


Chapter 6

The Complex Landscape of Human Trafficking: A Comprehensive Exploration With Emphasis on Legal Safeguards for Victims in Egyptian and Arab Legislation

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ABSTRACT

Human trafficking victims suffer a direct assault on their fundamental rights, enduring a modern form of slavery and exploitation. Perpetrated by criminal groups, human trafficking exploits victims, especially women and children, in forced labor, prostitution, or organ trafficking, treating them as commodities in a market driven by supply and demand, thereby profiting at the cost of fundamental rights and human dignity. This chapter underscores the critical significance of understanding the multifaceted challenges inherent in combating human trafficking, emphasizing the urgent need for effective measures. By delving into the complexities of the transnational organized structure of this crime, the chapter provides valuable insights into the hurdles faced by law enforcement and investigative agencies. Recognizing the gravity of human trafficking as a direct violation of fundamental rights and human dignity, this chapter aims to contribute to the development of comprehensive strategies and policies to address this pervasive issue.

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INTRODUCTION

The pivotal chapter highlights the crime of human trafficking as a blatant violation of human rights, drawing global attention to this issue (Weitzer, 2014). International interest in combating this severe crime is evident through initiatives by organizations like the United Nations, which called for action and protection of victims with the Palermo Protocol in 2000, a complementary agreement to the United Nations Convention on Preventing and Combating Transnational Organized Crime. Notably, the Palermo Protocol has been ratified by 178 countries globally, representing around 90% of United Nations member states (El-Kady, 2022).

Regional organizations, including the European Union and the League of Arab States, also prioritize combatting human trafficking. Comparative legislation, influenced by two trends, either includes human trafficking in the Penal Code or adopts special laws to criminalize it. The latter approach, followed by Egyptian legislation and the majority of Arab legislation, underscores the need for integrated criminal legislation to effectively counter this menace (Selim, 2005). This chapter, crucial in its examination of human trafficking, recognizes it as a form of organized crime threatening societal stability and the rule of law (Selim, 2005).

Organized crime groups engage in covert activities, using bribery and violence to involve customs and border workers in facilitating smuggling operations, further underscoring the gravity of the issue. The chapter reveals the criminal seriousness of perpetrators involved in human trafficking, indicating underlying psychological defects. Additionally, it sheds light on the vulnerability of victims forced by circumstances to become commodities traded by trafficking gangs.

The weaknesses in some national legislations to combat this crime underscore the need for dedicated research and study (El-Kady, 2022). This chapter posits that identifying victims of human trafficking is challenging, hindering the provision of legal protection due to the clandestine nature of exploitation and victims' reluctance to report, driven by coercion and violence (Al-Shammari, 2021). The objective is to illuminate legal protection for victims in Egyptian and Arab legislations, examining their alignment with international standards. Key questions will be addressed, encompassing the definition of human trafficking, exploration of legal protections, assessment of their sufficiency, and examination of national mechanisms ensuring victims' rights.

The chapter explores varied legal approaches to defining and combating human trafficking, examining international instruments like the Palermo Protocol and regional conventions while comparing legislations, such as those in French, Italian, Arab, and Egyptian laws, highlighting two distinct trends in defining and addressing human trafficking; it emphasizes the transnational nature of these crimes, explores challenges in defining human trafficking, and underscores the global impact, organized

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crime involvement, and various forms of exploitation, ultimately delving into the legal protection for victims in Egyptian Law.

LEGAL APPROACHES TO DEFINING AND COMBATTING HUMAN TRAFFICKING

The term “human trafficking” is sometimes viewed as a metaphor for exploiting the vulnerabilities of victims (Talabani, 2016). While linguistically suggestive of actual buying and selling, it more accurately encompasses actions that exploit a person’s vulnerability through specific means, distinct from the notion of slave markets or direct transactions. Throughout history, societies have recognized similar practices under the terms of slavery and prostitution (Al-Ashry, 2014). The introduction of this new term necessitates a clear definition and an exploration of its essence and elements.

‘Trafficking in persons’ and ‘human trafficking’ are interchangeable terms, with the United Nations adopting the former in the Protocol against Trafficking in Persons and the Council of Europe using the latter in the Council of Europe Convention on Action against Trafficking in Human Beings (2005). The Palermo Protocol, supplementing the United Nations Convention against Transnational Organized Crime, defines human trafficking as the recruitment, transportation, transfer, harboring, or receipt of persons through coercive means for the purpose of exploitation (Article 3 “a” of the Palermo Protocol).

The significance of the Palermo Protocol lies in being considered a crucial international instrument for combating human trafficking. It establishes a specific legal definition of the crime and obligates States Parties to adopt legislative measures criminalizing human trafficking. This approach is echoed in various regional international conventions, including the European Convention for Action against Human Trafficking and the Arab Convention to Combat Transnational Organized Crime. Comparative legislations also align with the Protocol, adopting its definition and most criminal provisions related to human trafficking (Talabani, 2016).

Beyond defining criminal acts, the Protocol addresses two critical matters. First, it rejects reliance on victims’ will in human trafficking crimes, assuming victim status even if accused of criminal offenses. Second, it mandates increased punishment for child victims, irrespective of coercive means, emphasizing enhanced protection for children in human trafficking crimes. The protocol specifically outlines criminal behaviors, such as recruitment, transportation, delivery, shelter, or reception, assuming the absence of the victim’s will to exploit them. These acts often exhibit a transnational nature, occurring in multiple countries (Fahmy, 2011).

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The majority of comparative legislations offer specific definitions of human trafficking, exhibiting two distinct trends. The first, observed in French, Italian, and several Arab laws, including those of Saudi Arabia, Bahrain, Oman, Syria, Jordan, Qatar, and Kuwait, aligns with the Palermo Protocol. For instance, Article (225-4-1) of the French Penal Code defines human trafficking as the recruitment, transportation, delivery, harboring, or receipt of a person for exploitation. The criteria encompass various factors such as threats, coercion, violence, fraudulent methods, abuse of authority, and exploitation of vulnerabilities (Abdel Moneim, 2009).

The second approach is evident in Egyptian legislation, expanding the scope of criminal behavior related to human trafficking. The Emirati legislation, aligning with the Egyptian approach, broadens the definition beyond the Palermo Protocol's scope. Federal Law No. (1) of 2015 in the UAE introduced new forms of criminal behavior, including the involvement of images of sale, purchasing, offering for sale, recruiting, using, harboring, delivering, and receiving in the criminalization of human trafficking (El-Kady, 2015).

The Egyptian Law against Human Trafficking No. (64/2010) adopts a comprehensive definition, encompassing various interactions using coercive means to exploit individuals, both within the country and across national borders. Contrary to restricting criminal acts, the Egyptian legislator criminalizes every interaction involving coercive means that affects an individual's will to exploit them (Majid, 2022).

Scholars (Kara, 2017; Chuang, 2014; Zhang, 2012; Weitzer, 2007; Yen, 2007) note the difficulty in defining human trafficking, hindering academic and policy debates. Disagreements persist in the literature, with some arguing that any illegal migration for employment, especially involving prostitution, should be considered trafficking, regardless of consent or awareness (Kara, 2017; Yen, 2007). Governments often conflate human smuggling and trafficking, incorporating them into official statistics and legal frameworks (UNODC, 2012; Zhang, 2012). Equating trafficking with slavery in official rhetoric, if not legislation, is observed in certain cases (Chuang, 2014; Weitzer, 2007). The U.S. government, previously differentiating between trafficking and slavery, shifted its stance in 2012, leading to an increase in reported victims—a phenomenon termed “exploitation creep” by Chuang (2014).

Human trafficking, identified as a crime against humanity, possesses distinctive characteristics that set it apart. This criminal act primarily targets human beings and often exhibits an international dimension, orchestrated by organized criminal groups, emphasizing the covert nature of these offenses, as delineated in the 2000 Palermo Protocol. Legislation across various jurisdictions universally acknowledges the gravity of human trafficking, reflecting a collective effort to prevent and punish such crimes (Kara, 2017).

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Religious teachings and principles across divine religions uniformly denounce the crime of human trafficking (Weitzer, 2007). Furthermore, it starkly contradicts the principles enshrined in international conventions on human rights, such as the Universal Declaration of Human Rights, which unequivocally prohibits slavery and the slave trade in all forms (Article 4) (Chuang, 2014). Similarly, it contravenes Article Eight of the International Covenant on Civil and Political Rights established by the United Nations. Considered a severe threat to human security, human trafficking unfolds through force, fraud, or coercion, constituting a crime against persons.

The phenomenon of human trafficking has evolved into a global challenge affecting numerous countries worldwide, with statistics from the United Nations Office on Drugs and Crime revealing its prevalence in 161 countries. This widespread reach underscores the severity and international dimension of the issue, as individuals are trafficked in 127 countries and subjected to exploitation in an equivalent number. This ubiquity emphasizes that no country or region is immune to the scourge of human trafficking.

The nature of human trafficking prompts the question of whether it is a national or transnational crime necessitating collective efforts across borders. Technological advancements and the information and communications revolution have ushered in an era of globalization, turning the world into a closely connected community (Zhang, 2012; Weitzer, 2007). While some crimes remain primarily national, others, including human trafficking, have acquired a transnational character due to their potential to traverse multiple borders. The United Nations Convention against Transnational Organized Crime attests to this trend by formulating a definition for transnational crimes (El-Kady, 2022).

Human trafficking is inherently a cross-border crime, extending beyond national boundaries and often orchestrated by criminal elements operating internationally. Despite its global nature, certain legislations, including Egyptian law, distinguish between human trafficking crimes occurring domestically and those of an international nature, imposing stiffer penalties for the latter (Al-Ashry, 2014).

The global scope of human trafficking is further underscored by reports from the United Nations Office on Drugs and Crime, which collects data from 148 countries. The 2020 report highlights the pervasive nature of human trafficking, demonstrating its impact on the majority of countries worldwide.

Human trafficking, being a hidden crime, presents unique challenges for comprehensive understanding and combat. Organized crime groups engaged in human trafficking operate clandestinely, seeking to conceal their activities from law enforcement agencies. This clandestine nature results in a lack of accurate statistics or information about these illicit activities, compounded by victims' reluctance to report due to threats or fear of persecution (Weitzer, 2014). The difficulty in assessing the

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extent of human trafficking arises from deficiencies in data collection and statistics at the international level, with variations in the definition of the phenomenon across countries. The 2020 Global Report on the Situation of Human Trafficking emphasizes the clandestine nature of the crime, revealing that while approximately 50,000 victims were detected and reported in 2018 across 148 countries, the actual number of victims is likely much higher due to the hidden nature of the crime (Al-Shammari, 2021).

HUMAN TRAFFICKING: A HEINOUS CRIME AGAINST HUMANITY AND AN ORGANIZED CRIMINAL ATROCITY

What distinguishes human trafficking from other crimes is its focus on the person as the subject (Kara, 2017). While penal codes typically criminalize attacks on various legal interests, such as life, physical integrity, and property, human trafficking uniquely aims to protect an individual's freedom and human dignity. The legislature recognizes the distinctiveness of this crime, signaling its gravity not only in terms of its means but also due to its profound psychological and social effects on victims, making it a potent force capable of undermining entire societies (Chuang, 2014; Zhang, 2012).

Victims of human trafficking are often individuals compelled by various circumstances—economic, social, or political—to fall prey to trafficking networks. The crime, centered on the human being as a mobile and renewable commodity, facilitates exploitation over time (Dill, 2006). Its unique nature lies in the disparity between the substantial risks and penalties associated with the criminal offense compared to other organized crimes, such as drugs and weapons, coupled with the substantial profits reaped by perpetrators (Gozdziak & Collett, 2005). International estimates reveal the staggering scale of the issue, with approximately four million people trafficked annually, predominantly women and children. Disturbingly, nearly half are trafficked for sexual exploitation and prostitution (43%), while 32% are subjected to forced labor, and 23% endure both (Coomaraswamy, 2003).

The crime of human trafficking stands out as a particularly egregious manifestation of organized criminal activities. Criminal syndicates engage in human trafficking operations primarily due to the substantial profits associated with this illicit trade, creating a formidable challenge for law enforcement agencies. The very nature of these criminal organizations poses significant dangers, making the confrontation of human trafficking a complex endeavor (Lee, 2005).

The United Nations Convention against Organized Crime, along with Egyptian legislation, has meticulously defined the characteristics of an organized criminal group. Notably, such a group is identified by its pluralistic structure, requiring a minimum of three individuals for classification (Finckenauer, 2005). The organizational

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element is a key feature, involving the systematic division of roles and tasks within the group. Each member assumes a crucial role within a hierarchical framework, with leadership overseeing organization, direction, and management, while other individuals handle various executive roles in carrying out criminal activities. The organization's structure includes fixed tasks, maintaining a strict internal constitution to ensure loyalty and the safeguarding of the group's secrets (Lyman & Potter, 1997).

Continuity is another defining aspect of organized criminal groups, signifying the sustained association between members over a period. This continuity encompasses the initiation of various criminal activities, distinguishing it from traditional crimes where the agreement typically concludes upon the commission of a specific offense. In organized criminal groups, the aim is to profit through the ongoing practice of criminal activities (Obuah, 2006).

It is imperative to underscore that the United Nations Convention Against Transnational Organized Crime (2000) mandates that the activities of such groups be linked to criminal acts carrying a penalty of imprisonment not less than four years. This requirement aligns with the stance of the Egyptian legislator concerning human trafficking, recognizing it as a felony punishable by aggravated imprisonment ranging from 3 to 15 years. In this context, the legislative framework ensures a stringent response to the severe crime of human trafficking, reflecting the commitment to combatting organized criminal activities at both international and national levels (Talabani, 2016).

The concept of human trafficking, as outlined in the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons (2000), is unmistakably defined by the recruitment of individuals without their consent by organized criminal groups. These groups employ methods such as fraud or coercion, operating from the "state of origin" to transport victims across borders, ultimately leading to the "state of destination." In this final state, victims face exploitation in various forms, including prostitution, sexual exploitation, forced labor, slavery, practices akin to slavery or servitude, and the extraction of organs for financial gain (Al-Ashry, 2017).

This definition, encapsulated in the Protocol, underscores two pivotal elements characterizing human trafficking. Firstly, the crime is inherently organizational, perpetrated by criminal groups involved in recruiting and transporting individuals across state borders. Secondly, it possesses an international dimension, traversing multiple countries (origin - transit - destination) for the purpose of exploiting victims in crimes such as prostitution, sexual exploitation, forced labor, slavery, practices similar to slavery or servitude, and organ removal for financial gain (Qorari, 2009).

This conceptualization highlights the gravity of contemporary criminal gangs engaging in this form of transnational crime, demonstrating the widespread impact across numerous countries (El-Kady, 2012). It propels these criminal organizations into participating in international migration movements, utilizing them as a means

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to commit multiple crimes and exploit individuals for profit and wealth. Organized crime, defined as a group engaging in illegal activities for financial gain, encompasses human trafficking within its purview (El-Kady, 2015). Criminal gangs specializing in this crime have professionalized their activities, making it a central focus and primary source of income, generating significant and swift financial flows through a combination of traditional and innovative methods (El-Kady, 2011).

Estimates underscore the alarming reality that various forms of human trafficking now rank as the third-largest criminal activity globally, trailing only behind arms and drug trafficking (Obuah, 2006; Weitzer, 2014; Wylie, 2016). There is a growing anticipation that human trafficking may surpass arms trafficking in the future, claiming the second spot after drug trafficking. The question arises as to the reasons behind the escalating profits from human trafficking. This trend can be attributed to the lower risks associated with this trade for organized crime groups compared to other forms of organized crime (Walker-Rodriguez & Hill, 2011). Additionally, the sustained profitability is maintained through the repeated exploitation of humans over extended periods, contributing to the enduring appeal of this criminal enterprise (Weitzer, 2014).

Human trafficking is often positioned as the second or third-largest criminal enterprise globally, following narcotics and arms trafficking, according to some scholars. The primary U.S. law against trafficking emphasizes that it is the fastest-growing revenue source for organized criminal groups on a global scale. In 2004, the U.S. State Department officially designated human trafficking as the third-largest criminal enterprise worldwide, while in 2006, the U.S. Department of Health and Human Services elevated its status, equating it with the arms trade as the second-largest criminal sector globally, citing its rapid expansion. The FBI echoes this sentiment, ranking “human sex trafficking” as the third-largest criminal activity on a global scale (Walker-Rodriguez, 2011).

However, it is crucial to note the lack of concrete evidence or credible sources supporting these assertions. The secretive nature of drugs, arms, and human trafficking makes substantiating these claims impossible (Andreas, 2010). The UNODC (2012) emphasizes the importance of understanding the scale of the problem to prioritize human trafficking compared to other risks. Despite this, the notion has become deeply ingrained among advocacy groups, official bodies, and the media.

Doubts regarding the extent of organized crime involvement in human trafficking have been raised by several academics. They emphasize that much of the support provided to migrants is on a smaller scale, often carried out by individuals, lacking coordination (Weitzer, 2014). Nevertheless, some indications organized crime gangs participate in illegal activities related to human trafficking and transportation.

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Addressing this requires collaborative international efforts to combat organized crime, redirecting its profits into other criminal activities like money laundering, terrorism, and drug crimes (Väyrynen, 2005).

The estimated annual activities of organized crime gangs worldwide, as per the U.S. Intelligence Agency, stand at approximately a billion U.S. dollars. The flourishing of organized crime weakens governments, fostering corruption and hindering law enforcement. Importantly, the paths of organized crime extend beyond illegal immigration operations to encompass various crimes, including human trafficking (Aronowitz & Veldhuizen, 2021).

Reports from certain newspapers suggest that international mafia gangs collaborate to achieve their goals in human trafficking, generating substantial profits, potentially reaching nearly nine billion dollars annually (Kamel, 2011). These gangs employ various means, ensuring secrecy and safety through bribery and forgery. Among the most perilous international mafia gangs involved in human trafficking are the Vietnamese, Russian, Moroccan, and Lebanese factions (El-Kady, 2011).

TYPES OF HUMAN TRAFFICKING

Human trafficking manifests in various forms, each involving the exploitation of victims. The prominent categories include sexual exploitation, forced labor, child trafficking, and the illicit trade of human organs. The Global Report on the Situation of Human Trafficking for 2020 delineates that 50% of victims were trafficked for sexual exploitation, 38% for forced labor, 6% for forced criminal activities, and 1% for begging. A smaller percentage experienced forced marriage, organ removal, and other purposes (UNODC, 2022).

Sexual Exploitation

Sexual exploitation stands out as the most critical, perilous, and widespread form of human trafficking. The immense profits it yields have led arms and drug dealers to shift to human trafficking due to its lower risks and milder penalties (El-Kady, 2022). Victims, predominantly young women and girls, endure various forms of sexual exploitation, including prostitution, production of pornographic content, and other degrading practices (El-Kady, 2011). Countries are categorized into exporters and importers of prostitution, with exporting nations often grappling with economic challenges, while importing nations, such as North America and Western Europe, create demand (Lee, 2005).

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Forced Labor and Slavery

Forced labor, a pervasive form of human trafficking, is more widespread in sub-Saharan Africa, South and Central Asia, and Eastern Europe. Unlike sexual exploitation, most victims of forced labor are males and boys. The UNODC reported 70 cases involving 900 victims in 11 types of forced labor, highlighting the diversity of this exploitation, including domestic work, factory labor, and street trading (UNODC, 2020; Al-Shammari, 2021). Cross-border forced labor is often linked to labor migration to high-income countries, with factors like weak individual positions and unfavorable work environments contributing to this phenomenon (Al-Shammari, 2021).

Human Organ Trade

The illicit trade of human organs encompasses the buying and selling of tissues, skin, blood, kidneys, and other organs. Advances in medical and surgical technologies have fueled this trade, particularly in impoverished regions where organized crime groups may resort to killing individuals for their organs. Rumors of child kidnappings for organ theft have surfaced, emphasizing the profit-driven nature of this trade (El-Kady, 2012). Poverty-stricken societies often serve as areas of export, while affluent, developed nations act as importers. The trade is exacerbated when conducted as a criminal act, such as organ theft without proper health supervision. Studies affirm a link between organ trafficking and poverty, highlighting the economic, political, and social problems in societies where the trade is prevalent (El-Kady, 2012).

In conclusion, these various forms of human trafficking underscore the urgent need for global efforts to combat this heinous crime and protect the vulnerable individuals who fall victim to its exploitative practices.

VICTIMS, TRENDS, AND GLOBAL IMPLICATIONS

Elements of the crime of human trafficking involve material and personal components, encompassing the victim, the commodity, the market, and the merchant. The focus here is on the victim as a fundamental element, where human beings are treated as commodities owned by traffickers (Williams, 2012). This dehumanizing perspective allows traffickers to dispose of, exploit, and profit from individuals, violating their dignity, rights, and fundamental freedoms. The victim is subjected to various acts, including recruitment, transportation, delivery, harboring, and receiving across borders, irrespective of the means—consensual, voluntary, or coercive, involving force, threat, deception, or fraud (El-Kady, 2022).

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Victims are exploited through forced labor, prostitution, sexual exploitation, or organ removal for trade, with a concentration on women and children, particularly during humanitarian disasters or armed conflicts. According to the Global Report on the Situation of Human Trafficking for 2020, female victims remain the primary targets, comprising 80% of the total, with one in every ten victims being five adult women and two young girls. Adult men and boys constitute 35% of victims, indicating a shifting pattern over the past fifteen years (UNODC, 2022).

The report also reveals that in 2018, women and girls accounted for 80% of victims of sexual exploitation, while men and boys comprised 59% of victims of forced labor (UNODC, 2020). The characteristics of victims vary based on the nature of exploitation, with women and girls trafficked mainly for sexual exploitation and men and boys for forced labor. Trafficking victims are found across sectors such as agriculture, construction, fishing, mining, and domestic work (UNODC, 2022).

Children under 18, as defined by the United Nations Convention on the Rights of the Child, represent the second group targeted. Homeless, abandoned, or kidnapped children are exploited in begging, indecent assault, or as sources for obtaining child body parts, highlighting the alarming increase in the proportion of children among detected trafficking victims. Boys are often exploited in forced labor, while girls are trafficked primarily for sexual exploitation (UNODC, 2022).

The exploitation of children, constituting one-third of trafficking victims, takes various forms, including forced labor, sexual exploitation, and the trade of human organs. Sexual exploitation, especially in higher-income countries, subjects children to physical and psychological coercion, contributing to the severe and chronic damage inflicted upon them (Bang et al., 2014). Poverty, family disintegration, armed conflicts, gender discrimination, and economic and political crises contribute to the spread of child trafficking, with the Internet playing a pivotal role in its growth. Girls, particularly in Central America, the Caribbean, and East Asia, are the primary victims of sexual exploitation, with the age group most affected being between 14 and 17 years old (Al-Shammari, 2021).

Migrant workers, often entering destination countries illegally and lacking knowledge of local laws, become vulnerable targets for trafficking gangs. Fear of arrest and unfamiliarity with destination country laws contribute to their exploitation, reflecting their state of vulnerability (El-Kady, 2022).

Reports from international organizations underscore the alarming surge in human trafficking victims, with the International Labor Organization revealing that over 12 million people are ensnared in forced labor and slavery. The organization's latest statistics, outlined by El-Kady (2022), highlight diverse forms of trafficking, affecting over 2.5 million individuals, including 1.2 million children. The profits generated from sexual exploitation of women and children reach an estimated \$28 billion annually, while forced labor yields around \$32 billion annually. Disturbingly, 98%

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of victims of sexual exploitation are women and girls, as emphasized by Interpol's statements during its inaugural international conference to combat human trafficking (El-Kady, 2022).

The International Organization for Migration emphasizes the phenomenon of "commercial sex or sex trafficking", with an estimated 500,000 women annually engaged in prostitution. Simultaneously, UNICEF's report outlines that approximately 1.2 million boys and girls under 18 fall prey to human trafficking crimes each year, involving exploitations such as prostitution (termed "tourism"), deployment to war zones as child soldiers, and coerced involvement in suicide operations ("child terrorists"). Shockingly, in the United States alone, 45,000-50,000 victims are annually trafficked (El-Kady, 2011).

The United Nations Global Initiative to Combat Human Trafficking reveals that more than half (56%) of the 2.5 million trafficked persons experiencing forced labor and sexual exploitation are in Asia and the Pacific. Furthermore, 10% are in South America and the Caribbean, 9.2% in the Middle East and North Africa, 5.2% in sub-Saharan countries, 10.8% in industrialized nations, and 8% in countries undergoing transitional stages. These estimates underscore the pervasive nature of human trafficking across the globe.

According to the 2022 UNODC Global Report on Trafficking in Persons, the Middle East and North Africa region witness equal rates of sexual exploitation, forced labor, and exploitation in begging, each comprising approximately 30% of the identified cases. While 69% of identified victims in North Africa are adults, a significant 31% are children. The report further verifies around 50,000 human trafficking victims reported in 2018 by 148 countries, indicative of the underreported nature of this crime.

However, despite the severity of these figures, questions arise about their credibility. A scrutiny of one hundred academic articles reveals a dearth of original data, with most relying on assertions from government agencies and international organizations, lacking transparency in revealing their sources (Zhang, 2009). Claims about trafficking, often found in popular and academic writings, have rarely undergone rigorous scientific scrutiny (Gozdziak & Collett, 2005; Zhang, 2012), casting doubt on the accuracy of reported numbers.

The impact of Covid-19 on human trafficking is a critical concern, as highlighted by the 2020 Global Report on the Situation of Human Trafficking from the United Nations Office on Drugs and Crime. The pandemic-induced economic downturn, with its associated crises and recessions, has led to global economic contraction, rising unemployment rates, and job losses. This economic instability is contributing to an increased risk of human trafficking, particularly in countries experiencing rapid job losses and those heavily reliant on tourism and travel. Low-income individuals

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are more vulnerable to exploitation due to their financial circumstances, as indicated by the 2020 Global Status Report on Human Trafficking (Al-Shammari, 2021).

Furthermore, the report emphasizes the role of armed groups and terrorists in trafficking women and children to generate funds and recruit new members. The use of modern technologies, the Internet, and social media has also facilitated an uptick in human trafficking. Traffickers exploit digital platforms to advertise jobs, market exploitative services, and recruit victims through social media, taking advantage of publicly available personal information. This has given rise to a new form of remote human trafficking, eliminating the need to transport victims physically (Al-Shammari, 2021). Estimates suggest that over 50% of cases involve the use of the Internet to attract victims, and the dark web, particularly through red rooms, is expanding its role in human trafficking operations (El-Kady, 2022).

LEGAL PROTECTION FOR VICTIMS IN EGYPTIAN LAW

The commitment of the Egyptian legislator and broader Arab legislation to ensuring legal protection for victims of human trafficking crimes is evident in their proactive approach. Chapter Five of Law No. 64 of 2010, titled “The Protection of Victims”, stands as a testament to this commitment, comprising seven articles that collectively prioritize the welfare, health, psychological well-being, education, and social care of victims (Al-Ashry, 2017). Article 22 specifically mandates the state to secure the protection of victims, facilitating their rehabilitation, reintegration into society, and expedited and safe return to their homeland if they are foreigners or non-permanent residents. These principles, governed by rules and procedures established by the Council of Ministers, underscore the commitment to liberty and human dignity (El-Kady, 2022).

Before delving into the specific legal protections provided for victims, it is crucial to acknowledge the constitutional framework embedded in Egyptian legislation to combat human trafficking. The constitutional legislator in Egypt has taken a comprehensive approach, criminalizing various forms of human trafficking through explicit constitutional texts. For instance, Article 60 of the 2014 Egyptian Constitution criminalizes trafficking in human organs, emphasizing the inviolability of the human body and prohibiting any assault or mutilation. Further, Article 89 categorically prohibits all forms of slavery, oppression, forced exploitation, sex trade, and human trafficking, reflecting a strong stance against these crimes. Specific provisions in Article 80/3 address child trafficking, emphasizing the state’s commitment to protecting children from various forms of exploitation. Article 12 reinforces the right to work while ensuring that citizens are not forcibly subjected to labor, aligning with international labor standards (El-Kady, 2022).

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This constitutional framework demonstrates the unique character and depth of the Egyptian state's interest in combatting human trafficking, placing it at the forefront of the fight against this grave crime (El-Kady, 2022).

Turning to the legal protections provided for victims, Egyptian law, similar to some comparative legislation, defines the concept of the victim. Significantly, the law does not consider the victim's consent to the crime or impose criminal and civil responsibility on them. Moreover, Egyptian law establishes numerous procedural rights and guarantees during the initiation of criminal proceedings. A comprehensive social protection report includes provisions for shelters, rehabilitation centers, training facilities, and ensures the victim's right to return or find refuge in the country where they are located (El-Kady, 2022).

Examining international standards, the Palermo Protocol of 2000 outlines essential aspects of legal protection for victims of human trafficking crimes. Articles 6-9 emphasize the importance of garnering global attention to assist and protect victims through various means. Article 6 mandates States Parties to preserve the personal privacy and identity of victims, ensuring the confidentiality of procedures. This includes providing necessary information about judicial and administrative proceedings, offering legal assistance, translation services, and medical support. The focus extends to psychological and material well-being, education, training, and employment opportunities, with special attention to the needs of women and children (Al-Ashry, 2018).

Article 7 directs each State Party to consider adopting measures allowing victims to remain within its territory temporarily or permanently. Humanitarian and emotional factors must be duly considered in these decisions.

Article 8 outlines principles concerning the right of victims to return to their homelands. Member States are obligated to facilitate and accept the return without undue delay, considering the safety of victims and the status of legal proceedings. The return should preferably be voluntary, and the state must cooperate in issuing travel documents or permits for re-entry.

Article 9 calls for Member States to take all necessary measures and establish policies, programs, and other initiatives to prevent and combat trafficking in persons. This includes protecting victims from re-victimization, mitigating factors contributing to human trafficking, and repelling demand for exploitation. Measures encompass media campaigns, social and economic initiatives, cooperation with non-governmental organizations, and bilateral or multilateral cooperation.

In sum, the legal protections provided for victims in Egyptian law not only adhere to international standards but also reflect a comprehensive and multifaceted approach. The constitutional framework and alignment with the Palermo Protocol underscore Egypt's commitment to combating human trafficking and safeguarding those vulnerable to its consequences (El-Kady, 2022).

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The Egyptian legislator and certain Arab legislations, such as Qatari law, have delineated the victim in human trafficking as follows: *“The victim is a natural person who has suffered any material or moral harm, especially bodily, psychological, or mental harm, or economic loss if caused directly by one of the crimes specified in this law”*.

International conventions and comparative legislation, encompassing Egyptian law and the majority of Arab legislations like Jordanian, Saudi, and Qatari law, assert that the victim’s consent holds no weight in human trafficking crimes. Whether given before or after human trafficking, and whether the victim is an adult or a child, these legal frameworks deem the acknowledgment of responsibility invalid if the victim is exploited through human trafficking. This is irrespective of the victim’s age, particularly if they are under eighteen, or due to coercive means imposed by human traffickers.

In this regard, the Egyptian legislator mandates the use of one coercive means outlined in Article (2) to negate the victim’s consent. Thus, the commission of the crime persists even if the act was consensual, provided it is accompanied by one of the stipulated coercive means. If the crime occurs without using any of these means and the act is with the consent of the victim, then the crime of human trafficking is not established. The Egyptian legislator expressly prohibits reliance on the permission of a child or the consent of the person responsible for them or their guardian, citing the vulnerability of the child’s will and the potential complicity of the guardian in trafficking the child (El-Kady, 2011).

The Palermo Protocol, in its third article, specifies that the victim’s consent becomes irrelevant when any of the means outlined have been used. It also establishes that the recruitment, transportation, transfer, harboring, or receipt of a child for exploitation qualifies as “trafficking in persons” even without the involvement of the specified means (Zhang, 2022).

Egyptian Law, under Article (3), asserts that the victim’s consent to exploitation in any form of human trafficking is irrelevant as long as any of the means stipulated in Article (2) of this law have been used. For trafficking in a child or an incapacitated person, the use of any of the specified means is not required, and in all cases, the consent of the victim or the consent of the person responsible for them or their guardian is deemed irrelevant.

DISMISSING THE RESPONSIBILITY OF VICTIMS IN HUMAN TRAFFICKING CRIMES

Egyptian law establishes the principle that victims are not criminally or civilly responsible for human trafficking crimes. Article (21) of this law explicitly states,

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“The victim shall not be criminally or civilly liable for any of the crimes of human trafficking as long as the crime occurred or was directly related to being a victim”. Consequently, victims may not be held accountable for human trafficking crimes, but if an individual commits other acts unrelated to human trafficking, they are liable to punishment as a perpetrator of those crimes. For instance, a woman who willingly engages in prostitution without being forced into forced prostitution may face legal consequences for those actions.

This principle has received international recognition through the United Nations Convention against Organized Crime and the European Convention for Action against Trafficking in Human Beings. Article 18 of the United Nations Convention ensures that victims, regardless of nationality, may not be prosecuted, detained, punished, or subjected to restrictions on their personal freedom. Article 26 of the European Convention prohibits imposing penalties on victims for their involvement in illegal activities to the extent that they were forced to do so (El-Kady, 2011).

Egyptian law outlines the rights of victims of human trafficking crimes under Article (23). Throughout the stages of evidence collection, investigation, or trial of human trafficking crimes, efforts are made to identify, classify, and determine the identity, nationality, and age of the victim to ensure their separation from the perpetrators. Additionally, the law guarantees the following rights to the victim:

- a) The right to physical, psychological, and mental safety.
- b) The right to protect their inviolability and identity.
- c) The right to be informed of relevant administrative, legal, and judicial procedures and access to information related thereto.
- d) The right to be heard and to have their views and interests considered during all stages of criminal proceedings without prejudice to the rights of the defense.
- e) The right to legal assistance, particularly the right to counsel in the investigation and trial stages. If the victim has not chosen a lawyer, the public prosecutor or the court may assign one in accordance with the rules prescribed in the Criminal Procedures Code regarding assigning a lawyer to the accused.
- f) In all cases, the competent court shall take measures to ensure protection for the victims and witnesses to avoid any influence upon them, and it shall take whatever measures are required to conceal their identity, all without prejudice to the rights of the defense and the requirements of the principle of confrontation between adversaries.

The Qatari law, following the path of the Egyptian legislator, outlines similar rights for victims in Article (20). These include preserving their personal privacy and identity, obtaining necessary advice and information in a language they understand, enabling them to remain in the country until investigation and trial procedures are

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completed, allowing them to seek assistance from a lawyer, ensuring access to appropriate compensation, and providing necessary security protection.

Article (22) of the Anti-Human Trafficking Law in Egypt guarantees the state's protection of the victim and endeavors to create conditions for their healthy, psychological, educational, and social care. This includes rehabilitation and integration into society within a framework of freedom and dignity. If the victim is a foreigner or not a permanent resident of the country, the law facilitates their quick and safe return to their homeland, following rules and procedures established by the Council of Ministers.

This commitment aligns with international protocols such as the Palermo Protocol and the European Convention. Article 6/3 of the Palermo Protocol encourages each State Party to consider implementing measures for the physical, psychological, and social recovery of victims, including cooperation with non-governmental organizations. Similarly, Article 16/5 of the European Convention emphasizes the adoption of legislative measures and procedures for the care and recovery of victims through cooperation with relevant international institutions or non-governmental organizations.

Arab legislations that echo the commitment to victims' health and social care include the Qatari, Kuwaiti, and Syrian laws. Article (19) of the Qatari law, for example, guarantees protection for victims, providing health, educational, and social care, creating conditions for rehabilitation and integration into society, and ensuring the quick and safe return to their country of origin or residence for expatriates or non-permanent residents, following established rules and procedures.

Article (23) of Egyptian law highlights the importance of protecting victims by working to identify and classify them and determining their identity, nationality, and ages. This is to ensure their removal from the hands of perpetrators. The Palermo Protocol, in Article (6), and Arab legislations like the UAE and Qatari laws underscore the principle of confidentiality in human trafficking cases. The UAE law, in Article (14), commits to the confidentiality of information obtained during the implementation of its provisions. Similarly, Article (16) of the Qatari law emphasizes maintaining confidentiality related to crimes stipulated in the law, disclosing information only as required for implementation.

Article (23/a) of Egyptian law guarantees the victim's right to physical, psychological, and moral integrity. This aligns with Article (6/5) of the Palermo Protocol, emphasizing that every State Party should provide for the physical safety of trafficking victims within its territory.

Article (23/b) of Egyptian law secures the victim's right to preserve sanctity and identity. This is in line with the Palermo Protocol and the European Convention. Article 6/1 of the Palermo Protocol urges each State Party to preserve the personal privacy and identity of trafficking victims to the extent permitted by domestic

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law. Similarly, Article (11) of the European Convention obligates States Parties to protect the private life and identity of victims, including personal data usage in accordance with specified international agreements. The Qatari law (Article 20/1) also emphasizes the right of the victim to preserve sanctity and identity.

Article (23/c) of Egyptian law enshrines the victim's right to be informed of relevant administrative, legal, and judicial procedures and to obtain related information. Paragraph (d) of the same article ensures the right to be heard and to have opinions and interests considered during all stages of criminal proceedings, without prejudicing the rights of the defense. The Palermo Protocol (Article 6/2) echoes this by stipulating that each State Party should ensure measures in its legal or administrative system that provide victims with information on relevant judicial and administrative procedures. It emphasizes assistance to enable victims to present their opinions and concerns during criminal proceedings.

The Qatari law (Article 20/2), Kuwaiti law (Article 12), and Omani law (Article 5) are among Arab legislations that recognize the right of victims to participate in procedures.

Article (23/e) of Egyptian law secures the victim's right to legal assistance, specifically the right to seek help from a lawyer during the investigation and trial stages. If the victim has not chosen a lawyer, the public prosecution or the court may assign one based on the circumstances, in line with the rules prescribed in the Criminal Procedures Code regarding assigning a lawyer for the accused.

Critics have raised concerns about the potential confusion of the rights of the accused with those of the victim in the legislator's approach (Fahmy, 2011). However, this is justified by the fact that victims of human trafficking crimes may also be subjects of accusations related to trafficking, necessitating legal defense. Article (16/6) of the European Convention emphasizes the adoption of legislative measures to enable victims to cooperate with any state that can assist them, such as law enforcement offices, non-governmental organizations, and professional agencies capable of providing social care and counseling.

Arab legislations that recognize the right of the victim to seek assistance from a lawyer include the Qatari law (Article 20/4), Kuwaiti law (Article 12), Omani law (Article 5), and Syrian law.

Article (23/f) of Egyptian law mandates that the competent court takes measures to ensure protection for victims and witnesses, preventing any influence upon them. This includes measures to conceal their identity, without prejudice to the rights of the defense and the requirements of the principle of confrontation between adversaries.

Article (26) of Egyptian law commits competent authorities to provide care, education, training, and rehabilitation programs for Egyptian victims. This can be facilitated through governmental or non-governmental institutions.

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Omani law goes beyond the guarantees provided by Egyptian law by stipulating that victims of human trafficking crimes are exempt from paying fees related to the civil lawsuit they file to claim compensation for damages resulting from their exploitation (Article 17 of the Omani Human Trafficking Law).

Various forms of legal protection are assigned to victims in Egyptian law and comparative legislation. These encompass criminal protection, social protection, and security protection. A brief overview of these forms is provided below:

Article (9) of Egyptian law criminalizes acts of harm to victims. This includes revealing the identity of victims or witnesses in a way that endangers or harms them, facilitating contact with perpetrators, providing incorrect information about their legal rights, or disrupting their physical, psychological, or mental safety. These actions are punishable by imprisonment.

Article (23) of the law emphasizes that the state will guarantee the protection of victims and work to create suitable conditions for their assistance, health, education, social care, rehabilitation, and integration into society. This prioritizes the protection of victims, assistance, and consideration of their fundamental interests in all decisions and procedures, regardless of the entity undertaking them.

CONCLUSION

Tackling the critical issue of human trafficking demands an exhilarating and all-encompassing strategy that transcends mere legal and security measures. The sheer importance of this comprehensive approach lies in its profound recognition of the intricate nature of the problem, compelling coordinated efforts across political, social, economic, religious, and media dimensions. At the heart of this groundbreaking strategy is the urgent need for states to fortify the functions of national anti-trafficking committees. These committees should boast a diverse membership, uniting both governmental and non-governmental entities passionately committed to combating this pervasive phenomenon.

A pivotal and electrifying facet of this all-encompassing strategy is the indispensable role played by civil society institutions, media outlets, educational and religious bodies, as well as families. Their enthusiastic involvement becomes a driving force, instrumental in passionately raising awareness about the protection of victims and providing essential assistance. By fostering a dynamic collaboration and igniting collective action among these stakeholders, a powerful and synergistic effect can be unleashed, magnifying the impact of initiatives aimed at preventing human trafficking and offering unwavering support to those who have fallen victim to this heinous crime.

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Furthermore, it is crucial to underscore the remarkable strides made in legal protections for victims in Arab legislation, particularly in Egypt and Qatar. These efforts exemplify an unwavering commitment to safeguarding the rights and well-being of individuals subjected to human trafficking. Through defining victims, rejecting reliance on consent, dismissing victim responsibility, and guaranteeing comprehensive rights, these legal frameworks aim to navigate the complexities of human trafficking, establishing a robust protective environment for those vulnerable to exploitation.

In essence, the fight against human trafficking demands an exhilarating, unified, cross-sectoral approach that harnesses the strengths of diverse entities within society. By embracing a strategy that encompasses legal, social, and cultural dimensions, governments can not only confront but conquer the root causes of trafficking, steering us towards a future that is safer, more secure, and profoundly compassionate for vulnerable individuals.

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