



PROJECT MUSE®

Transnational Legal Responses to Illegal Trade in Human Beings

Mohamed Y. Mattar

SAIS Review, Volume 33, Number 1, Winter-Spring 2013, pp. 137-159
(Article)

Published by The Johns Hopkins University Press
DOI: 10.1353/sais.2013.0013



➔ For additional information about this article

<http://muse.jhu.edu/journals/sais/summary/v033/33.1.mattar.html>

Transnational Legal Responses to Illegal Trade in Human Beings

Mohamed Y. Mattar

Human trafficking, whether for the purpose of sexual exploitation or forced labor or services, is a transnational crime that requires transnational responses. There are a variety of forms of cooperation that are imperative in combating the transnational crime of trafficking. This article will explore the complexity of human trafficking, examine international legal standards of combatting human trafficking, and compare various methods of cooperation. This article will conclude by presenting a set of recommendations for the purpose of incorporating a transnational legal response in any comprehensive strategy to combat human trafficking.

Introduction

Human trafficking, whether for the purpose of sexual exploitation or forced labor or services, is a transnational crime¹ that requires transnational responses, including what this paper will refer to as the three EX's: exchange of information among countries of origin, transit, and destination; extraterritorial jurisdiction that extends to an act of trafficking regardless of the place in which it was committed; and extradition, a mechanism that ensures that a perpetrator of the crime will not be shielded from liability.² As stated in the Office of High Commission of Human Rights Recommended Principles and Guidelines on Human Rights and Human Trafficking, "Trafficking is a regional and global phenomenon that cannot always be dealt with effectively at the national level: a strengthened national response can often result in the operations of traffickers moving elsewhere. International, multilateral and bilateral cooperation can play an important role in combating trafficking activities. Such cooperation is particularly critical between countries involved in different stages of the trafficking cycle."³

This article will discuss those forms of cooperation that are imperative in combating the transnational crime of trafficking. Part one of the article will address the complexity of the phenomenon of human trafficking, looking in particular at trans-nationality, organized criminal activities, illicit corporate practices, cross-border policies, underground operations, and lack of credible statistics. It will also discuss the multiplicity of forms of human trafficking, including sexual exploitation, forced labor, begging, domestic service, organ trade, forced marriage, illegal inter-country adoption, and

Mohamed Mattar is a senior research professor of international law and executive director of The Protection Project at The Johns Hopkins University's School of Advanced International Studies (SAIS).

other criminal activities. This paper will argue that combating any of these forms of trafficking requires a comprehensive transnational approach. Part two will examine international legal standards in combating the crime of human trafficking and related activities, especially money laundering, and corruption. This paper will argue that combating the illicit trade labor market created by activities of human trafficking warrants that measures be taken to address these trafficking-related activities. Part three will debate the adequacy and effectiveness of existing models of cooperation, including the U.S. model, emphasizing the obligations of a country of transit, bilateral agreements between countries of origin and countries of destination, as well as best practices and comparative models. This paper will argue that regional cooperation, including multilateral initiatives, should be a part of any effort to combat this transnational crime.

This article will conclude by presenting a set of recommendations for the purpose of incorporating a transnational legal response in any comprehensive strategy to combat human trafficking.

Part One: The Phenomenon of Human Trafficking as an Illicit Trade Business

Human trafficking may be defined as the process of recruiting persons for the purpose of exploitation. As such, it is different from other crimes, such as forced labor, slavery, and prostitution. Human trafficking encompasses all of these forms of human exploitation; however, it is the process of recruitment for these exploitative purposes that constitutes the crime of human trafficking. Exploitation is defined in the United Nations Protocol to include prostitution of others, other forms of sexual exploitation, forced labor or services, servitude, slavery, practices similar to slavery, and removal of organs.⁴

Recent laws on combating human trafficking refer to additional forms of exploitation. For instance, the Saudi law explicitly refers to using people for medical and scientific experiments.⁵ The law of Qatar prohibits trafficking of children for the purpose of pornography.⁶ The law of Lebanon provides that terrorism may be a form of trafficking.⁷ The law of Israel refers to trafficking in women for the purpose of surrogacy.⁸ The law of the Philippines considers some marriages as forms of trafficking in women, including forced or early marriage.⁹ The April 5, 2011 European Directive on preventing and combating trafficking in human beings and protecting its victims, broadened the UN Protocol definition in two ways; it explicitly mentions begging as a form of trafficking and makes “exploitation of criminal activities” as an illicit purpose of human trafficking.¹⁰ The new Egyptian constitution, reflecting these developments in the area of human trafficking, explicitly prohibits “exploitation of human beings”¹¹ which, as this paper mentions, is the essence of human trafficking. As these laws detail, it is evident that human trafficking encompasses many forms.

Human trafficking as a shadow economy that creates illicit trade markets

All the forms of trafficking mentioned above are carried out in sweatshops, brothels,¹² and other illegal markets. In many cases, “consumers” are not easy to identify. Such services are also difficult to subject to taxation.¹³ Two main factors contribute to this shadow economy. The first is the involvement

of organized criminal groups in the movement of people for the purpose of exploitation. Although many cases of human trafficking are carried out by individual actors (such as a husband and wife running a prostitution ring¹⁴ or families selling

Although many cases of human trafficking are carried out by individual actors (such as a husband and wife running a prostitution ring or families selling their children for economic gain), organized criminal groups also recruit the vulnerable and exploit them.

their children for economic gain¹⁵), organized criminal groups also recruit the vulnerable and exploit them.¹⁶ The second is that many of these exploitative activities take place across borders and involve outsourcing and subcontracting, which in many cases may not be subject to the jurisdiction of the national law. Although, as noted by the UN Global Report on Trafficking in Persons of 2012, more efficient controls at border crossing and the rising fear of the risk of migration has led to an increase in domestic trafficking.¹⁷

Also contributing to illicit markets is the production of goods through forced and child labor. The Department of Labor in its 2012 report identified 134 products that are manufactured in 74 countries through child labor and forced labor.¹⁸ The list includes 123 goods manufactured by child labor and 56 goods manufactured from forced labor in the agricultural sector, manufacturing sector, and the mined or quarried sector.¹⁹ The goods include rice and soccer balls from India, tobacco and sugarcane from Mexico, fish and gold in the Philippines, cotton and peanuts from Turkey, and electronics and clothing garments from China.²⁰ Corporations that do not observe internationally recognized human rights laws manufacture many of these products, making them complicit in human rights abuses and exploitation.²¹

Is there a link between drug trafficking, terrorism, and human trafficking?

There are reports that the illicit trade in human beings is linked to drug trafficking. Drug trafficking is the most profitable illegal enterprise, with human trafficking following in second.²² In recent years, drug cartels, gangs, and organized criminal groups have branched out from drug and arms trafficking to human trafficking to further increase their profits. This is especially prevalent with the drug cartels in Mexico. In 2010, 72 Latin American migrant workers were killed en route to the United States through Mexico. The migrants were captured by a group called the Zetas who forced them to work on a ranch in Mexico; when they refused, they were killed.²³

There are measures used in combating drug trafficking that can be applied to combating human trafficking. For instance, the Tripoli Action Plan on Combating Drug Trafficking and Money Laundering through the Mail calls for developing an information-sharing mechanism among law enforcement and postal institutions in different countries, aiming to expose suspicious activity.²⁴ The Action Plan also calls for developing a system of information collection and sharing to better understand drug trafficking in the Arab region;²⁵ this could easily be applied to human trafficking as well. There are also reports that establish a link between terrorism and human trafficking. Terrorist organizations use trafficking routes for transportation purposes, and use the profit from trafficking-related activities to finance their activities.²⁶ Terrorist cells and trafficking rings are likely to pool together their illegal activities in order to pose the greatest national and international threat.²⁷ Recognizing the need for credible information, the TVPA of 2005 calls for research on the “interrelationship between trafficking in persons and terrorism, including the use of profits from trafficking in persons to finance terrorism.”²⁸

Lack of reliable data on human trafficking cases

One of the largest obstacles in combating human trafficking is the lack of reliable statistics on its occurrence. Some of the difficulty in collecting data on trafficking is that much of the data recorded lumps trafficking, illegal migration, and smuggling into one category.²⁹ Additionally, much of the data on trafficking victims focuses on women and children.³⁰ Further-

Terrorist cells and trafficking rings are likely to pool together their illegal activities in order to pose the greatest national and international threat.

more, human trafficking often goes unreported by victims, and investigating these cases is often given a lower priority by authorities.³¹ In June 2012, the International Labor Organization (ILO) estimated that 21 million people were victims of forced labor, with the highest rates of occurrence in the Asia-Pacific region.³² Between

January 2008 and June 2010, American citizens comprised 83% of sexual trafficking victims in the United States, and both illegal and legal migrants comprised a majority of forced labor victims.³³ These victims come from different foreign countries, especially Mexico, Philippines, Thailand, Guatemala, Honduras, and India.³⁴ From what little is known about human trafficking, it is imperative that a transnational approach to be utilized in not only combating trafficking, but also compiling data and statistics on the occurrences and patterns of transnational trafficking.

Part Two: Combating Trafficking-Related Crimes, especially Money Laundering and Corruption

Laundering the proceeds of the crime of human trafficking

The illicit trade market in human beings is supported by various related illicit acts, such as money laundering.³⁵ Perpetrators of human trafficking rely on secret bank accounts that enable them to transfer payments, obtain credit, and complete other banking transactions that facilitate their operations. The Convention against Transnational Organized Crime requires states to establish “domestic regulatory and supervisory regimes” for banks and other financial institutions and report any suspicious transactions.³⁶ The Convention also calls for taking the necessary measures to detect and monitor movement of cash and negotiable instruments across borders.³⁷ In addition, states that are parties to the convention are called to “develop and promote global, regional, sub-regional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.”³⁸ In this regard, the Financial Action Task Force (FATF) recommends that countries should enhance national cooperation and coordination, to include exchange of information, mutual legal assistance, executing extradition requests, and authority to freeze, seize, and confiscate money laundered from illicit acts that constitute crimes.³⁹

Consequently, laws on combating human trafficking should and often do address money laundering. For instance, Egyptian law No. 64 of 2010 on combating human trafficking provides that “the crimes stipulated in this law shall be considered principal crimes provided for in Article (2) of the Anti-Money Laundering Act No. 80 of 2008, which also applies to the money laundering derived therefrom.”⁴⁰ In other legal systems, the money laundering law may itself refer to human trafficking as a crime that is subject to the application of the money laundering law. For instance, the Nigerian money laundering law of 2011 refers to both human trafficking and sexual exploitation as crimes under a money laundering offense.⁴¹ Any comprehensive approach to combat human trafficking should therefore include measures to be taken by state authorities to disrupt money-laundering operations.

Strategies to combat corruption

Another activity that contributes to the trafficking infrastructure is state complicity in corruption. The vast number of public officials willing to accept a bribe makes the crime of trafficking in persons and transferring victims across borders much easier.⁴² The issue should be addressed twice in any anti-trafficking legislation; when human trafficking is defined and when the penalties for the crime are specified. In addition to abuse of power that the UN Protocol on Trafficking explicitly refers to, abuse of office should be emphasized in domestic legislation as one of the illegal means that is used by perpetrators of the crime of human trafficking.⁴³ In domestic anti-trafficking legislation, abuse of office or the involvement of a public official in the trafficking enterprise should also be considered as an aggravated circumstance that enhances the penalty. In the United States

the Trafficking Victims Protection Act (TVPA) considers measures taken by a country against public corruption, including prosecution, convictions, and sentences, as one of the minimum standards in the elimination of trafficking in persons that countries must comply with;⁴⁴ however, few cases of prosecution of public officials, both internationally and domestically, have been reported.

Prosecution of public officials

The variety of cases in which officials have been prosecuted for their involvement in human trafficking illustrate the widespread official complicity. In the case of *Bin Xin Zhang Zhang et al.*,⁴⁵ three politicians, along with four other defendants, were found guilty of trafficking more than 100 Chinese nationals, mainly between the ages of 18 and 20. Visas were solicited for Chinese citizens to work on a rice planting project in Bolivia that did not exist and to make investments in a district; in reality, no such investments were made. One defendant solicited the entry of more than 116 Chinese citizens under the guise of a supposed agreement between two indigenous communities and the Association of Fujian Chinese Residents. When contacted, the authorities of these communities denied any such agreement, and stated that no Chinese migrants had arrived in their community. In *Bangladesh Society for the Enforcement of Human Rights (BSEHR) and Ors v. Government of Bangladesh and Ors*,⁴⁶ the Bangladesh Society for the Enforcement of Human Rights (BSEHR) and several other NGOs alleged that local administration and police illegally and violently ousted women in prostitution from their residence. The petitioners stated that while inmates were asleep, the police raided and barged into their rooms and without giving them any opportunity to change or organize, dragged them out, abused and beat them and pushed them and their children into waiting buses, after which they were kept in detention. The court ordered the release of all the women, stating that the fundamental rights of citizens, including women in prostitution, are guar-

In Laos, it has been reported that officials receive payment for facilitating the transport and immigration of young girls to Thailand.

anteed under the Constitution. In Laos, it has been reported that officials receive payment for facilitating the transport and immigration of young girls to

Thailand.⁴⁷ The Latvian government has investigated and prosecuted several corrupt anti-trafficking police officers.⁴⁸ In 2010 and 2011, the former human rights commissioner, financial director, and coordinator of Mauritania's Program to Eradicate the Effects of Slavery were arrested on corruption charges.⁴⁹ In 2011, at least 18 public officials in the Philippines were arrested for corruption related to human trafficking.⁵⁰

Government efforts to investigate and prosecute corruption should be a priority in any strategy or action plan to combat human trafficking. The law of Egypt prescribes a punishment of life imprisonment if the perpetrator of the crime is a public official.⁵¹ The sentence of imprisonment for a public official complicit in human trafficking in Oman⁵² and Qatar⁵³ is fifteen years. However, combating corruption is not an easy task. The UN Convention against Transnational Organized Crime calls upon states to take effective action in the prevention, detection, and punishment of corruption of public officials.⁵⁴ The UN Convention against Corruption calls upon state parties to consider assisting each other in the investigation and proceedings in matters related to corruption,⁵⁵ and to afford each other significant mutual legal assistance in all steps of the judicial process.⁵⁶ The Convention also calls for crimes to be extraditable if they are punishable under both parties' domestic law.⁵⁷ Article 12 of the Convention stipulates that member parties must take all measures to prevent corruption and provide effective criminal punishment for those found guilty of corruption.⁵⁸ In the Arab world, a regional convention against corruption was recently adopted, which should also serve as a guide to combating trafficking.⁵⁹ More specifically, the Arab Strategy to Combat Human Trafficking considers combating corruption as one of the main objectives that should be pursued and fully implemented.⁶⁰

The use of technology to combat human trafficking

The author of this paper previously proposed a strategy to combat human trafficking using a five-part strategy emphasizing accountability, legislation, education, religion, and technology ("ALERT").⁶¹ Technology is an especially important component of this strategy. Technological solutions are used to combat the phenomena of camel jockeys in the Gulf States.⁶² In Poland, video technology is often used for victims to be able to testify against their traffickers once they have been repatriated to their home countries.⁶³ In South Korea, the Ministry of Gender Equality and Family conducts Internet campaigns aimed at preventing youth involvement in the sex trade.⁶⁴ The national police in the Netherlands have conducted Internet chat sessions to inform the public about the system used by pimps to recruit young women and force them into prostitution.⁶⁵ The FBI uses technology to incorporate cases of human trafficking into their annual nationwide police statistics.⁶⁶ INTERPOL's human trafficking division provides an intelligence database that is used by international law enforcement that provides information on traffickers.⁶⁷ One of INTERPOL's main tools to combat trafficking is their Notices and Diffusions system; one element of this system is the Green Notice, in which officials in countries are able to notify officials in other member countries when a known child sex offender is traveling to their country.⁶⁸ INTERPOL also runs a system called MIND/FIND that allows law enforcement and border patrol to run checks on lost or stolen travel documents.⁶⁹ The G8 Sub-group on High-Tech Crime, comprised of Canada, France, Germany, Italy, Japan, Russia, the U.S., and the U.K., investigates and prosecutes cybercrimes by often using the same technologies as traffickers and organized criminal groups but for the reverse outcome.

While perpetrators of trafficking increasingly use the Internet as a means to find their victims,⁷⁰ the Internet has also become a tool for catching perpetrators. In the recent case of *United States v. Ronald Bonestroo*,⁷¹ the defendant responded to a series of Internet advertisements for sexual contact with minors in exchange for money. The Immigration and Customs Enforcement (ICE) placed the advertisements and corresponded with the defendant through multiple emails. ICE eventually secured a meeting with the defendant for the exchange of money for sexual acts. The defendant showed the money to ICE and was subsequently arrested and charged with attempted commercial sex trafficking of a child. Unfortunately in this case, the court concluded that the TVPA does not apply to individuals who “temporarily use children to satisfy their prurient interests” but rather to “members of sex trafficking rings and those who treat human beings as commodities to be bought and sold.”⁷² This is an unfortunate conclusion since addressing demand is crucial in eradicating human trafficking and it is not enough to rely on preventative measures to deter the clients of services provided by victims of trafficking. The TVPA Reauthorization of 2013 explicitly states that “United States citizens do not use item, product, or material produced or extracted with the use of and labor from victims of severe forms of trafficking.”⁷³ In addition to this preventative measure, prosecution of the purchaser of these services should be part of any legal response to combat human trafficking.

Part Three: Cooperation among Countries of Origin and Countries of Destination

Use of multi-lateral efforts as a minimum standard for the elimination of trafficking in persons

Human trafficking as an illegal trade, that is hard to detect and difficult to prosecute, requires exchange of information among countries of origin, transit, and destination. This exchange often takes the form of a treaty specifying various aspects of mutual assistance in criminal matters, including information sharing, collection of evidence, investigation of criminals who commit cross-border crimes, facilitating judicial cooperation, witness protection in criminal proceedings, substantive and procedural protective measures designed to assist trafficking victims, repatriation of victims, and reducing re-victimization. This cooperation between countries of origin and countries of destination is one of the minimum standards stipulated by the United States Trafficking in Victims Protection Act of 2000, as amended in 2003, 2005, 2008, and 2013.⁷⁴ The TVPRA 2008 calls for the establishment of a “multilateral framework between labor exporting and labor importing countries to ensure that workers migrating between such countries are protected from trafficking in persons.”⁷⁵ The State Department Trafficking in Persons Annual Report, in determining if a foreign country meets the minimum standards for the elimination of human trafficking, inquires into “whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking

in persons.”⁷⁶ There have been records of bilateral cooperation, such as the bilateral prosecution initiated by U.S. and Mexican authorities against a transnational sex trafficking ring that resulted in very serious convictions against the perpetrators of the crime.⁷⁷

Exchange of Information between countries of origin and countries of destination: an international obligation

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children [herein after UN Protocol] provides for exchange of information among countries of origin, transit, and destination as a means of the transnational legal response to the illegal trade in human beings. The UN Protocol, in Article 10, provides that law enforcement, immigration, and other relevant authorities of different states shall cooperate with one another to identify “the means and methods used by organized criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.”⁷⁸ Further, Article 10 calls for authorities to work together in determining if those crossing the border with travel documents other than their own are perpetrators or victims of trafficking, and in determining the types of travel documents that are used by traffickers.⁷⁹ In many cases, victims of trafficking travel carrying valid travel documents that then expire. In some cases, the trafficker forges and falsifies these travel documents, and in all cases, the trafficker confiscates and withholds them. Article 10 also calls for training of law enforcement and other relevant officials in combating human trafficking, prosecution of traffickers, protection of victims against traffickers, and protection of victims’ rights with an emphasis on child and gender sensitivity.⁸⁰ Consequently, any training for law enforcement officials should incorporate a human rights approach, recognizing the trafficked person, whether an adult or a child, male or female, as a victim who is entitled to fundamental rights.

Execution of MOUs as a means of enhancing bilateral cooperation

It is imperative that cooperation among countries of origin and countries of destination is codified in a written document that applies the scope and means of such cooperation. Memoranda of Understanding (MOUs) display the willingness of all parties to work together for the common goal of combating trafficking in persons. For instance, the Swiss government formed bilateral working groups on child sex tourism and child begging with key source countries. Cambodia signed an MOU with the government of Malaysia to protect the rights of Cambodian migrant workers in Malaysia.⁸¹ Djibouti and Ethiopia signed a similar MOU for the protection of undocumented Ethiopians residing in Djibouti.⁸² Jordan has signed an MOU with the government of the Philippines as a step toward lifting the ban against Filipino domestic workers in Jordan.⁸³ It is to be noted that the Philippines was the first country to ratify the ILO Convention 189 on decent work for domestic workers,⁸⁴ which states that “members shall take

measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.”⁸⁵ The governments of Indonesia and Malaysia executed an agreement prohibiting employers from withholding the travel documents of their employees and requiring that their salaries be deposited directly into bank accounts. A good example of a memorandum of understanding on the dissemination and exchange of information is the one signed between the United States’ Human Smuggling and Trafficking Center and the Royal Canadian Mounted Police. This cooperative agreement was designed to “contribute to the prevention and reduction of human smuggling and human trafficking through effective cooperation between the Participants” who must exchange information, including information on counter measures taken to combat smuggling and trafficking.⁸⁶ Another example is the MOU on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region among the six GMS states, Cambodia, China, Laos, Myanmar, Thailand, and Vietnam, which aims at maximizing available resources among these countries and the need to reduce the demand for illegal migration.⁸⁷ In particular, the MOU calls for the creation of a national task force to cooperate with the United Nations Inter-Agency Project against Trafficking in the Greater Mekong Sub-Region.⁸⁸ A memorandum of understanding was signed between Thailand and Cambodia on “Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking”⁸⁹ that calls for the establishment of a joint task force to implement the mandate of the different articles that focus on protection of the trafficking victims, especially their right to repatriation without delay,⁹⁰ restitution and compensation,⁹¹ and access to shelter, health care, and legal aid.⁹² It also provides for the cooperation of the police and other relevant authorities in both countries in exchanging information regarding “trafficking routes, places of trafficking, identifications of traffickers, network of trafficking, methodologies of trafficking, and data on trafficking.”⁹³ The MOU adopts an expansive definition of human trafficking that includes prostitution, forced or exploitative domestic labor, bonded labor, servile marriage, false adoption, sex tourism and entertainment, pornography, begging, and what the MOU calls “slavery by the use of drugs on children and women.”⁹⁴ As human trafficking is transnational in its nature, MOUs and other forms of cooperation among countries of transit, origin, and destination are especially important in combating this crime.

Obligations of cooperation in investigation of cross-border trafficking cases

While there has been an increase in the number of investigations of cases of human trafficking, these investigations are limited by the principles of territoriality or nationality. For instance, in the case of *H., S., D. & S.*⁹⁵ from Cambodia, the victim was promised well-paying work in a fish-processing factory in Thailand. The victim was transported to Thailand illegally and sold to the owner of a boat, where he worked for eight months for approximately \$15 a month. After that time he was arrested for illegal entry and deported back to Cambodia. Four perpetrators were convicted of illegal cross-border

transfer. In this case only the perpetrators in Cambodia were investigated and prosecuted, as there was no investigation initiated in the destination country of Thailand. Again, in the landmark case of *Rantsev vs. Cyprus and Russia*,⁹⁶ the applicant was the father of a young Russian woman who died in Cyprus. The victim was granted an artiste visa in Cyprus to work in a cabaret. Two weeks after her arrival in Cyprus, the victim left her apartment with the intent of returning to Russia. The owner

While there has been an increase in the number of investigations of cases of human trafficking, these investigations are limited by the principles of territoriality or nationality.

of the cabaret had her arrested on the grounds that she had violated her visa by abandoning her place of residence and work. She was released, and two weeks later was found dead on the street below her balcony. The court concluded that both Russian and Cypriot authorities failed to adequately and effectively investigate this case of human trafficking. The court stated that “trafficking is a problem which is often not confined to the domestic arena. When a person is trafficked from one State to another, trafficking offences may occur in the State of origin, any State of transit and the State of destination.”⁹⁷ The court emphasized that the “obligation to conduct a domestic investigation into events occurring on their own territories, member States are also subject to a duty in cross-border trafficking cases to cooperate effectively with the relevant authorities of other States concerned in the investigation of events which occurred outside their territories.”⁹⁸

Preventing re-victimization and facilitating the repatriation of victims of human trafficking

Another aspect of human trafficking that requires cooperation is the repatriation of a trafficking victim. In this regard, the Council of Europe Convention on Action against Trafficking in Human Beings provides that cooperation between authorities in countries of origin and countries of destination is imperative to facilitate the return of a victim to her country of origin, especially if such a victim is without the proper identification documents.⁹⁹ This effort requires the intervention of the diplomatic missions in different countries. For instance, article 25 of the Egyptian anti-trafficking law states that “The Foreign Ministry, through its diplomatic and consular missions abroad, shall provide all possible assistance to Egyptian victims in crimes of human trafficking in coordination with the competent authorities in the host States.”¹⁰⁰ Additionally, the article provides for “returning them to the Arab Republic of Egypt in an expeditious and safe manner. The Foreign Ministry shall also coordinate with the relevant authorities in other countries to facilitate the safe and expeditious return of foreign victims to their countries of origin.”¹⁰¹ Ideally, anti-trafficking legislation should provide for such cooperation. For instance, the law of Bahrain stipu-

lates that the Committee for the Assessment of the Status of Foreigners who are Victims of Trafficking in Persons shall coordinate their efforts to ensure that victims are successfully repatriated to their home countries.¹⁰² The law of Qatar calls for the appropriate authorities in both countries to work together in ensuring a safe return for victims.¹⁰³ The law of Moldova calls for cooperation in the “detection, discovery, criminal prosecution... and protection and assistance”¹⁰⁴ of trafficking victims. The law of Taiwan provides for international cooperation during the “investigation, rescue, protection, sheltering, and repatriation” processes of combating trafficking.¹⁰⁵ Repatriation of victims of trafficking is an important and necessary part in rehabilitating victims and combating this serious crime.

Transferring victims through countries of transit

The U.S. Trafficking in Persons (TIP) Report refers to the problem of migrants in Egypt, especially from Eritrea, Sudan, and Ethiopia, who are kidnapped in the Sinai by Bedouins as they try to cross the borders into Israel, and are subsequently exploited.¹⁰⁶ The TIP Report calls upon Egypt to identify such victims, assist them, conduct investigations of these instances of human trafficking, and prosecute the perpetrators of these crimes.¹⁰⁷ Morocco is a transit country for migrants from Sub-Saharan Africa and Southeast Asia who are trafficked in Europe.¹⁰⁸ Italy is a transit country for victims originating in Eastern Europe and Asia and children, mainly Romani and Nigerian, who are victims of sex trafficking and forced begging.¹⁰⁹ Victims of forced labor and sex trafficking from Eastern Europe, Latin America, and Sub-Saharan Africa are often transported through Spain en route to the destination country.¹¹⁰ Austria is a transit country for Eastern Europe and Roma children who are subject to forced begging.¹¹¹ Greece is a transit country for victims originating in Eastern Europe who are trafficked in many European Union countries, especially Italy and Malta.¹¹² Libya is a transit country for victims of forced labor and domestic servitude in Europe originating from Sub-Saharan African.¹¹³ A country of transit has the obligation to monitor migration patterns to ensure that its territory is not utilized for transferring and transporting victims of human trafficking. To do so, it must regulate and monitor the entry of migrants into its territories, control borders, investigate illegal migration patterns, and identify victims. Countries of transit must also cooperate with countries of destination in exchanging information on patterns of trafficking in their respective countries, as well as share best practices in combating trafficking and assisting victims.¹¹⁴

A shift from territoriality to extraterritoriality

Traditionally jurisdiction over crimes is based on territoriality. Today, the principle of extraterritoriality is being applied to respond to the transnationality of the crime of human trafficking, to include every step in the process of committing the crime, which may take place in several countries.¹¹⁵ For instance, the law of Azerbaijan grants court’s jurisdiction over human trafficking crimes for “citizens of the Republic of Azerbaijan, foreigners, and

stateless persons” regardless of where they committed the crime.¹¹⁶ The Egyptian law applies to non-Egyptians who commit the crime of human trafficking outside of Egypt as long as the act of human trafficking is punishable in the state in which it occurred, in cases where the crime occurred on a mode of transportation that is registered in Egypt or under its flag, if the victim is Egyptian, if the preparation, planning, direction, supervision, or financing occurred in Egypt, if an organized criminal group that has activities in Egypt is responsible for the crime, if the crime caused harm to the security or interests of Egypt abroad, or if the perpetrator was found in Egypt.¹¹⁷

A loophole exists with UN Peacekeeping missions; in cases of human rights abuses, peacekeeping soldiers are subject to their own national law, not the local law of the area in which the offense was committed.¹¹⁸ Rule number four of the code of personal conduct for blue helmets states that UN peacekeeping missions “do not indulge in immoral acts of sexual, physical or psychological abuse or exploitation of the local population or United Nations staff, especially women and children.”¹¹⁹ There are currently fourteen UN peacekeeping missions in the world. Sexual abuse and exploitation by peacekeeping missions first made headlines in the 1990s in Bosnia and Herzegovina and Kosovo, and included pornography, sexual assault, and child sexual exploitation. However, not much was done to remedy the abuses until 2004 when widespread abuse and exploitation was alleged again in the Democratic Republic of Congo.¹²⁰ Later, in January 2012, two peacekeepers were accused of sexual exploitation and abuse of minors in Haiti. Four months prior to that, several Uruguayan peacekeepers in Haiti were recalled after allegations of sexual abuse of a young man.¹²¹ Also in Haiti, more than a hundred Sri Lankan peacekeepers in 2007 were sent home due to allegations of sexual abuse of children and procuring prostitution.¹²² There are claims that peacekeepers also father children in the country they are stationed in and then leave the children behind.¹²³ As these examples illustrate, there is an urgent need to hold peacekeeping troops accountable for human rights abuses that they commit.

International legal instruments as basis for extradition

Cases of extradition have traditionally required a bilateral extradition treaty; today however, international legal instruments are often used as the basis for extradition. The UN Convention against Transnational Organized Crime calls for extradition of crimes that are punishable under the domestic laws of both Member States’ and the Convention itself.¹²⁴ The Convention also calls for parties to conclude their own extradition treaties with one another if they do not consider the Convention as a legal basis for extradition. However, many States have made reservations to the extradition article of the Convention. The government of Panama declared that it will not abide by the extradition or mutual assistance guidelines set forth in the Convention if the crime in question is not punishable by Panamanian law.¹²⁵ Vietnam declares itself not bound by the Convention’s extradition policy, stating that it will use Vietnamese extradition laws.¹²⁶ Although Armenia holds the

Convention as the legal basis for extradition, it does so only with parties to the European Convention on Extradition.¹²⁷ Burundi and El Salvador do not consider themselves bound by the Convention for extradition, instead choosing to conclude extradition treaties with member states.¹²⁸ The Republic of Moldova accepts the Convention as the legal basis of cooperation with other member states, but does not include Moldovan citizens or persons granted political asylum in Moldova.¹²⁹

Elements of the crime occurring in different countries should not be a bar to extradition

Another obstacle in applying extradition rules is the occurrence of elements of the crime in more than one country. For instance, in a case that involved the Czech Republic,¹³⁰ the defendant promised six Romanian women well-paying jobs as waitresses in his night club. Once in the Czech Republic, the victims had their passports confiscated, were locked in the night club, and forced to engage in prostitution. The defendant was convicted of trafficking in women and procuring prostitution by the Constitutional Court in Czech Republic. The defendant appealed the ruling, and asked to be extradited to Romania on the grounds that the victims were all Romanian, therefore he should be tried in a Romanian court. The court held that as the criminal acts were carried out in the Czech Republic, jurisdiction was within the realm of their courts in accordance with the principle of territoriality.¹³¹

In *Kodos v. Prosecutor General's Office of the Republic of Lithuania*,¹³² eight Lithuanian women were promised work in restaurant kitchens in England. Upon their arrival, the defendant, a Lithuanian national who was a member of an organized criminal group, confiscated their passports and travel documents and forced them to engage in prostitution. An extradition order to Lithuania was issued. The defendant appealed the extradition on the grounds the alleged crimes occurred in England, not Lithuania, and that Lithuania would impose harsher punishment, thus violating the defendant's right under Article 7 of the European Convention on Human Rights, which provides for the principle of "no punishment without law."¹³³ The court dismissed the defendant's appeal, stating that "the various steps taken in Lithuania to secure the woman's transfer to the United Kingdom for the purposes of prostitution are included not just by way of narrative background but as an integral part of the conduct which is alleged to constitute the offence committed by the appellant."¹³⁴ The court also found no evidence that the penalty for the crime under the law in Lithuania would be higher than the penalty in accordance with the English law.

Similarly, in the case of *Processo 08P29*¹³⁵ of Portugal, the defendant, a Brazilian woman, was arrested on charges that she was part of a criminal organization that recruited Brazilian women to work as prostitutes. An extradition order for Brazil was issued. The defendant did not deny charges; however she appealed the extradition, stating that the alleged crimes occurred in Portugal, not Brazil. In denying the defendant's appeal, the court considered "that the women were being recruited from Brazil, so the procuring of prostitution and human trafficking did not occur solely in Portu-

gal.”¹³⁶ The court held that the criminal organization that the defendant was a member of was “intrinsically linked to Sao Paulo in Brazil.”¹³⁷ The court also relied on the Brazilian Penal Code¹³⁸, which includes in its definition of human trafficking the place where victims were enticed by the accused, thus proving that the trafficking also occurred in Brazil.

In the case of *Gilbert Ektor v. National Public Prosecutor of Holland*,¹³⁹ the defendant, a Nigerian national, was accused of heading an international child prostitution ring in Western Europe. He recruited minors, forged their travel documents, and then forced them to seek asylum in the Netherlands. Once the victims received refugee status, they were forced into prostitution in neighboring countries. The court ordered the defendant’s extradition to Nigeria. The defendant appealed the extradition on the grounds that the warrant for his extradition lacked sufficient details of the alleged crime, and instead gave “generic descriptions of the types of offenses alleged.”¹⁴⁰ The court dismissed the defendant’s appeal, stating that the warrant “provided sufficient details of the nature and scope of the alleged conspiracy”¹⁴¹ proving that the defendant “played a direct role in the [cross-border] transportation of under-age children...and that he acted as an intermediary in maintaining the links between various members of the conspiracy.”¹⁴² These cases demonstrate that extradition is an important mechanism to combat a transnational crime.

Conclusion

As indicated in this paper, successful prosecutions of cases of human trafficking depend upon exchange of information between countries of origin and countries of destination and should not be barred because of jurisdictional limitations, refusal to submit to an extradition order, or limiting the application of the law to the territoriality principle. National responses to a transnational problem are not enough. Countries of origin, transit, and destination must work together designing policies and drafting action plans and executing

MOUs that address the problem at the international level. These policies, action plans, and memoranda of understanding should be based on the principles of cooperation, partnership, and participation. Countries must criminalize all forms

National responses to a transnational problem are not enough. Countries of origin, transit, and destination must work together designing policies and drafting action plans and executing MOUs that address the problem at the international level.

of trafficking that constitute illicit trade businesses and take actions to bar human trafficking from disturbing legal labor markets. Countries must also criminalize trafficking-related crimes, whether they are money

laundering or corruption of public officials. Standards set by international legal instruments that require states to investigate and prosecute cases of human trafficking, facilitate the reparation of victims of human trafficking, and fully cooperate to eradicate this serious crime must be observed and implemented.

Notes

¹ However, transnationality is not a requirement for the establishment of the crime. It may however constitute an aggravated circumstance that enhances the penalty. For instance, the Penal Code of the Czech Republic of 2004 establishes heavier penalties if the perpetrator “commits such act in connection with an organized group operating in more countries” in article 232 (4b).

² Mohamed Y. Mattar, “Incorporating the Five Basic Elements of a Model Anti-trafficking in Persons Legislation in Domestic Laws: *From the United Nations Protocol to the European Convention*,” *Tulane J. Int’l & Comp. L.* 14 (Spring 2006): 413–418.

³ UN Office of High Commissioner for Human Rights (OHCHR), Recommended Principles and Guidelines on Human Rights and Human Trafficking, “Guideline 11: Cooperation and Coordination between States and Regions,” 2002.

⁴ United Nations (UN), Protocol To Prevent, Suppress And Punish Trafficking In Persons, Especially Women And Children, Supplementing The United Nations Convention Against Transnational Organized Crime of 2000 (UN Protocol), Article 3a, 2000.

⁵ Saudi Arabia Law for Combating Crimes of Trafficking in Person of 2009, Article 2 (2002): “Prohibits trafficking in any person in any form including forcing, threatening, defrauding, deceiving, kidnapping him/her. Prohibiting exploiting position, authority, exploiting a person’s weakness, or giving person money or benefits to gain approval of one person to control another person for the purpose of sexual assault. Prohibits forced work or service, begging, slavery or semi slavery practices, enslaving, removing physical parts, or subjecting a person to medical tests.”

⁶ Qatari Law NO. (15) OF YEAR 2011, On Combating Trafficking in Human Beings, Article 2 (2011): Whoever recruits, transports, submits, harbors, receives a natural person in any form, whether inside a state territory or across its national borders, through the use of force, violence or threat to use any of them or through abduction, fraud, misrepresentations or through the abuse of power or by exploiting a position of vulnerability or need or by promising to provide or receive of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation in whatever form, is committing the crime of trafficking in human beings. Exploitation shall include the exploitation of the prostitution of others or any forms of sexual exploitation and sex trafficking of children, pornography or begging, forced labor or services, slavery or practices similar to slavery, servitude or removal of human organs, tissues or parts of it, commits a crime of trafficking inhuman beings.

⁷ The Law of Lebanon for Combating Trafficking in Persons, Article 586 (1).

⁸ Israel Prohibition of Trafficking in Persons (Legislative Amendments) Law, 5766 – 2006, Article 12 (2006): “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: (2): giving birth to a child and taking the child away.”

⁹ Republic of the Philippines Anti-Trafficking in Persons Act of 2003, Article 4 (2003): “It shall be unlawful for any person, natural or juridical, to commit any of the following acts: (b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage; and (c) To offer or contract marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in

prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage.”

¹⁰ The European Parliament and The Council of 5, Directive 2011/36/EU of The European Parliament and of The Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, Article 2 (3) (2011): “Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.”

¹¹ Egyptian Const. of 2012, art. LXXIII: “All forms of oppression, forced exploitation of human beings, and sex trade are prohibited and criminalized by law.”

¹² Nicole J. Karlebach, review of *Recognizing Women’s Worth: The Human Rights Argument for Ending Prostitution in India*, by Geetanjali Gangoli, *B.C. Third World L.J.* 28 (Spring 2008).

¹³ Diane L. Fahey, *Can Tax Policy Stop Human Trafficking?*, *Geo. J. Int’l L.* 40 (Winter 2009).

¹⁴ *United States v. Castaneda*, 239 F. 3d (9th Cir. 2001).

¹⁵ For example, in Afghanistan, some families knowingly sell their children into prostitution, known as *bacha baazi*. See the U.S. Department of State, *Trafficking in Persons Report 2012* (TIP Report 2012), 62.

¹⁶ The Protection Project, “The Protection Project Review of the Trafficking in Persons Report,” July 2012, 41.

¹⁷ United Nations Office of Drugs and Crime (UNODC), *Global Report on Trafficking in Persons 2012*, 50–51. The report also notes that victims of trafficking for sexual exploitation are detected more than victims of other forms of exploitation, including labor exploitation, pp.7

¹⁸ U.S. Department of Labor, *List of Goods Produced by Child Labor or Forced Labor* (2012): 1.

¹⁹ *Ibid.*, 13.

²⁰ *Ibid.*, 15–24.

²¹ Mohamed Y. Mattar, “Corporate Criminal Liability: Article 10 of the Convention against Transnational Organized Crime,” *Columbia Journal of International Affairs* 66 (Fall/Winter 2012).

²² State of California Department of Justice, Office of the Attorney General, *Human Trafficking*.

²³ Sarah Miller Llana, “Mexico Massacre: How the drug war is pushing cartels into human trafficking,” *The Christian Science Monitor*, Aug. 30, 2010. See also: Josh Meyer, “Drug Cartels Raise the Stakes on Human Smuggling,” *Los Angeles Times*, Mar. 23, 2009.

²⁴ Arab Regional Symposium on Combating Drug Trafficking and Money Laundering through the Mail, Tripoli Action Plan on Drug Trafficking and Money Laundering through the Mail, Nov. 25–27, 2007.

²⁵ *Ibid.*

²⁶ Colleen M. Traugher, “Terror-Crime Nexus? Terrorism and Arms, Drug, and Human Trafficking in Georgia,” *The Quarterly Journal* 2007, pp. 47

²⁷ Colonel Sandra L. Keefer, “Human Trafficking and the Impact on National Security for the United States,” *USAWC Strategy Research Project*, Mar. 15 2006, 3.

²⁸ *Trafficking Victims Protection Reauthorization Act of 2005*, Section 112 (2005).

²⁹ Frank Laczko And Marco A. Gramegna, “Developing Better Indicators of Human Trafficking,” *Brown J. World Affairs* 10 (2003): 181.

³⁰ *Ibid.*

³¹ *Ibid.*, 183.

³² “21 million people are now victims of forced labour, ILO says”, *ILO News*, June 2, 2012.

³³ Bureau of Justice Statistics Office of Justice Program, *Human Trafficking/Trafficking in Persons*.

³⁴ TIP Report 2012, 360.

³⁵ See generally: Genny Ngai, “Money Laundering,” *Am. Crim. L. Rev.* 49 (Spring 2012); Anna Driggers, “Money Laundering,” *Am. Crim. L. Rev.* 48 (Spring 2011); Osita Agbu, “Corruption and Human Trafficking: The Nigeria Case,” *West Africa R.* 4 (2003); Michael Levi, “Money Laundering and Its Regulation,” *The ANNALS of the American Academy of Political and Social Science* 582 (2002).

³⁶ UN, Convention against Transnational Organized Crime of 2000, Article 7 (1a).

³⁷ *Ibid.*, Article 7 (2).

³⁸ *Ibid.*, Article 7 (4).

³⁹ Financial Action Task Force (FAFT), International Standards on Combating Money Laundering and the Financing Of Terrorism & Proliferation, The FAFT Recommendations, Feb 16, 2012, 36–40.

⁴⁰ Arab Republic of Egypt Law No. (64) of 2010 regarding Combating Human Trafficking, Article 14 (2010).

⁴¹ Nigerian Money Laundering (Prohibition) Act, Article 15 (a) (2011).

⁴² *Ibid.*, 34.

⁴³ See generally: Virginia M. Kendall, “Greasing the Palm: An Argument for Increased Focus on Public Corruption in the Fight against International Human Trafficking,” *Cornell Int’l L.J.* 44 (Winter 2011).

⁴⁴ Trafficking Victims Protection Act: Minimum Standards for the Elimination of Trafficking in Persons, Section B (7): “Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a peacekeeping or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone such trafficking.”

⁴⁵ UNODC Human Trafficking Case Law Database, Auto Supremo 200/2007, Bin Xin Zhang Zhang et al.

⁴⁶ *Ibid.*, Bangladesh Society for the Enforcement of Human Rights (BSEHR) and Ors v. Government of Bangladesh and Ors.

⁴⁷ TIP Report 2012, 217.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*, 245.

⁵⁰ *Ibid.*, 285.

⁵¹ Arab Republic of Egypt The People’s Assembly Law No. (64) of 2010 regarding Combating Human Trafficking, Article 6 (4) (2010): “Life imprisonment and a fine not less than 100,000 pounds and not to exceed 500,000 pounds shall be imposed on anyone who committed the crime of human trafficking in the following cases: 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.”

⁵² Sultanate of Oman Royal Decree 126/2008: Promulgating the Law Combating Trafficking In Persons, Article 9 (F) (2008): “Imprisonment of a minimum term of seven years and a maximum term of fifteen years and a fine of a minimum amount of ten thousand riyal and a maximum amount of one hundred thousand riyal shall be imposed for the crime of human trafficking in any of the following cases: If the perpetrator was a public sector employee or designated to perform a public service and misused the position to commit the crime.”

⁵³ Qatari Law NO. (15) OF YEAR 2011 On Combating Trafficking in Human Beings, Article 15 (5) (2011): “A person who has committed an offence of human trafficking shall be punished by imprisonment for a period not exceeding fifteen (15) years and a fine not exceeding three hundred thousand (300,000) Riyals, in the following cases: If the perpetrator was a public employee or was assigned to carry out a public service and committed the crime by exploiting this capacity.”

⁵⁴ UN, General Assembly Resolution 55/25 of 15 November 2000, United Nations Convention against Transnational Organized Crime and the Protocols Thereto, 2004, Article 8: 1: “Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally: (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; (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. Article 9 (2): Each State Party shall take measures

to ensure effective action by its authorities in the prevention, detection and punishment of the corruption of public officials, including providing such authorities with adequate independence to deter the exertion of inappropriate influence on their actions.”

⁵⁵ UN, General Assembly Resolution 58/4 of 31 October 2003, United Nations Convention against Corruption Article 43: “1. States Parties shall cooperate in criminal matters in accordance with articles 44 to 50 of this Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption. 2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.”

⁵⁶ *Ibid.*, Article 46: “1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention. 2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.”

⁵⁷ *Ibid.*, Article 44: “1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party. 2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.”

⁵⁸ UN, UN Convention against Corruption, Article 12: “1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.”

⁵⁹ The Convention covers the various forms of corruption, criminalization of corruption, liability of the legal person, prosecutions, sanctions and convictions, forfeiture of assets, compensation for harm, preventive measure, independence of the judiciary, witness protection, assistance to victims of crimes of corruption, regional cooperation among Arab countries, mutual assistance in criminal matters, extradition of criminals, joint investigations, and calls upon state parties to cooperate with civil society and to cooperate with the private sector. As such, the regional convention is in compliance with the UN Convention against Corruption of 2003 and should serve as a guide for countries in the region who are in the process of drafting anti-corruption laws or establishing specialized units or commissions to combat corruption.

⁶⁰ The Arab Strategy to Combat Human Trafficking.

⁶¹ The Protection Project, “Trafficking in Persons: Global Overview, Current Trends, and Pathways Forward,” 2009, 57.

⁶² United Arab Emirates was placed by the TIP Report in 2003 in Tier 1 mainly because it passed a law that prohibited use of children as camel jockeys.

⁶³ TIP Report 2012, 289.

⁶⁴ *Ibid.*, 211.

⁶⁵ *Ibid.*, 264.

⁶⁶ *Ibid.*, 361.

⁶⁷ See generally: John Reynolds, “Universal Jurisdiction to Prosecute Human Trafficking: Analyzing the Practical Impact of a Jurisdictional Change in Federal Law,” *Hastings Int’l & Comp. L. Rev.* 34 (2011).

⁶⁸ INTPEROL, “INTERPOL Tools,” <http://www.interpol.int/Crime-areas/Trafficking-in-human-beings/INTERPOL-tools>.

⁶⁹ *Ibid.*

⁷⁰ See generally: Ashley Ingber, "Cyber Crime Control: Will Website Ever Be Held Accountable for the Illegal Activities they Profit From?," *Cardozo J.L. & Gender* 18 (2012).

⁷¹ *United States v. Bonestroo*, CR. 11-40016-01-KES.

⁷² *Ibid.*

⁷³ Trafficking Victims Protection Reauthorization Act of 2013, Section 105A (b1) (2013).

⁷⁴ Trafficking Victims Protection Act: Minimum Standards for the Elimination of Trafficking in Persons, Section B (4) (2000): "Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons."

⁷⁵ William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Section 111: Sense of Congress Regarding Multilateral Framework between Labor Exporting and Labor Importing Countries (2008).

⁷⁶ Trafficking Victims Protection Act: Minimum Standards for the Elimination of Trafficking in Persons, Section B (4) (2000).

⁷⁷ See generally: Rocio Garza, "Addressing Human Trafficking along the United States-Mexico Border: The Need for Bilateral Partnership," *Cardozo J. Int'l & Comp. L.* 19 (Spring 2011).

⁷⁸ UN, Protocol to Prevent, Suppress and Punish Trafficking In Persons, Especially Women and Children, Supplementing The United Nations Convention against Transnational Organized Crime of 2000, Article 10 (1c).

⁷⁹ *Ibid.*, Article 10 (1a & b).

⁸⁰ *Ibid.*, Article 10 (2).

⁸¹ *Ibid.*, 237.

⁸² *Ibid.*, 143.

⁸³ *Ibid.*, 203.

⁸⁴ International Labour Organization, C189 - Convention concerning decent work for domestic workers, 2011. The Convention will enter into force on September 5, 2013.

⁸⁵ *Ibid.*, Article 8 (3): "Members shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers."

⁸⁶ Memorandum of Understanding between The United States' Human Smuggling and Trafficking Center and The Royal Canadian Mounted Police On the Dissemination and Exchange of Information, March 2012, Part 2.

⁸⁷ Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region, October 2004.

⁸⁸ *Ibid.*, Section 5 (32): "Creating a national task force to collaborate with the COMMT (United Nations Inter-Agency Project against Trafficking in the Greater Mekong Sub-Region) and other partners."

⁸⁹ Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Kingdom of Cambodia on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking, May 2003.

⁹⁰ *Ibid.*, Article 16: "(a) The authorities in charge of repatriation shall use the diplomatic channel of communication to inform the other Party of repatriation arrangements of trafficked children and women in advance; and (b) Repatriation of trafficked children and women shall be arranged and conducted in their best interest."

⁹¹ *Ibid.*, Article 8: "(a) Victims may claim restitution of any undisputed personal properties and belongings that have been confiscated or obtained by authorities in the process of detention or any other criminal procedure; (c) Victims may claim compensation from the offender of any damages caused by trafficking in children and women; and (d) Victims may claim payment for unpaid services from the offender."

⁹² *Ibid.*, Article 9: "The relevant governmental agencies where appropriate, in cooperation with non-governmental organizations, shall provide trafficked children, women, and their immediate family, if any, with safe shelter, health care, access to legal assistance, and other imperatives for their protection."

⁹³ *Ibid.*, Article 13: "The police and other relevant authorities in both countries shall cooperate in exchange of information concerning trafficking cases, e.g. trafficking routes, places

of trafficking, identifications of traffickers, network of trafficking, methodologies of trafficking, and data on trafficking.”

⁹⁴ *Ibid.*, Article 3: “The Parties recognize that examples of the purposes of trafficking in children and women include, but are not limited to, the following: (a): prostitution; (b): forced or exploitative labor; (c): bonded labor and other forms of hazardous, dangerous and exploitative labor; (d): servile marriage; (e): false adoption; (f): sex tourism and entertainment; (g): pornography; (h): begging; and (i): slavery by the use of drugs on children and women.”

⁹⁵ UNODC, Human Trafficking Case Law Database, H., S., D. & S., 2009.

⁹⁶ *Rantsev v. Cyprus*, 49 ILM 415 (2010); See also: Roza Pati, “States’ Positive Obligations with Respect to Human Trafficking: The European Court of Human Rights Breaks New Ground in *Rantsev V. Cyprus and Russia*,” *B.U. Int’l L.J.* 29 (Spring 2011).

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

⁹⁹ Council of Europe, Convention on Action against Trafficking in Human Beings, 2005, Article 16: “1 The Party of which a victim is a national or in which that person had the right of permanent residence at the time of entry into the territory of the receiving Party shall, with due regard for his or her rights, safety and dignity, facilitate and accept, his or her return without undue or unreasonable delay. 2 When a Party returns a victim to another State, such return shall be with due regard for the rights, safety and dignity of that person and for the status of any legal proceedings related to the fact that the person is a victim, and shall preferably be voluntary. 4 In order to facilitate the return of a victim who is without proper documentation, the Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving Party shall agree to issue, at the request of the receiving Party, such travel documents or other authorization as may be necessary to enable the person to travel to and re-enter its territory.” See also: Cherish Adams, “Re-Trafficked Victims: How a Human Rights Approach can Stop the Cycle of Re-Victimization of Sex Trafficking Victims,” *Geo. Wash. Int’l L. Rev.* 43 (2011).

¹⁰⁰ Arab Republic of Egypt Law No. (64) of 2010 regarding Combating Human Trafficking, Article 25 (2010)..

¹⁰¹ *Ibid.*

¹⁰² Draft Law No. 1 of 2008 with Respect to Trafficking in Persons, Article 7 (2) (2008): “The functions of the Committee shall be as follows: Co-ordinating with the Ministry of the Interior for the repatriation of the victim to his home country of which he is a national or to his place of residence in any other country if he so requests.”

¹⁰³ Qatari Law NO. (15) OF YEAR 2011 On Combating Trafficking in Human Beings, Article 5 (2011): “The competent authorities shall ensure the protection and the physical and psychological safety of the victims and shall provide them with medical, educational and social care and shall work to provide the suitable circumstances to rehabilitate and merge them in the society in a manner appropriate to their needs, human dignity, age and gender. The competent authorities shall in cooperation and coordination with the victims’ countries or with countries in which the victims have a permanent residence, return them home safely.”

¹⁰⁴ Moldovan Law on Preventing and Combating Trafficking in Human Beings, No. 241–XVI of 20 October 2005, Article 34 (2005).

¹⁰⁵ Taiwan Human Trafficking Prevention and Control Act of 2009, Article 6 (2009).

¹⁰⁶ TIP Report 2012, 146; See also: The Protection Project, “The Protection Project Review of the Trafficking in Persons Report,” July 2012.

¹⁰⁷ *Ibid.*, 147

¹⁰⁸ *Ibid.*, 252

¹⁰⁹ *Ibid.*, 196

¹¹⁰ *Ibid.*, 319

¹¹¹ *Ibid.*, 75

¹¹² TIP Report 2012, 169.

¹¹³ *Ibid.*, 224.

¹¹⁴ See: Benjamin Perrin, “Just Passing Through? International Legal Obligations and Policies of Transit Countries in Combating Trafficking in Persons,” *EUR. J. Criminology* 7 (2010).

¹¹⁵ Danielle Ireland-Piper, “Extraterritorial Criminal Jurisdiction: Does the Long Arm of the Law Undermine the Rule of Law?,” *Melbourne J. Int’l L.* 13 (2012).

¹¹⁶ Criminal Code of the Republic of Azerbaijan, Article 27: “Citizens of the Republic of Azerbaijan, foreigners and stateless persons who committed crimes connected with human trafficking shall be brought before responsibility on the basis of the Criminal Code of the Republic of Azerbaijan regardless where they committed the crimes.”

¹¹⁷ Arab Republic of Egypt Law No. 64 of 2010 regarding Combating Human Trafficking, Article 16 (2010).

¹¹⁸ Mohamed Mattar, “Incorporating the Five Basic Elements of a Model Anti-Trafficking in Persons Legislation in Domestic Laws: From the United Nations Protocol to the European Convention,” *Tulane J. Int’l & Comp L.* 14 (2006): 415.

¹¹⁹ UN, Standards of Conduct, Ten Rules: Code of Personal Conduct for Blue Helmets. http://www.un.org/en/peacekeeping/documents/ten_in.pdf (Accessed on March 28, 2013).

¹²⁰ Elizabeth F. Defeis, “U.N. Peacekeepers and Sexual Abuse and Exploitation: An End to Impunity,” *WASH. U. GLOBAL STUDIES L. REV.* 7 (2008): 187; See generally: Peter Rowe, “United Nations Peacekeepers and Human Rights Violations: the Role of the Military Discipline,” *HARVARD INT. L. J.* 51 (2010).

¹²¹ “UN Police in Haiti Accused of Sexual Abuse,” BBC News, Jan. 23, 2012.

¹²² Muna Ndulo, “The United Nations Responses to Sexual Abuse and Exploitation of Women and Girls by Peacekeepers during Peacekeeping Missions,” *Berkeley J. Int’l L.* 27 (2009).

¹²³ *Ibid.*, 129.

¹²⁴ UN, General Assembly Resolution 55/25 of 15 November 2000, United Nations Convention against Transnational Organized Crime, Article 16 (1–17).

¹²⁵ UN Convention against Transnational Organized Crime, Declaration of the Republic of Panama: “The Government of the Republic of Panama hereby declares that, in connection with articles 16 and 18 of the Convention, it shall not be obliged to carry out extraditions or to render mutual legal assistance in cases where the events giving rise to a request for extradition or mutual legal assistance are not offences under the criminal legislation of the Republic of Panama.”

¹²⁶ *Ibid.*, Declaration of the The Socialist Republic of Viet Nam: “Pursuant to Article 16 of this Convention, declares that it shall not take this Convention as the direct legal basis for extradition. The Socialist Republic of Viet Nam shall carry out extradition in accordance with the provisions of the Vietnamese law, on the basis of treaties on extradition and the principle of reciprocity.”

¹²⁷ *Ibid.*, “The Republic of Armenia: Pursuant to paragraph 5 of Article 16 of the Convention the Republic of Armenia declares that it will take the Convention as the legal basis for cooperation on extradition with other States Parties to the Convention. However, at the same time the Republic of Armenia declares that it shall apply the Convention in relations with the States Parties of the European Convention on Extradition, done at Paris, on 13th day of December 1957, provided that the Convention supplements and facilitates the application of the provisions of the European Convention on Extradition.”

¹²⁸ *Ibid.*, The Republic of Burundi: “...pursuant to article 16 (5) b), the Government of the Republic of Burundi does not consider this Convention as the legal basis for cooperation on extradition and therefore makes extradition conditional to the existence of a treaty and will seek, where appropriate, to conclude treaties on extradition with other States Parties in order to implement this article.”

¹²⁹ *Ibid.*, The Republic of Moldova: “In accordance with paragraph 5 (a) of Article 16 of the Convention, the Republic of Moldova consider the Convention as legal basis for cooperation with other States Parties on extradition. The Republic of Moldova does not consider the Convention as legal basis for extradition of its own citizens and persons who have been granted political asylum in the country, according to national legislation.”

¹³⁰ UNODC, Human Trafficking Case Law Database, 6 Tdo 1166/2007.

¹³¹ *Ibid.*

¹³² *Kodos v. Prosecutor General’s Office of the Republic of Lithuania*, EWHC 897 (2010).

¹³³ Council of Europe, European Convention on Human Rights, Article 7: “1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed. 2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by civilized nations.”

¹³⁴ *Kodos v. Prosecutor General’s Office of the Republic of Lithuania*, EWHC 897 (2010).

¹³⁵ *Processo 08P29*, Supremo Tribunal de Justica, Dec. 11, 2008.

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

¹³⁸ Brazil Decree Law No. 2848, (1940).

¹³⁹ *Gilbert Ektor v. National Public Prosecutor of Holland*, EWHC 3106 (2007).

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*