“interrelationship between trafficking in persons and terrorism, including the use of profits from TIP to finance terrorism, an effective mechanism for quantifying the number of victims of trafficking on a national, regional, and international basis, the abduction and enslavement of children for use as soldiers, including steps taken to eliminate the abduction and enslavement of children for use as soldiers and recommendations for such further steps as may be necessary to rapidly end the abduction and enslavement of children for use as soldiers.”*

Akin to public awareness and research, education can be another important tool toward the prevention of trafficking in persons. International and national instruments enacted since the UN Protocol have built on this notion. For example, 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*

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realistic teaching modules in school and college curricula and to informing pupils and students of human rights and gender issues. These subjects should specifically be linked to teaching young people about the modus operandi and dangers presented by trafficking crime, the opportunities for legal migration and foreign employment and of the grave risks involved in irregular migration.” Likewise, the Kingdom of Cambodia’s Five Year Plan Against Sexual Exploitation of Children of 2000-2004, mandates that “*schools will be used as a place to make both teachers and pupils aware of the problem, the law, the tricks used by the traffickers, and the existing protection mechanisms.*” The Law of Georgia on Combating Human Trafficking of 2006 similarly states, in Article 5(f) that “*Preventive measures of the state shall imply: [...] (f) Inclusion of human trafficking-related issues in the curricula of secondary (high schools) and highest education institutions.*”

In many countries, laws enacted since the promulgation of the UN Protocol have likewise focused on legislating for public awareness as an important prevention tool. In these cases, the role of the media has been specifically emphasized. For example, the United States Trafficking Victims Protection Reauthorization Act of 2003 states, in Section 3(d), that “*The President shall establish and carry out programs that support the production of television and radio programs, including documentaries, to inform vulnerable populations overseas of the dangers of trafficking, and to increase awareness of the public in countries of destination regarding the slave-like practices and other human rights abuses involved in trafficking, including fostering linkages between individuals working in the media in different countries to determine the best methods for informing such populations through such media.*” In Belarus, Article 9 of the Belarus Presidential Decree on Certain Measures Aimed to Combat Trafficking in Persons of 2005, states that “*The Ministry of the Interior, the Ministry of Trade, the Ministry of Information, the Ministry of Justice, regional executive committees and Minsk City Executive Committee shall: intensify the control being exercised over the distribution in the mass media and on the territory of the Republic of Belarus of advertisements that may be used to engage potential victims in trafficking in human beings, anti-social behaviour and in the provision of sexual services under the pretext of legitimate enterprise; provide the citizens with reliable information in the sphere of external labour migration, regularly publish in the mass media the lists of legal entities and individual entrepreneurs which have special permits (licences) to seek foreign employment for the citizens.*” The Bahraini Law 1 of 2008 with Respect to Trafficking in Persons, in Article 8, states that “*The National Committee to Fight Human Trafficking] is in charge of the following: [...] Encouraging and conducting research and media campaigns to prevent human trafficking.*” The Moldovan Law on Preventing and Combating Trafficking in Human Beings of 20 October 2005, Article 10(11)(2), states that “*The central public administration authorities competent in preventing and combating trafficking in human beings, the local public administration authorities, and the territorial commissions for combating trafficking in human beings shall systematically organize informational awareness-raising campaigns for the population and shall develop and distribute publicity materials on the risks that potential victims of trafficking in human beings can*

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be exposed to, in active collaboration with mass-media.” The Law of Georgia on Combating Human Trafficking, Article 10(2), states that “[*The Interagency Coordination Council for the Implementation of Measures against Human Trafficking*] may consist of representatives from not-for-profit legal entities and international organizations working in the relevant field, representatives from mass media and relevant specialists and scientists.” While promoting the importance of a role for the media, some States have paid special attention to the dangers that coverage may pose to victims of trafficking, specifically in media coverage of trials related to trafficking in persons. For example, the Philippines Republic Act No. 9208, states in Section 6, that “*In cases when prosecution or trial is conducted behind closed-doors, it shall be unlawful for any editor, publisher, and reporter or columnist in case of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri-media facilities or information technology to cause publicity of any case of trafficking in persons.*” This reflects a commitment on the part of the State to prevent any harm to the victim of trafficking and ensure that all appropriate protections are taken.

Protection. International and domestic legislation prior to the UN Protocol focused on a crime-control approach to trafficking in persons, an approach which did not recognize the victim of trafficking as such, but rather treated him or her as a criminal that should be punished. Such legislation further violated the human rights of victims of trafficking, effectively victimizing them again and again. The UN Protocol repudiated this trend by firmly establishing a victim of trafficking as a victim entitled to international human rights, thereby radically shifting the approach to trafficking in persons from a crime-control to a victim-centered approach. For example, in its Preamble, the UN Protocol declared that “*...effective action to prevent and combat trafficking in persons, especially women and children, requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking, to punish the traffickers and to protect the victims of such trafficking, including by protecting their internationally recognized human rights.*” This victim-centered approach, one grounded in the primacy of the human rights of victims of trafficking, was further elaborated in a set of guidelines issued by the United Nations in 2002, the UNHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking [hereinafter, “UNHCHR Principles and Guidelines”], which highlighted and emphasized the primacy of human rights in all efforts seeking to combat trafficking in persons, stating 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.*” Legislative developments, both regional and national, have reflected an increasingly more profound international commitment to following this victim-centered approach. New legislation enacted has tended to follow the human rights principles outlined by the UN Protocol and the UNHCHR Principles and

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Guidelines, and existing legislation has been amended from criminalizing victims of trafficking to recognizing them as victims entitled to these international human rights.

The UNHCHR Principles and Guidelines themselves are an example of this evolving legislative movement. For instance, where the UN Protocol did not place an explicit obligation on States to emphasize identification of victims of trafficking, the UNHCHR Principles and Guidelines stressed that, “*A failure to identify a trafficked person correctly is likely to result in a further denial of that person’s rights. States are therefore under an obligation to ensure that such identification can and does take place.*” States have legislated accordingly, recognizing identification of victims of trafficking as a crucial first step to providing victims with protection. For example, the Law on Preventing and Combating Trafficking in Persons No. 241-XVI of 2005 of the Republic of Moldova mandates, in Article 15, that “*Identification of victims of trafficking in human beings shall be carried out by the competent public authorities with the support of non-governmental organizations or by nongovernmental organizations that have reasonable grounds to believe that a person is a victim of such trafficking.*” Another method has been to utilize the National Action Plan as an instrument mandating the relevant governmental structures to engage in the process of identification of victims of trafficking. For example, according to the Action Plan for the Suppression of Trafficking in Persons for 2006 of the Republic of Croatia, the government has the responsibility to: “*Strengthen activities pertaining to the identification of potential victims of trafficking in persons among asylum-seekers, illegal migrants and unaccompanied minors... Strengthen the capacity of the police and State Attorney’s Office to combat crimes related to trafficking in persons... Change the national referral system with the aim to appoint new bodies that will be responsible for the identification, assistance to and protection of victims of trafficking...*” In both cases, States have demonstrated their commitment to taking the crucial first step of seeking and identifying victims of trafficking so as to enable them to obtain access to protective benefits they are entitled to.

These benefits, which may be considered as a required minimum, and which are grounded in international standards of human rights protection, may be summarized in a “Bill of Rights of Victims of Trafficking,” which includes: *The Right to Safety, The Right to Privacy, The Right to Information, The Right to Legal Representation, The Right to Be Heard in Court, The Right to Compensation for Damages, The Right to Assistance, The Right to Seek Residence, The Right to Return, and The Right to Safety.* Each of these rights has been provided for either by the UN Protocol and/or by the UNHCHR Principles and Guidelines, and States have responded by enacting the appropriate legislation, legislation which goes far beyond the prohibitive approach of the pre-UN Protocol time. Examples of States’ commitments to these principles, which are enshrined in the various articles of the UN Protocol, include, for example, Azerbaijan’s Law on [the] Fight against Human Trafficking of 2005, which, in Article 18.2-18, states that “*Security measures applied with regard to persons who suffered from human trafficking shall continue until the danger is completely past including preliminary investigation*

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about crimes connected with human trafficking, court examination, as well as the period after declaring the final decision of the court. False names can be used with an aim to ensure anonymity of the personality of persons who suffered from human trafficking.” Closely linked with the principle of the right to safety is that of the right to housing and shelter, likewise called for in Article 6 of the UN Protocol. Azerbaijan’s law also provides for this right, stating in Article 13.1 that *“Temporary shelters for accommodating the victims of human trafficking...shall be created to provide the victims of human trafficking with decent living conditions, to ensure their security, to provide them with food and medicine, first medical aid, psychiatric, social and legal assistance. The victims of human trafficking shall have the possibility to make phone calls and to use translator’s services in shelters. Separate areas shall be allocated for confidential conversations.”*

Following the principles elaborated by the UN Protocol, and reflecting a commitment to the Bill of Rights, States have also enacted provisions which seek to afford victims of trafficking the right to privacy. As such, the Bulgarian Law on Combating the Illegal Trafficking in Human Beings of 2005 states, in Article 20, that *“Victims of illegal trafficking in human beings shall be treated with confidentiality, their identity being protected by this law.”* The right to information is another right among the required protective mechanisms affording the respect of the victims’ human rights, particularly, as emphasized by the UN Protocol, of their legal rights. Accordingly, the law of the Dominican Republic on the Illicit Traffic of Migrants and Trafficking in Persons No. 137-03, mandates in Article 10 that *“Victims of trafficking will receive physical, psychological, and social assistance, as well as information regarding their rights.”* The rights to legal representation and to be heard in court constitute two additional important rights, which had hereunto been previously unrecognized. The legislative movement post-UN Protocol, however, has reflected a recognition by States of these rights. For example, the law of Bahrain on the Prevention of Human Trafficking, states, in Article 6, that *“victims of trafficking will receive: Counseling and information regarding their legal rights, in a language that the victims of trafficking in persons can understand.”* Such provisions are the result of the UN Protocol’s emphasis on protection, among which these two rights may be found. Specifically, the UN Protocol states, in Article 6(2), that State Parties should provide victims of trafficking with *“assistance to enable their views and concerns to be presented and considered at appropriate stages of criminal proceedings against offenders.”* For that purpose, victims of trafficking should be provided with *“Information on relevant court and administrative proceedings.”*

Another important measure of protection promulgated by the UN Protocol was the right of victims to compensation for damages, or the trauma and exploitation they have suffered as a result of their being trafficked. The UNHCHR Principles and Guidelines likewise stressed this right, noting that at the time (in 2002), *“This right is often not effectively available to trafficked persons as they frequently lack information on the possibilities and processes for obtaining remedies, including compensation, for trafficking and related exploitation. In order to overcome this problem, legal and other*

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material assistance should be provided to trafficked persons to enable them to realize their right to adequate and appropriate remedies” (Guideline 9). Following the lead of the UN Protocol and the UNHCHR Principles and Guidelines, countries began and continue to enact provisions mandating this form of protection. Five basic models on victim compensation have been utilized by the legislator in various countries in enacting appropriate civil compensation provisions, including: *mandatory restitution, confiscation of assets, creation of a state fund to assist victims of trafficking, civil action, and punitive damages*. For example, the Indonesian Law on the Combat against the Crime of Trafficking in Persons of 2007 provides for mandatory restitution, stating in Article 38 that “*Every victim or his/her beneficiary, as a result of the crime of trafficking in persons, is entitled to receive restitution. Restitution [...] is payment for losses to be provided by the perpetrator to the victim or his/her beneficiary.*” The Law of the Dominican Republic on the Illicit Traffic of Migrants and Trafficking in Persons No. 17-03 provides for a confiscation of assets model of compensation for damages, stating in Article 11 that “*Proceeds of the fines of the crime of trafficking shall be used to compensate the victims of trafficking for material damages as well as moral damages and to establish the programs and projects of protection and assistance that the law provides for the victims of trafficking.*” In Georgia, compensation to victims of trafficking is paid out of a specially created State fund, with the law mandating that “*Public law entity “State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking” (hereinafter “the Fund”) shall be established for the purpose of effective implementation of protection, assistance and rehabilitation measures for the (statutory) victims of human trafficking...The purpose of the Fund is to issue compensation to (statutory) victims of human trafficking as well as to finance their protection, assistance and rehabilitation measures. Sources of income of the Fund are: (a) state budgetary resources; (b) resources received from international organizations; (c) contributions from legal entities and natural persons; and (d) other income permitted under legislation of Georgia*” (State Fund for Protection and Assistance of (Statutory) Victims of Human Trafficking (Georgia), Article 9). Other legal systems recognize the right of a victim of trafficking to seek damages in a civil court, such as the United States Trafficking Victims Protection Reauthorization Act of 2003, which, in Section 107, states that “*An individual who is a victim of [trafficking in persons] may bring a civil action against the perpetrator in an appropriate district court of the US and may recover damages and reasonable attorney’s fees. Any civil action filed under this section shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim.*” Finally, in some legal systems, victims have been awarded not only damages to compensate for their losses or moral damages, but also punitive damages, the purpose of which is to reform or deter the perpetrator whose conduct had damaged the victim. Such a model has been followed by the Cyprus Law on Combating of Trafficking in Persons and Sexual Exploitation of Children of 2000, which stated in Article 8 that “*The victims of exploitation according to the meaning of this Law have an additional right for damages against any person who is responsible for their exploitation, and is liable for damages, special and general... The Court may award punitive damages when the degree of the exploitation or the degree of relationship or the dominating position of the offender*

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with regard to the victim so require... The Court, in the award of special damages, takes into consideration every item of expense which resulted from exploitation including costs for repatriation in the case of foreigners.”

Accordingly, the right to assistance, whether medical, psychological, or legal, is also an important right elaborated by the UN Protocol in correspondence with its recognition of the victim of trafficking as such. In this regard, the UN Protocol stated that “[E]ach State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons.” The U.N. Protocol further explains that victims have the right to be granted: “(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” (Article 6(3)). States have been taking the UN Protocol’s lead and enacting statutes which mandate the provision of these forms of assistance to victims of trafficking.

An important right, one which is particularly representative of the legal distinction between victims of trafficking and smuggled migrants, is the right of victims of trafficking to seek residence in the country of destination. Before the UN Protocol, countries did not recognize victims of trafficking as a category of victims entitled to this right, and treated them like smuggled migrants—criminals subject to deportation. The UN Protocol changed this policy, since the immediate return of the victims to their home countries may be unsatisfactory for the victims (who may be vulnerable to reprisals by traffickers), as well as for law enforcement authorities (since victims continuing to live clandestinely in the country of destination or removed immediately, would not be able to provide information to the authorities). As such, the UN Protocol mandated State Parties in Article 7 to “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. In implementing the provision contained in paragraph 1 of this article, each State Party shall give appropriate consideration to humanitarian and compassionate factors.” Additionally, Article 68 of the Legislative Guide for The Implementation of the UN Protocol advocated 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.”

Unfortunately, few States have legislated for the issuance of a residency permit, with some opting instead for a “recovery and reflection period,” which has been advocated by the United Nations Office on Drugs and Crime in its Toolkit to Combat Trafficking in Persons, stating that “granting a reflection period, followed by a temporary or permanent

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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.” Importantly, as a sign of the growing acceptance of this notion, the Council of Europe Convention on Action against Trafficking in Human Beings has made such a period a mandatory requirement for State Parties to the convention regardless of their willingness to cooperate with the authorities in prosecution, requiring that: *“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 authorise the persons concerned to stay in their territory”* (Article 13).

Complementary to the right of residence, the UN Protocol mandated that trafficking victims be granted the right to a dignified return to their country of origin, rather than deportation, as had been common practice until the passage of the UN Protocol. The UN Protocol provided, in Article 8, that State 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 be preferably voluntary.”* States have recognized this element of protection for victims of trafficking and enacted provisions accordingly. For example, the Law of the Republic of Azerbaijan on the Fight against Human Trafficking, in Article 20, states that *“If the victim of human trafficking wishes to leave the territory of the Republic of Azerbaijan, assistance in providing him/her with relevant documents, covering travel and other necessary expenses shall be provided and recommendations on reducing a risk of becoming a victim of human trafficking in the country of destination shall be given.”*

Prosecution. The UN Protocol introduced an important shift in legal thinking in reference to the crime of trafficking. Prior to the passage of the UN Protocol, the crime of trafficking in persons as distinct and separate from the crime of migrant smuggling was largely ignored or misunderstood and the two crimes were conflated with each other. In most cases, States recognized explicitly the crime of alien or migrant smuggling, with trafficking victims lumped into the category of illegal migrants. As such, few States had the necessary legal framework to adequately identify and punish the crime of trafficking in persons as distinct from the crime of alien smuggling. For many years, even after the passage of the UN Protocol, many States misunderstood this distinction. However, with

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increased worldwide efforts of sensitization and public awareness work, States have begun to comprehend the differences between the two crimes and legislate accordingly.

An important example of this increased understanding has been the enactment of appropriate, dissuasive and proportionate sanctions for the crime. Anti-trafficking legislation has begun to recognize trafficking as a serious crime, one which carries penalties similar to those of other serious crimes like drug trafficking, rape, and arms trafficking. The enactment of such sanctions is indicative of an increasingly global recognition of the crime of trafficking as a severe and serious crime, an important shift not only legally, but also socially and culturally, since with recognition of trafficking as a serious offence, States have become more likely to mandate for the corresponding prevention and protection mechanisms, and to afford greater respect and assistance to the victims. A number of laws from around the world reflect this growing commitment to punishing trafficking in persons as a serious crime.

For instance, the Dominican Republic's Law n. 137-03 on Illicit Smuggling of Migrants and Trafficking in Persons of 2003 states, in Article 3, that "*Trafficking in persons [...] is punishment with imprisonment from 15 to 20 years and 175 minimum wages fine.*" Likewise, the Hellenic Republic of Greece, in Act no 3064 of 2002, Article 1, mandates that "*Anyone who with the use of violence, threat or other coercive means or the imposition or abuse of power employs, transfers or promotes inside or outside the territory, detains, harbors, delivers for consideration or without consideration to another party a person for the purpose of removing from that person body organs or for the purpose of the exploitation of that person's work either in person or by someone else, will be punished with a penalty of up to ten years of incarceration plus a pecuniary penalty ranging from ten thousand to fifty thousand Euros.*" The Philippines Anti-Trafficking in Persons Act (RA 9208) of 2003, Sec. 10 states that "*Any person found guilty of committing [trafficking in persons] shall suffer the penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00).*" Sierra Leone's Anti-Human Trafficking Act of 2005 states in Article 21 (1) that "*A person convicted for an offence of trafficking in person shall be liable to imprisonment for a term not exceeding five years [...].*"

To supplement these types of primary legislation, States have also enacted laws, which provide for additional penalties recognizing and penalizing a variety of aggravating circumstances. Some States have legislated on the basis of aggravating circumstances regarding the offender who has committed the crime. Examples of such aggravating circumstances include cases in which the offence has been committed as part of an organized group, in cases in which the offender was a parent, sibling, guardian, spouse, partner or another person who exercises authority over trafficked persons, cases in which the offence was committed by a public officials, or cases in which the offender had been previously convicted for the same or similar offence. For instance, the Philippines, in its Anti-Trafficking in Persons Act (RA 9208) of 2003, states in Section 6 that "*Trafficking in persons is considered qualified trafficking and punished by life imprisonment: [when]*

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the crime is committed by a syndicate, or in large scale. Trafficking is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons, individually or as a group.”

Other States have legislated on the basis of aggravating circumstances regarding the victim. Examples of such aggravating circumstances include cases in which the offence had deliberately or by gross negligence endangered the life of the victim; the offence had caused the victim's death or suicide; the offence had caused particularly serious harm or body injuries to the victim and psychological or physical trauma, including HIV/AIDS; the offence had been committed against a victim who was particularly vulnerable, including a pregnant woman; cases in which the trafficked persons is a child, or is physically or psychologically handicapped, or two or more persons were trafficked at the same time. For instance, in the European Council Framework Decision of 19th of July 2002 on Combating Trafficking in Human Beings, member States are mandated to punish trafficking with a maximum penalty that is not less than eight years “*[when] the offence has been committed against a victim who was particularly vulnerable. A victim shall be considered to have been particularly vulnerable at least when the victim was under the age of sexual majority under national law and the offence has been committed for the purpose of the exploitation of the prostitution of others or other forms of sexual exploitation, including pornography.*”

In yet other cases, aggravating circumstances regarding the act of trafficking itself are taken into account and penalized. This approach includes cases in which the offence is committed across borders, cases in which the offence is committed with the use of threats or violence, or other forms of coercion, such as through kidnapping, fraud or misrepresentation, cases in which weapons, drugs or medications were used in the commission of the offence, the offence was committed with abuse of power or by taking advantage of the victim's inability to defend himself or herself or to express his or her will, or cases in which the offence was committed by giving or receiving money or other benefits in order to obtain the agreement of a person who has control over another person. For instance, in the criminal code of China, Article 240 states that “*Those abducting and trafficking women or children are to be sentenced to 5 to 10 years in prison plus fine. Those falling into one or more of the following cases are to be sentenced to 10 years or more in prison or to be given life sentences, in addition to fines or confiscation of property... those selling abducted women or children to outside the country.*”

In addition to calling for the recognition of trafficking as a serious crime, the UN Protocol mandated the criminalization of all forms of trafficking in persons. However, it did not define all forms specifically, and mentioned slavery and other forms of exploitation *as a minimum*, leaving it up to the legislator to choose to add other forms of exploitation or to define more specifically the various forms of trafficking in persons that are to be criminalized more explicitly. Reflecting an international legislative movement which has built on where the UN Protocol left off, some States have indeed included additional

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specific forms of trafficking as part of its legislation on trafficking. For example, the Israeli Prohibition of Trafficking in Persons (Legislative Amendments) Law 5766 of 2006, defined trafficking in persons as the following: “*Trafficking in Persons: Anyone who carries on a transaction in a person for one of the following purposes or in so acting places the person in danger of one of the following, shall be liable to sixteen years imprisonment: 1) removing an organ from the person’s body; 2) giving birth to a child and taking the child away; 3) subjecting the person to slavery; 4) subjecting the person to forced labor; 5) instigating the person to commit an act of prostitution; 6) instigating the person to take part in an obscene publication or obscene display; and 7) committing a sexual offence against the person.*”

Additionally, while trafficking for any of the exploitative purposes as defined by the UN Protocol may take place via international or internal domestic routes, either by crossing international borders or taking place within the borders of a State, according to Article 4 of the UN Protocol, these offences apply only in cases “*where those offences are transnational in nature and involve an organized criminal group.*” The UN Protocol thus did not apply to domestic trafficking, which is trafficking that takes place within national borders. However, many States have chosen to criminalize internal trafficking as well, following Article 3(2) of the United Nations Convention against Transnational Organized Crime, in which international trafficking is defined broadly to include trafficking that: “*(a) ...is committed in more than one State; (b) ...is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) ...is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) ...is committed in one State but has substantial effects in another State.*” Moreover, while the UN Protocol does not apply to individual traffickers, nor to trafficking conducted by only two persons (neither constituting an “organized criminal group”), States have chosen to follow the United Nations Convention against Transnational Organized Crime, which defined organized crime in Article 2 as follows: “*“Organized criminal group” shall mean 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.*” In most cases, transnationality and the involvement of an organized criminal group are considered by States as aggravating circumstances that serve to enhance the penalty for the crime of trafficking in persons, thus expanding and building on the legal framework established by the UN Protocol.

Participation. The participation of and engagement of civil society is a crucial element of any comprehensive approach to combating trafficking. Civil society organizations are critical partners particularly in prevention and protection efforts, but can also be key in assisting the government in the area of prosecution, starting with their role in the identification of victims of trafficking, support and care for victims of trafficking throughout court proceedings, including the provision of legal assistance, medical and psychological aid, as well as in contributing to a dignified process of repatriation (if such is desired by the victim) and reintegration, or the process of integration into society if a

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residency status is granted. Prior to the UN Protocol, a role for civil society was rarely legislated for in domestic laws given that most tended to either lump victims of trafficking into a category of criminals, persons not entitled to the benefits victims are entitled to, or simply to amend the criminal code to criminalize the crime of trafficking, without providing for any prevention, protection, or participation mechanisms at all.

The UN Protocol, on the other hand, explicitly mandated that State Parties operate in collaboration with NGOs in adopting prevention measures to combat trafficking and in implementing measures of assistance and protection. Article 9 of the UN Protocol, while calling on State Parties to establish measures for the prevention of trafficking, recommended, in paragraph 3, that: “*Policies, programmes 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.*” Similarly, Article 6 of the UN Protocol stated that “*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 [...],*” thus establishing an obligation of cooperation.

Building on this foundation, the Council of Europe Convention on Action Against Trafficking in Human Beings of 2004, while specifying that preventive (Art. 5(6)) and protective (Art. 12(5)) measures shall be taken in cooperation with NGOs and other elements of civil society, also addressed the role of civil society more explicitly by providing, in Article 35 that “*[E]ach Party shall encourage state authorities and public officials, to co-operate with nongovernmental organizations, other relevant organizations and members of civil society, in establishing strategic partnerships with the aim of achieving the purpose of this Convention.*” In three significant articles, the Convention called upon States to 1) Raise awareness about the role of civil society in identifying demand as a root cause for trafficking [Art. 6(b)]; 2) Make available to victims contact information of NGOs in their country of origin to assist them upon their return [Art. 16(6)], and 3) Adopt measures to protect NGOs offering assistance to victims of trafficking from retaliation or intimidation during criminal proceedings [Art. 28(4)]. The Indonesian National Plan of Action for the Elimination of Trafficking in Women and Children of 2002 called for an integrated approach to combating trafficking, one which includes civil society, especially NGOs, trade unions, academics, and activists.

The notion of civil society may broadly be divided into two major components, namely the *organizational component* and the *public component*. The organizational component is comprised by NGOs, including local, national, and international entities, and the public component is meant to represent the public at large. Concerning the organizational component of civil society, two main models have been utilized to engage civil society organizations working to combat trafficking in persons with government efforts to do so: the *representation model* and the *consultation model*.

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The representation model, which is the more inclusive model, incorporating the full partnership of civil society organizations in governments' anti-trafficking efforts, involves the inclusion of representatives of non-governmental organizations concerned with the issue of trafficking as part of a national inter-agency body tasked with implementing anti-trafficking policies. For example, the Anti-trafficking in Persons Act no. 670 of 2007 of Malaysia, states, in Article 6 that "*A body to be known as the Council for Anti-trafficking in Persons shall be established. The Council shall consist of various ministries and "not more than three persons from non-governmental organizations or other relevant organizations having appropriate experience in problems and issues relating to trafficking in persons including the protection and support of trafficked persons."* The Philippines Republic Act 9208 of 2003, in Section 20(g), states that "*In The Philippines three (3) representatives from NGOs, who shall be composed of one (1) representative each from among the sectors representing women, overseas Filipino workers (OFWs) and children, with a proven record of involvement in the prevention and suppression of trafficking in persons [will be part of the established Inter-Agency Task Force against Trafficking]. These representatives shall be nominated by the government agency representatives of the Council, for appointment by the President for a term of three (3) years."* The Dominican Republic Law n.137-03 on the Illicit Smuggling of Migrants and Trafficking in Persons states, in Article 10, that "*Victims of trafficking in persons shall receive physical, psychological and social assistance as well as legal representation and information on their rights. Such assistance shall be provided by governmental entities in cooperation with non-governmental organizations and other elements of civil society."* The Law of Georgia on Combating Human Trafficking of 2006 states that "*State agencies responsible for the protection, assistance, rehabilitation and reintegration of the (statutory) victims of human trafficking shall, in accordance with this Law and other legislative acts, cooperate with international organizations, not-for-profit legal entities operating in Georgia and other civil society institutions,*" and that "*State authorities [for the purpose of preventing trafficking in persons] shall cooperate with international organizations, not-for-profit legal entities operating in Georgia and other civil society institutions."*

The consultation model, on the other hand, engages NGOs on a consultative basis, rather than as representatives of a governmental entity tasked with implementing anti-trafficking policies. As such, 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 the hearing of such organizations' testimonies as part of parliamentary hearings aimed at policy development and refinement, their inclusion as consultants in research and investigations that may be carried out by the parliament, or their engagement as independent experts in policy evaluation. In addition, the legislator can mandate that such organizations must be consulted by the government in information collection and policy implementation, since civil society organizations often have the best and most complete understanding of the realities of the needs of victims and of vulnerable populations. For example, the United States Trafficking Victims Protection Reauthorization Act of 2005 states that "*The Inter-*

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Agency Task Force on Trafficking shall engage in consultation and advocacy with governmental and non-governmental organizations, among other entities.” The Union of Myanmar Anti Trafficking in Persons Law of 2005, states in Article 5 that *“The functions and duties of the Central Body for Suppression of Trafficking in Persons are as follows: [...] (g) Communicating and coordinating with international organizations, regional organizations, foreign States, local and foreign nongovernmental organizations, and obtaining assistance for works relating to suppression of trafficking in persons, protection and rendering assistance, resettlement and rehabilitation.”*

The public component of civil society, or public participation, is key to combating trafficking. Firstly, public awareness and concern with trafficking in persons is important in holding the government accountable to its anti-trafficking obligations. Secondly, the public, and especially the members of those communities most vulnerable to trafficking must have a voice in prevention policies as these are developed by the government. The legislator, as a people’s representative, is in a unique position to reach out to the constituencies so as to glean which policies must be most effective in alleviating causes of vulnerability. Additionally, the private citizens, as members of communities where trafficking victims may be found, can also play an important role in the process of the identification of victims of trafficking, when aware and concerned with the issue. Some States have legislated specifically regarding the engagement of the public in anti-trafficking efforts. For example, the Indonesian Law on the Combat against the Crime of Trafficking in Persons of 2007, states, in Article 46 that *“The public participates in helping efforts to prevent and combat the crime of trafficking in persons. Public participation [...] is achieved through the actions of providing information and/or reporting the crime of trafficking in persons to law enforcers of the authorities.”*

Harmonization. In addition to the legislative movement relating to anti-trafficking laws specifically, there has also been a corresponding movement to harmonize immigration laws, labor laws, health laws, child protection laws, and other relevant legislation so as to cover the various phenomena linked to trafficking and thus ensure a comprehensive framework for addressing the phenomenon. Such legislative harmonization can serve to strengthen the response to a crime, especially one as complex as trafficking in persons, and one so interconnected with other crimes, including drug trafficking, arms trafficking, alien smuggling, money laundering, child sex tourism and child pornography, document fraud, and others. For example, Qatar’s Money Laundering Legislation of 2002 states, in Article 2 that *“Who commits any of the following acts shall commit a money-laundering crime: Any person who earns, possesses, disposes of, manages, exchanges deposits, adds, invests, transports or transfers funds obtained from the crimes of drugs and psychotropic substances, extortion and looting, forgery, counterfeiting and forgery of bills and coins, illegal trafficking in weapon, ammunitions and explosives, crimes related to environment protection or the crime of trafficking in women and children, with the intention of hiding the real source of the funds and show that their source is legal.”* Likewise, the Philippines has enacted immigration laws that seek to address some of the malpractices that may be found at the nexus of legitimate migration and trafficking. As such, the

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Philippine Overseas Employment Act aims to “...Give utmost priority to the establishment of programs and services to prevent illegal recruitment, fraud, and exploitation or abuse of Filipino migrant workers, all embassies and consular offices, through the Philippine Overseas Employment Administration (POEA), shall issue travel advisories or disseminate information on labor and employment conditions, migration realities and other facts; and adherence of particular countries to international standards on human and workers' rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment. Such advisory or information shall be published in a newspaper of general circulation at least three (3) times in every quarter.” Strengthening laws supporting and promoting the engagement of civil society may also contribute to a civil society better equipped in combating trafficking, and to build an environment in which NGOs and civil society associations can thrive and operate their programs on a sustainable basis. For example, the Iraqi Constitution states, in Article 45, that “*The State shall seek to strengthen the role of civil society institutions, and to support, develop and preserve their independence in a way that is consistent with peaceful means to achieve their legitimate goals, and this shall be regulated by law.*”