The Developments of Trafficking in Women in Post-Revolution Tunisia

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Abstract

The Tunisian Uprising of 2011 played as a catalyst in relation to the development of trafficking in women into reaching today’s notions, categories and numbers of victims. The increase in the rate of female victims of trafficking at the local and transnational levels has urged the Tunisian authorities to pay more attention to the shortcomings of the laws and the legal national framework in general. This study will discuss the historical and legal developments of the issue of trafficking in women in Tunisia. It will explore the case studies of certain categories of local and transnational female victims and focus on the re-victimization of women throughout the trafficking process and after. My research will depend basically on first-hand resources for accurate, yet new information, statistics and testimonies. I obtained my information through interviewing governmental and non-governmental officials. I have reached out to all concerned civil society actors who work on the issue of trafficking for statistics and data relevant to victims and traffickers and also in an attempt to know the role these actors play in fighting trafficking. This research depends on official data from different governmental bodies, mainly the Ministry of Interior and Justice. I am using also newspapers articles and things written on the different forms of internal and transnational trafficking in Tunisia like the Jihad al-Nikah and forced prostitution, and others examples. I managed to collect data through conducting interviews with officials, getting statistics and having access to law cases from Tunisian courts.

Introduction

Humanity struggled for decades to fight slavery which sneaks back into different societies around the world taking different shapes and forms disguised under what is called today as the modern-day slavery or trafficking in persons. This
phenomenon is considered to be the third most dangerous and widespread crime around the globe after the trade of weapons and drugs.

What we see today of trafficking in persons is nothing new or different from the prehistoric practices of slavery; as they are two faces for the same coin. It is actually the same thing whether we speak of selling women at Suq al-Birka\(^1\) in the 19th century, or we speak of forcing women into illegal prostitution after deceiving them with a fake online job today. Even though Ahmed Bey\(^2\) abolished slavery in Tunisia in the early 1800s; slavery came back to the Tunisian scene masked under new forms and names. It has developed further after the advent of the Arab revolutions headed by Tunisia in January 2011. The developments detected afterwards in cases, categories, laws and efforts show the increase of this phenomenon in the recent years following the Jasmine Revolution.

Discrimination against women in the MENA region made it easier for traffickers to exploit women for the nature of the Arab Muslim culture that categorizes females as second-class citizens. Females suffer of limited opportunities and they are pressured to meet society’s expectations, which could push them in the hands of abusers because of their fragile situation for being dependent on the male figures in their societies.

I have become interested in the issue of Trafficking in Women for it has intrinsically been linked to the issues of gender, human rights, international law and governmental and non-governmental organizations. I started conducting research on trafficking in persons in the last two years, after meeting in person with a Nigerian victim who was trafficked into Italy through Tunisia and who magically survived the webs of trafficking and started her own non-governmental organization to help other female victims. When I started doing research, I realized that there is a lack of data and that little research has been done on the issue of trafficking in Tunisia. There are limited statistics and basically no exact information on trafficked women in both types of trafficking whether the internal or cross-border ones. Some other researches have been conducted on the exploitation of women in Tunisia in different sectors; however, no records exist of stating that these exploited women are trafficked. Consequently, I felt the need to conduct my own research in order to get the truth about the dimensions of trafficking in women at the national level and to try to help further researches in detecting and reaching out to women to protect and help them.

As for the connection between this topic and my area of interest which is international relations, I believe it fits perfectly for it explores the link between

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\(^1\) *Suq al-Birka*: Where the weekly slave market in Tunis was held every Friday. Now, it is a gold market in the heart of the Old Medina of Tunis.

\(^2\) Ahmed Bey, the tenth Husayni ruler 10 October 1837- 30 May 1855.
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Tunisia and international legal instruments, conventions, entities and efforts related to this international crime of trafficking. Tunisia keeps good relations and ties with different international organizations and entities to keep its long history of cooperation with the international community. Nevertheless, these good relations are jeopardized by the lack of efforts Tunisia is putting into its fight against trafficking. The fact that Tunisia has not yet passed its own legal national anti-trafficking laws puts it under the spotlight. The country is still lagging behind as far as the compliance with international conventions in relation to trafficking are concerned, which has urged the U.S.A, EU and UN to question Tunisia’s commitments towards the defense of human rights and keeping its obligations to the international community. Consequently, this would eventually lead Tunisia to lose the funds from the international community that supports it for committing to its promises and obligations. It is important to note that Tunisia withdrew all its reservations to the United Nations’ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2014. That puts Tunisia under more pressure to fully comply with international laws and to meet the expectations of the international community in defending women’s rights.

The Tunisian Uprising of 2011 played as a catalyst in relation to the development of trafficking in women into reaching today’s notions, categories and numbers of victims. The increase in the rate of female victims of trafficking at the local and transnational levels has urged the Tunisian authorities to pay more attention to the shortcomings of the laws and the legal national framework in general. In fact, it is so easy for the judicial body to simply convict trafficked women in prostitution. Female victims experience a double injustice: being persecuted according to outdated legal texts (dating back to 1913) after being abused and exploited as result of trafficking. This study will discuss the historical and legal developments of the issue of trafficking in women in Tunisia. It will explore the case studies of certain categories of local and transnational female victims and focus on the re-victimization of women throughout the trafficking process and after.

My research will depend basically on first-hand resources for accurate, yet new information, statistics and testimonies. I obtained my information through interviewing governmental and non-governmental officials. I have reached out to all concerned civil society actors (NGOs and IGOs) who work on the issue of trafficking for statistics and data relevant to victims and traffickers and also in an attempt to know the role these actors play in fighting trafficking. This research depends on official data from different governmental bodies, mainly the Ministry of Interior and Justice. I am using also newspapers articles and things written on the different forms of internal and transnational trafficking in Tunisia like the Jihad
al-Nikah\textsuperscript{3} and forced prostitution into the Gulf countries in addition to other examples. I could manage to collect data through conducting interviews with officials, getting statistics and having access to law cases from Tunisian courts.

With these concerns in mind, this paper aims at serving a dual purpose. First, to provide a personal criticism of the current situation of trafficking in women in Tunisia. Second, it will put forward new first-hand data on victims and experts opinions in relation to the deficiency of laws and will provide also some recommendations for a better fight in dealing with trafficking.

The main issue of re-victimization of female trafficking victims and how I view the development of trafficking in women will be addressed in three parts. The first chapter tackles the gradual emergence and transformation of the term of slavery into trafficking. It explores the developments in terminology that led to today’s trafficking definition of The Palermo Protocol. The second section of the same chapter will explore the gender perspective of trafficking in women and what makes women more vulnerable to this crime. The second chapter discusses the role of the government and the legal international and national decrees and conventions in fighting trafficking in women. It will also discuss the new Tunisian bill of law on trafficking and its efficiency in fighting trafficking. It will also look into the brief history of the legal architecture and the development of the international texts culminating in The Palermo Protocol. The focal issue in this chapter will be on the challenges facing Tunisia in fighting trafficking through passing related legal texts, keeping its commitment to protecting human rights as promised when signed international agreements, especially in the context of the post-revolution. The third chapter will reveal new statistics and details of the newly developed transnational trafficking crimes in women in Tunisia. This includes information about foreign women trafficked in Tunisia and Tunisian women trafficked abroad. It puts in question the state’s decisions in dealing with real cases of trafficked women; mainly the case of exploited women in Lebanon and foreign women mainly African exploited in Tunisia. This is followed by a thorough criticism in relation to all aspects related to the trafficking scene in Tunisia. Finally, I wrap up by providing some helpful professional and personal recommendations for a better fight against trafficking.

This paper was written in 2015, and all the information here is related to research conducted in 2014-2015.

\textsuperscript{3}Jihad Al-Nikah: also Sexual Jihad, basically it means that Muslim women travel to Syria to offer their sexual services to the jihadists fighting their against the Assad regime in a form of doing Jihad. The latter means a war or fight done by Muslims against non-believers.
The Historical Development of Trafficking in Women

I. Trafficking in Persons: Concepts and History

The historical development of trafficking in women has roots in ancient times with a different naming of slavery. Different definitions have developed throughout time and culminated with the current context of The Palermo Protocol. Following, this research will present the different definitions given by different international tools to introduce a thorough meaning of what trafficking is in order to build the basis of understanding this topic and put the reader in context in relation to this not well-known phenomenon.

1. The Definitions of Trafficking in Persons

   A. The International Context

   Different definitions have emerged with the spread of the phenomenon according to countries and laws. However, the UN definition is the most generally accepted internationally and is presented through the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women (The Palermo Protocol).

   Trafficking in Persons is the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.4

   This definition puts forward two main ideas; the first is that slavery is the same crime of trafficking with only a different name. The second idea is that it explores the variations of actions, which with the presence of only one of them could make a victim of trafficking eligible to be called as such. In fact, the Global Slavery Index identifies the term slavery itself in addition to concepts of trafficking


in persons and forced labor to describe modern forms of slavery.5

Slavery includes “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”. Slavery-like practices are those such as debt bondage, forced or servile marriage, sale or exploitation of children (including in armed conflict) and descent-based slavery.6

Consequently, from this definition, I can argue that trafficking in women today is indeed the developed notion and form of old slavery. More details will follow in the coming sections. For now, I will explore more the details related to the trafficking in persons.

According to the International instruments and definitions, trafficked people are subject to all kinds of actions they are forced to do. This varies from being held as a hostage with no freedom at all, into not getting the full salary as promised or simply working extra hours.

Trafficked people are held against their will through acts of coercion, and are forced to work for or provide services to the trafficker or others. The work or services may include anything from bonded or forced labor to commercial sexual exploitation. The arrangement may be structured as a work contract, but with no or low payment, or on terms which are highly exploitative. Sometimes the arrangement is structured as debt bondage, with the victim not being permitted or able to pay off the debt.7

Trafficking in Persons refers to slavery in all its forms. The term ‘trafficking’ itself describes the mechanisms and methods of recruitment and mobilization used to isolate and threaten victims to take advantage of them. Trafficking in persons is rooted in ancient times and it has flourished throughout history. It has been used by many civilizations, forcing individuals or groups of individuals to total subjugation, by depriving them of their rights and freedoms. This is why trafficking is often described as ‘Modern Slavery of the Twenty-First Century’.

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Even though the phenomenon of trafficking in persons is not new, it is still very little known to the public.\(^8\)

\section*{B. The Tunisian Context}

In comparison with the previously stated international definitions, the Tunisian bill of law on preventing and combating trafficking in persons defines Trafficking in persons as follows:

Trafficking in persons means attracting or recruiting people, transferring, transporting or changing their destination or deporting them or harboring them or receiving them through the use of force or weapons or threat by both or other forms of coercion, of abduction or deception or exploitation of a position of vulnerability, or the abuse of power, acceptance, or providing sums of money or benefits to gain the approval of someone who has power over another in the purpose of exploitation of any kind whether it is the perpetrator of such acts or by placing it at the disposal of others to exploit.\(^9\)

According to the bill of law, the terms exploitation includes many forms of vulnerability. It expands to comprise any persons exploited into prostitution, forced labor, servitude, slavery, begging, and the removal of fetuses for the purpose of trafficking. In fact, the bill explores in depth the meaning of exploitation as it states “..exploitation caused by the age, or their illegal status or severe case of being in need, or the case of severe illness or addiction or pregnancy of women or the case of mental or physical defect hindering the person concerned to face the offender.”\(^10\)

The anti-trafficking bill of law insists on showing what vulnerability means to introduce it to decision makers and concerned authorities for the purpose of creating a visible profile of potential victims.

\section*{C. Definitions of Labels Related to Trafficking in Persons in the Tunisian Anti-Trafficking Bill of Law}

In addition to defining the notions of vulnerability and exploitation, the bill puts forward different meanings of what could possibly be a situation of trafficking


\(^9\) Article 2 of the Final Draft of Tunisian Anti-Trafficking Bill of Law handed by Salma Abida. April 2015,1 (own translated). See Appendix I.

\(^10\) Ibid, 2.
victims could find themselves trapped at. I will present what originally came in the bill to provide a thorough understanding of the different concepts considered as trafficking in Tunisia and to create a space for comparison, as follows:\textsuperscript{11}

a. Bonded or forced labor
All work or services imposed on any person under the threat of any penalty and in which this person has not volunteered themselves to do the work.

b. Enslavement
Any situation in which the person is forced by someone else to do work or perform services in conditions they do not have the power to change or get rid of.

c. Slavery-like practices
Include the following cases:
- Forcing women for the purpose of marriage.
- Coercion of women to pregnancy or renting their wombs.
- Use of a child in illegal or criminal activities (such as in armed conflicts).
- Adoption of a child for the purpose of exploitation of any kind.
- Economic or sexual exploitation of children on their employment.
- Debt Bondage: the situation arising from forcing the debtor to perform work or services either by themselves or another dependent person as a guarantee to a debt they owe if the fair value of that work or service is not used to pay off this debt or if the service’s period or nature was undetermined.
- Serfdom: the situation arising from the obligation under the agreement that the person lives and works on the land of another and that the person who provides work or services to the other person with or without compensation and without having the freedom to change their situation.

d. Slavery
Forcing a person to perform a work or services according to conditions that person has no power of escaping or changing.

e. Sexual exploitation
Getting benefits of any kind by involving a person in sexual work whether

\textsuperscript{11} The original words own translated from the Tunisian Anti-Trafficking bill.
its prostitution or by providing any sexual services including abusing them in pornography through the production of porn or its promotion by any means.\textsuperscript{12}

\section*{D. Differences Between Trafficking in Persons and Smuggling of Migrants}

Even though trafficking and smuggling are naturally linked, they are different in many ways. On the one hand, trafficking has the possibility to appear within borders in the absence of real movement. This could happen to internal trafficking cases of different forms of exploitation such as domestic servitude. It is true though that there is some sense of dislocation by the mere fact of subjecting victims to mental isolation. It is important to note that the reality of trafficking is different than what everybody thinks of the mere fact of moving someone from one country to another by force, as in fact, it could be carried out in the same country in the absence of a trafficking network. Members of families and close friends could be responsible for the exploitation of the victim.

On the other hand, smuggling of migrants means any illegal way of entering a destination state through a third party. This means that the smuggled person is fully aware that he will be moved from one country to another through a network or a person who would take in charge all the responsibility of finding a way to get that smuggled person in to the destination country.

So, here we see the difference in borders notion between trafficking and smuggling as the nature of smuggling necessitates the cross-border displacement.\textsuperscript{13} Therefore, trafficking in persons and smuggling of migrants are often confused not only because of their nature of crossing borders or illegal migration, but also because of their interconnectedness as smuggling could lead to trafficking.\textsuperscript{14}

Hence, the two definitions provided by the additional Protocols of the Convention of 2000, further show the difference between trafficking and smuggling in the notion of documents’ confiscation.\textsuperscript{15} In the trafficking act and as the victim is forced into his/her situation, traffickers confiscate their legal documents what puts them under more pressure. The victim then finds herself/himself in a forced illegal status under threat and menace. While in the case of the

\begin{footnotesize}
\begin{enumerate}
\item The issue of sexual exploitation caused arguments within the committee whether launching this law will lead to the cancellation of the legislation which regulates public prostitution and the committee had decided to leave decisiveness in this matter to the concerned governmental entities which will be discussed in Chapter II.
\item \textit{Supra Note} 8
\item \textit{Supra Note} 13
\end{enumerate}
\end{footnotesize}
smuggled person who has a status of an illegal immigrant, these reactions would not take place for the simple reason of pre-arranged agreement. The crossing of borders by illegal means includes false documentations and papers. Consequently, the relationship between the smuggler and the migrant usually ends once the latter arrives at their destination. This crime is considered to be primarily a crime against a state unlike trafficking, which is a crime against an individual.

On a different note, the year 2011 was marked by the advent of the Arab Spring in the Middle East and North Africa (MENA) region, particularly in Tunisia, the first country to have toppled its regime. These revolutions have triggered an unprecedented wave of migration flows across the region. Tunisia witnessed a considerable wave of migrants whether Tunisians immigrating to Europe or international migrants who sought refuge in Tunisia.\textsuperscript{16} Refugee camps were set up in the Southeast part of the country in order to address the situation. Besides, Tunisia was used as a platform for transit to European countries, and especially to the Italian island of Lampedusa.\textsuperscript{17} These massive and unexpected migrations have increased the vulnerability of migrants to trafficking in persons, especially women and minors, but surprisingly enough trafficking in persons did not seem to be a priority for Tunisian authorities at that moment. The seriousness of this issue was not apparent to concerned experts at that time, as many other aspects seemed to be more urgent to be dealt with like writing the new constitution.

2. Historical Background of Slavery

Slavery dates back in history to thousands of years, as it existed in prehistoric societies, which lived on hunting and owning people. At that time, it was more of an institution than it is today. Keeping in mind that slaves have always suffered from physical and sexual exploitation, the topic of trafficking in persons and its link to exploitation has a shorter history.\textsuperscript{18}

A. The History of Slavery in Africa

Even though forms of slavery existed before the 1400s, the beginning of that century marked the start of European slave trading in Africa with the Portuguese then the British joined in the transportation of people from Africa into using them.

\textsuperscript{16} According to the IOM, most of the migrants were Libyans and workers from different nationalities (Sub-Saharan Africans and Asians), and Syrians who sought refuge after the Syrian war which erupted in Syria in 2011.

\textsuperscript{17} Supra Note 8, 17.

\textsuperscript{18} Freedom From Fear Magazine, A Short History of Trafficking in Persons, 23 February 2010, 10 March 2015 < http://f3magazine.unicri.it/?p=281
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As slaves, when it comes to Africa, Slavery existed more than 3,500 years ago, women constituted the majority of early African slaves. In addition to agricultural work, female slaves carried out other economic functions, such as trading in addition to domestic shores.

With the rise of humanitarian sentiments in Western Europe and with the 18th century Age of Enlightenment in Europe and the shift in economy from agriculture to industry, a movement to abolish the slave trade and the practice of slavery came into being in the Western world starting in Britain in 1807. Slavery in Africa was almost abolished in the 1930s. However, the pain and stigma of being a slave still affects descendants of slaves.

B. The History of White Slave Trade

The world started to pay attention to the (The international trade of women) with the movement against white slavery, which means “The procurement-by use of force, deceit or drugs-of a white woman or a girl against her will for prostitution.”

Some figures prove that trade in women existed in the end of 1800 and beginning of 1900. Beginning 20th century, some international agreements started to emerge to fight trafficking in women such as the International Agreement for the Suppression of the ‘White Slave Traffic’ of 1904, which was signed in Paris and aimed to ensure that women and girls are protected against criminal traffic known as the “White Slave Traffic”. After that, in 1910, International Convention for the Suppression of the White Slave Trade was signed by thirteen countries and focused on the criminalization of trafficking, while the 1904 agreement addressed the migration side of the issue. After that, National Committees for the suppression of traffic were established in many European countries and started to work as a foundation for international discussions on white slave trade in order to join forces to fight the crime. However, the World War I(World War One), in 1914 put an end to any further development of international work against traffic at that time. The term white slavery was faced with criticism as it put many other women outside

19 <http://web.cocc.edu/cagatucci/classes/hum211/timelines/htimeline3.htm>

20 Richard Brown, Slavery in Africa, 2000, 15 April 2015 <http://autocww.colorado.edu/~flc/E64ContentFiles/AfricanHistory/SlaveryInAfrica.html>


Europe in the shadows, so it was eventually changed into “Traffic in Women”. This change of terminology also reflects the move of discussion from the national to the international level, making it explicitly a global issue.\(^{23}\)

In 1927, The League of Nations was founded after WWI and had the goal of maintaining world peace and focusing on international issues such as human trafficking. The Suppression of White Slave Traffic was changed to "traffic in women and children" so that everyone was included with no discrimination to race.\(^{24}\)

In 1904, the International Agreement for the Suppression of "White Slave Traffic" was signed and put into action. The purpose of this agreement was to protect women, young and old, from being involved in "white slave traffic." White slavery referred to forcing or deceiving a white woman or girl into prostitution. Some people argue, however, that this act was only put into place in order to control the number of European women who were seeking to find jobs abroad. In this vein Emma Goldman states:

> Only when human sorrows are turned into a toy with glaring colors will baby people become interested – for a while at least. The people are very fickle babies that must have new toys every day. The “righteous” cry against the white slave traffic is such a toy. It serves to amuse the people for a little while, and it will help to create a few more fat political jobs – parasites who stalk about the world as inspectors, investigators, detectives, and so forth. What is really the cause of the trade in women? Exploitation, of course.\(^{25}\)

Emma is being skeptical about the reality that pushes women into prostitution and abuse. She points out to how politicians and decision makers even when they tend to seem serious about saving women in need who find themselves trapped in the actions of prostitution, for a better life, don’t really move to stop this. It is as if they make a scene just to push the blame away, but in reality, no real actions are being taken to put an end to exploiting women.

When it comes to international trafficking of women, the destination countries have changed over the course of time. In Fact, the report of the League of Nations in 1927 illustrated how women were trafficked from Europe to some other

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\(^{23}\) Brian Donovan, White Slave Crusades: Race, Gender, and Anti-vice Activism. Illinois: (University of Illinois Press, 2006), 51.


destination countries such as Tunisia, Algeria, and Brazil, and after 80 years, these counties became the source of trafficking, the other way round. Therefore, the main victims of trafficking 80 years ago were Europeans and now it is the contrary. The United Nations held the fourth World Conference in 1995 to address the issue of trafficking of women. The biggest outcome of this conference was the fact that trafficking was recognized as an act of violence against women, and the concept of trafficking was further defined ("Trafficking").

C. History of Slavery in Tunisia

Trafficking in persons is not a new phenomenon. In History, this practice which was part of slavery was widespread in the Muslim world and in the North African region. Thousand years before the Christian era, Caravans coming from the south, were going towards Tunisia, Kairawan, the capital of Ifriqiyya. From there, slaves were transported to the coastal ports of the Mediterranean.

Slave’s routes, better known as Trans-Atlantic sea passages witnessed thousands who were aggressively taken away from their homes against their will to cross on foot the 2000 kilometers through the Sahara’s sand storms and end up sold ‘legally’ on governments’ slave markets in Istanbul, Tunis and other places.

Around 1300 slaves were imported in Tunisia by the end of 18th, beginning 19th Century. The black slave was a common phenomenon in Tunisia's households. In 1841, up to thirty slaves, mostly women, were bought and sold in the Suq al-Birka. As the slave trade developed in the middle Ages, the "intra-African and Eastern trafficking" got spread over fourteen centuries.

In the Tunisian Context, the Phoenicians established the origin of slavery in the country from the tenth century BC, and the founders of Carthage in 814 BC. The first slaves came at that time from the local Berber people. Slavery in Tunisia responded primarily to the specific needs of urban society. The slave property was then a sign of nobility in Tunisian cities. Unlike men, it was very rare for a woman to be “sold” a second time because women mostly converted to Islam, which prohibits the enslavement of a Muslim. Although it has been an important center of slavery in the region, in the 19th Century, Tunisia; however, was at the head of the fight against this practice.

In January 1841, Ahmed Bey announced a decree to abolish black slavery in

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27 Ifriqiyya was the name of Tunisia during middle ages.

Tunisia. With this decision, Tunisia has become the first Arab country to break with such institution taken for granted since immemorial times. It took five years for the Tunisian abolition decree to come to its conclusion in 1846. The slave market of Tunis was permanently closed in August 1842, and slavery was abolished in the country. Slavery persisted until the early twentieth century in the region.29 It ended at the beginning of the twentieth century, as the last slave market was closed in Morocco in 1920. However, today’s average price of a slave equals less than one tenth of its value during the Roman Empire.30

3. Trafficking in Persons

A. Trafficking in Persons in the MENA region

Between 2010 and 2012, the MENA region reported a higher overall proportion of victims of trafficking for forced labor than other parts of the world, and it is the most detected form of trafficking in the region (49%), followed by sexual abuse (36%), other types of exploitation (14%) and finally the removal of organs (0.8%). Trafficking in African women also took place in the Middle East as cases of exploitation of people from North Africa were identified in the Middle East between 2007 and 2010.31

As a result of what is called “The Arab Spring”, migration from North Africa towards Europe has risen and raised challenges for the MENA region as these flows of immigrants are dangerous for the migrants as trafficking could happen at any moment.32 According to the global database on trafficking victims assisted by the International Organization for Migration (IOM), more than 50% of cases assisted in the MENA region are internal trafficking and female victims account for 55% in 2011.33

B. Trafficking in Persons in Tunisia

When it comes to examining the phenomenon of trafficking in Tunisia, it is

29 The Decree on the prohibition of slavery in the regency of 29/5/1890 states in its first article: "Slavery does not exist and it is forbidden in the Regency; all human beings, without distinction of nationality or color, are free and may also, if they believe injured, resort to laws and magistrates", 47.

30 Supra note 21

31 Supra note 8, 49


33 Supra Note 8, 49
very important to understand the political, economic and socio-cultural contexts of the country in order to come to a better and deeper understanding of the actors involved, the main causes of this phenomenon, and categories of victims. In the context of post January 14, 2011 and the democratic transition, it is very important to focus on the changes at the national level in relation to security and stability.

Sami Ben Houidi pointed out the important role the revolution played in changing the situation of the country. He states:

My question is how the revolution changed the situation of the country? As before, it used to be a dictatorship, someone in power who claims to be the protector of rights and freedoms on the international scene, and the country claimed to be protecting Tunisian women where they couldn’t be abused. That Tunisia is protecting all citizens and celebrate its political, social and economic achievements in a dictatorship. But, we were not allowed to speak about violating women rights and dignity before at that era, and now, after the revolution, we all got our freedoms, so we can criticize all authorities and institutions and we can discuss taboos. That is why it seems that the phenomenon is wide spread now, because it is discussed overtly.34

From the previous statement and from an opinion of an expert at the Ministry of Justice, it is important to note that the revolution and the changes it brought ranging from democracy to freedoms is what makes the trafficking in persons phenomenon seems wide spread. We hear of it more today, and we see some action to fight it, contrary to the dictatorship time. If the image of the protector of the country was to be shaken by speaking about such crimes in Tunisia, then it makes perfect sense that we lived in a bubble of a good image, just to reflect the good image of the leader. It had nothing to do with really protecting victims and keeping the country safe.

4. Factors that Contribute to the Trafficking Structure in Tunisia

In order to understand the situation of trafficking in persons in Tunisia today we need to look at the new, post-revolution context of the country. Since 2011, Tunisia has witnessed political instability, raise of the unemployment rate, social marginalization and growing economic inequalities. These are the main factors that can make individuals more vulnerable to exploitation.

Geographically, Tunisia’s 1,300 kilometers of coastline facing Italy in addition to its proximity to the island of Lempadusa, make it an ideal transit

34 Houidi, Sami Ben. Assistant Director-General of the Department of judicial interests in the Ministry of Justice. Interviewed by Racha Haffar. 20 April 2015. See Appendix X
Politically speaking, the revolution of January 14, 2011 forced Tunisia to enter a new phase of political instabilities and the country has been at crossroads since then, which led to the development of trafficking in persons on both national and transnational levels.

Tunisia is now engaged in a process of institutional reform and democratic transition as it is still working on reforming laws. The Constitution of 1959 was revoked, and the new constitution was adopted in January 26, 2014. Following the political assassinations of opposition leaders, this new Constitution faced major challenges and had been the subject of much debate. It addressed topics such as religion and state and women’s rights. These debates were closely monitored in order to better understand the development of public policies in the fight against human trafficking, based on the interaction of gender.

On the legal side, the revolution created some sort of legal vacuum where attempts of placing a new legal framework took long, especially considering the period of adopting the new constitution. Since 2007, the suggestion of a bill of law against trafficking in persons has started and only recently the draft of this law became ready for adoption by the new parliament.

The security system created an even more favorable situation for crimes such as trafficking in persons as it gave more attention to relatively more serious topics such as terrorism and adopted them as a priority and turned a blind eye to the crime of trafficking in persons and forced labor. In fact, some security officials are involved in such crimes by receiving bribes and ignoring the situation.

If you wonder what the main reason which made this phenomenon more spread now, I would say the answer is the security vacuum. The security sector changed its techniques and the officials now claim that they cannot reach the truth and work properly without using force or weapons, which is a traditional way of dealing with criminals. Therefore, in such a transitional period, information is chaotic, unlike during dictatorships when information reaches authorities instantly.

Sami ben Houidi pointed out the way the talks on exploitations started and how talks about freedoms started to rise to the surface. Bit by bit, people started to question corruption and exploitation, especially those issues and files related to

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35 Supra Note 8, 29
36 Supra Note 8, 32
37 Supra Note 34
38 Ibid 34
women’s rights’ violations and women exploited in prisons by the judicial system right when things started to settle down after the Libyan revolution. In addition, Ben Houidi stated the fact that chaotic status of Libyan immigrants who fled their country is jeopardizing our security. These Libyans do not respect the laws and they use their wealth in getting what they want, which makes it even unsafe for Tunisian women.

When it comes to the socio-economic context, poverty and marginalization are the main reasons for exploitation of people into crimes such as trafficking, as they increase their vulnerability especially women to fall in the hands of traffickers. The country is facing a major economic set back and the Tunisian economic growth seems rather slow. Contrary to urbanized eastern cities, rural western ones still suffer from inequalities in employment and access to social services such as education and health care. With high rates of unemployment which vary between 31% and 48% among graduates, that facilitates the youth becoming victims of trafficking in Tunisia and out. In addition, due to the lack of stable markets and job opportunities in the formal sector, many citizens are employed in the underground economy representing 85% of Tunisian companies, according to the Tunisian Union of Industry, Trade and Handicrafts (UTICA). A recent survey by the National Institute of Statistics (INS) suggests that informal employment represents 42% of total employment in Tunisia, absorbing a very important part of the labor force mainly in trade and services. This situation endangers many Tunisians, and increases the risk of exploitation.

At the social level, 15.5% of Tunisians were under the poverty line in 2010 and 4.6% below extreme poverty. Women and children are usually the most affected by poverty, as it exposes them to the lack of schooling, work at a young age and risky situations. The social, economic and cultural difficulties can push people to leave their area and go to the big cities, and even to leave their countries in search of better opportunities, without preparation or the necessary information for local integration and protection from trafficking networks.

II. Trafficking in Women: The Gender Perspective

As I have discussed earlier, Trafficking in persons is not a new phenomenon and the biggest fractions of affected victims are women. The problem is that this crime has taken a new turn when it comes to the gender issue and women’s rights. Women and girls are the most vulnerable category. Trafficking is directly linked with prostitution what makes it an even more complicated issue for women. The growing justification of violations of women rights is created by further
criminalizing them when they get involved in sexual acts without paying attention to the causes and the nature of that sexual act. That jeopardizes these women’s positions and subjects them to more vulnerability. The question is whether these women were sexually abused, exploited, or involved in prostitution. It is important to distinguish between both issues and not jump into obvious conclusions linking both actions. Trafficking happens for other reasons than prostitution, and prostitution could be in a different context than trafficking. Hence, governments should start separating between both acts and not only focus on prostitution.⁴⁰

During the drafting of the Palermo Protocol, debates about prostitution remained unresolved, leading to little and not fair efforts in legislative, preventative and rehabilitative efforts in dealing with victims and stereotyping. When approaching trafficking from a gender perspective, the matter of prostitution remains of an open-ended problematic to legislation makers. The Protocol left the “exploitation of the prostitution of others” and “other forms of sexual exploitation” undefined, and failed to decide whether voluntary adult prostitution should be considered trafficking or not. Consequently, deciding on keeping this matter as a domestic jurisdiction. Even though this protocol has broadened the concept to include children and labor trafficking, the governments, scholars and decision makers still view trafficking from a sexual exploitation lens and fail-to a certain extent- to investigate through the other forms. Hence, it is necessary to shift this perspective and have a different, yet insightful view on trafficking and gender.

On a different note, globalization of information, technology and borders helped trafficking grow by giving traffickers a chance to operate transnationally and reach out to bigger numbers of victims. It also gave a grave dimension to female victims by showing them the outer world through technology to find better jobs and living conditions. As a result of the growing globalized world, flows of work migrants have increased and put more females at the risk of being exploited and trafficked.⁴¹

Still, we must study the social and cultural contexts which lead female victims into webs of this crime. The MENA region has the highest measured level of discrimination against women. The widespread exploitation of women into domestic servitude shows their inferior status. They are also affected by their gender as their ability to access justice once exploited is jeopardized. In fact, for some countries, a woman’s testimony turns against her as in courts it is worth half

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of a man’s testimony and judges view women who testify against their sexual abusers by immorality and accuse them with adultery. The mere fact of being a woman, not only increases exposure to being exploited, but also triggers re-victimization once trapped. Millions of women are potential victims at any moment, including females of all ages. These victims are subject to all forms of violence by organized criminal networks, individual criminals, community and more importantly family members. All countries are subject to this horrible crime, whether by being countries of origin, transit, or destination for victims. In the MENA region, not only citizens are affected, but also expats or foreigners who come from other parts of the world to work in the region find themselves entrapped in such crimes. The spark that the Tunisian revolution had started spread out to the region and created a wave of revolutions leading to the displacement of many people. More than a million people around the region, but more specifically in and into Tunisia, this movement of migrants shed the light on the situation of exploitation of migrants and also refugees and on the measures needed to be taken to protect displaced people from trafficking in persons in all its forms.

Trafficking in persons is a global phenomenon which is hard to be traced and the number of its victims can never be set exactly. In fact, it is estimated that there are 800,000 victims of trans-national trafficking every year. Internal trafficking victims and networks would score a bigger number. This universal crime affects all continents and it does not spare neither the MENA region nor Tunisia in particular.

Tunisia achieved a first step in its commitment to the fight against the crime on a national level by ratifying the 2003 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children (Palermo Protocol), supplementing to the United Nations Convention against Transnational Organized Crime. In addition, the Tunisian government has been working on the drafting and adoption of a national law against trafficking in persons, through the Ministry of Justice and the ministry of human rights (now dissolved) since 2009. More recently, the Tunisian government has committed to implement a series of measures to fight more effectively the crime of trafficking in persons, especially within the Ministries of Interior and Justice. (The following chapter will provide more details about this issue).

Tunisia is found to be a source, destination, and possible transit country for women, men and children subjected to different forms of trafficking and most importantly forced labor and sexual exploitation. Women migrants who fled unrest in neighboring countries like Libya continue on being vulnerable in Tunisia.

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42 Supra Note 8, 8.
43 Ibid
Trafficking was identified in Choucha Camp at the Libyan border, according to the United Nations High Commissioner for Refugees (UNHCR). Tunisian women also get false promises of work in the MENA region in certain countries, such as Lebanon, the United Arab Emirates (UAE), and Jordan. Upon arrival, they find themselves forced into prostitution. At the national level, and over the past years, some young Tunisian girls who are between 15 and 18 years-old were exploited in prostitution in the coastal cities like Sousse. While, the ones who are sent to work as domestic servants for wealthy families in Tunis and major coastal cities come mainly from the northwest part of the country. In addition, Women from west and east Africa are subject to forced labor as domestic workers in Tunisia and beyond. Worldwide women are mainly exploited for sexual purposes, which is one of the worst forms of Gender-based violence. It is therefore important to try to analyze the trafficking in persons from a gender perspective and to look at the situation of women in Tunisia to understand the different types of exploitations they could undergo.

We cannot deny the fact that Tunisia is known to be the leading Arab country in women rights as Tunisian women are pointed at by being privileged compared to all other women in the region. In fact, the Tunisian Constitution of 1959 has offered Tunisian women a better status when it recognized the principle of equal rights between men and women in all areas. The country is still proving to be on top of the list for achieving women rights and gender equality. In parallel to these efforts, legislative reforms at the national level were implemented which include most importantly the law of February 2008, which harmonizes the age of marriage (18 years for men and women). In addition, The United Nations confirmed receipt, in April 23, 2014, of Tunisia’s decision to fully and officially withdraw all its reservations to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). By that, it became the first country to do so in the region.

However, when assessing the current gap in the pre-supposed gender equality in a context of an Arab state, we understand why it is impossible to see gender equality in Tunisian families, in public spaces and in the labor market. The status of women remains lower than that of men. Just as is the case everywhere around the world, and Tunisia here makes no exception. When we examine the

44 Choucha Camp, the Tunisian refugee camp established in 2011 to house those fleeing the Libyan conflict.


46 See Appendix V

47 According to CREDIF, Center for Research, Studies, Documentation, and Information on Women in Tunisia. It is a Governmental institution related to the Ministry of Women, Family and Childhood.
vulnerabilities created as a result of the gendered-based treatment, in some parts of the world more than others, we understand what actually feeds trafficking in both the demand and supply. These vulnerabilities are the consequence of a gender-biased history where political, economic and social standards and norms oblige women to be dependent on men. Consequently, they become vulnerable and susceptible to all kinds of abuse if that “male figure” and his support are shaken somehow. In fact, there is a gender dimension to poverty and a whole concept called “the Feminization of Poverty.” This has appeared after the growth in number of poor people who are female as the majority of the 1.5 billion people living on 1 dollar a day or less are women. The past decades have witnessed the growth in the cycle of poverty when assessing the gap between women and men. Worldwide, women earn on average somehow less than 50 per cent of what men earn. This goes back to the fact that women are marginalized in their prospective societies as they are denied access to education, credit land and inheritance. Their efforts are gone unrecognized and that creates a deeper gap in the gender spectrum. The denial of support services and community ones remain big to women in many areas around the globe. Consequently, these deprived women find themselves in an empty circle where they can’t access resources to change their situation, and consequently remain poor, which pushes them indirectly into the webs of traffickers. In 1995, the Beijing Platform for Action which was adopted by the Fourth World Conference on Women called for countries to “undertake legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land", after realizing the gender dimension to poverty and how to overcome it by improving the status of women.

Globally, the perception that poverty is becoming feminized is increasing, meaning an increasing number of the world’s poorest population females. “More than one billion people in the world today, the great majority of whom are women, live in unacceptable conditions of poverty, mostly in the developing countries” according to the Platform for Action adopted at the Fourth World Conference on Women in Beijing in September 1995. Examining this from a feminist approach, the focus is on the gender implications and the costs of poverty on the social aspect. In her opinion, Moghadam states: “They include the growing involvement of women and children in the informal economy; differential treatment of girls and boys in households; pressure to get girls married off quickly; higher school dropout

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rates for girls; less control over fertility; and recourse to prostitution.”

Many females around the world do not have access to education, proper health care or employment. They can be put in isolation and then in the quest for a positive change in their lives through seeking a source of income they become victims of all kinds of abuse and exploitation. When looking at the growing sectors of “feminized” economy -bride trade, domestic workers, commercial sex- we find a link between the latter and the increasing demand for female trafficking victims.

The “feminization of migration” is a result of the feminization of poverty, as these women risk everything to find a source of income abroad to help them survive and support their families and with all these restrictive traveling procedures, some women tend to resort to smugglers who eventually traffic them. In addition to this, the different practices of paying women less wages, using them in hard agricultural jobs and forcing them into domestic servitude for the simple fact that it is the female’s job to work domestically as a stereotype only complicates the life for female in societies with such practices. Thus, trafficked women are seen by their employers as cheap, easier to control and more submissive in doing their jobs. Consequently, the demand grows and the number of female victims grows accordingly. When women find themselves tied to men, they become more vulnerable to trafficking in patriarchal societies. These societies have institutional and social flaws, which create injustice towards women by categorizing them as the male’s property and a second hand citizen. Discriminatory laws create a sense that women cannot decide on themselves, cannot act or own properties and even cannot have a free economic status away from the male to whom she is tied. When the female’s well-being and the will to decide on her own is taken away from her, she becomes vulnerable to trafficking once the male guardian is gone. I would like to point out that in the Arab Muslim cultures, girls and women face huge difficulties in growing in such patriarchal societies. Females grow exhausted of the lack of opportunities and recognition as equals. As a result, many try to escape their realities for a better future, seeking what they believe might be a better life, but they often end up as victims of trafficking. Here in Tunisia, many young girls seek refuge from their family control, as they do not have the freedom to decide on many things related to their own lives. For them, seeking a job in the Gulf or the Middle East seems like the open door that never

50 Supra Note 48


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existed in their hometown reality. However, when they find themselves under threat with their passports confiscated to work in nightclubs and other places where they get sexually abused, it is only then that they realize the loss. In my opinion, if these women had not found themselves victims of social, political and economic inequalities in their country, they would not have looked for better chances abroad and they would not have become victims for trafficking networks like the ones which trafficked Tunisian women in Lebanon. (Cases of victims will be further discussed in Chapter III). 53

In the Tunisian case, "There should be no discrimination between men and women" as stated in the Labor Code, 54 In many sectors, wage inequalities remain apparent. Tunisian women are affected by regional disparities at the economic and social levels. Rural women in agriculture, for example, earn up to half as much as men and work more hours. Tunisian women also suffer from a literacy rate 15% higher than men but are less likely to continue their studies, although they do better in their studies than their male counterparts, that goes back to the fact that females are looked down to in their families. Finally, the exploitation of some young girls who come from marginalized areas into domestic servitude makes them destined for that for life at an early age. When assessing the context of violence against women in Tunisia, it is necessary to understand the context of development of certain cases of exploitation. According to a recent study, 47% of women aged 18-64 report having experienced at least one form of physical, psychological, sexual or economic violence in their lives. 55 So, examining the violence women experience is important because it makes it clear why they become more susceptible to manipulation and exploitation. Perpetrators could possibly be as close to the woman as her family members and husband. Most importantly, this issue should be addressed not only by individuals but also by the government and civil society in order to defend the rights of women, and protect them from such crimes. Facing stigma in Tunisia, young, single mothers, who have children out of the wedlock, are vulnerable to trafficking. They are classified by their society as inferior and of a lower rank and they lose basic human rights. In fact, these young women when they are isolated, sometimes minors, are subject to various forms of exploitation, especially when they try to meet the needs of their child. Therefore, it is highly important to establish a stronger legal framework to support them.

On the other hand, regardless of all the efforts made in the Tunisian judicial

53 Ibid
54 Article 5 (a) of the Tunisian Labor Code.
system and the new additions which are considered gender-friendly in the Tunisian new bill of law, which I will explain in the next paragraphs, the cases of sexual exploitation of women in trafficking incidents remain problematic for the judicial system. As, these crimes are categorized under the frame of ethical crimes, and of course prostitution. A group of NGOs which support prostitution as legal work and in response to the Palermo Protocol lobbied to limit the definition of trafficking into forced trafficking, and to omit the terms of trafficking for prostitution or sexual exploitation. They also wanted to remove the notion of the victim and limit it to only those women who could prove that they were forced into prostitution after being trafficked; however, the demand was disregarded. This sounds just like what the judicial system in Tunisia is doing today with trafficking victims, as in Tunisia like the case of many Arab countries, trafficking in women has always been linked with prostitution. The Tunisian judicial system demands these victims to prove that they were forced into prostitution, and if proved otherwise, then they would be convicted with this “ethical” crime. Article 3b of the Palermo Protocol insures “that victims of trafficking will not bear the burden of proof”. Back to the point of the separation of prostitution and trafficking as Article 3a calls for no separation between both actions for victims. But at the same time, it acknowledges that “much trafficking is for the purpose of prostitution and for other forms of sexual exploitation” but not only that as victims could be trafficked for forced labor. The argument about legalizing prostitution is also present among experts in Tunisia as they see in it a way of violating women rights. According to the General Prosecutor, Sadok Amari, who states: “These laws which regulate prostitution in Tunisia make women more vulnerable to sexual exploitation. They control the permit of prostitutes and their status which, to me, is another face to legalizing trafficking in women. Hence, this law should be banned as it also dates back to the French occupation era.”

Similar arguments on the international scene were discussed as they link the legalization of prostitution with the growth of women trafficking; however, this is not my main argument in this research, so I will not go into it in details.

I want to assess the presentation of gender-based arguments in three laws against trafficking in persons and compare the international performance in drafting the laws to the Tunisian one. When examining the Palermo Protocol and comparing it to the Council of Europe Convention on Action against Trafficking in Human Beings and the Tunisian bill against trafficking in persons, I would like to point out what I have observed in relation to the level of gender-sensitivity these laws have provided: all the laws mention gender equality and gender issues and women rights; however, with a slight difference.

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56 Amari, Sadok. Interview with the Attorney General at the Ministry of Justice. Interviewed by Racha Haffar. 3 April 2015. See Appendix X.
First, when evaluating the Palermo Protocol, I noticed that it mentions gender and women a few times. In fact, it is mentioned in Article 2, as it specifies women as a vulnerable category to trafficking. The word gender is mentioned in Article 6 as it indicates that state parties should pay attention to the gender of victims and provide them with special care. In addition, in the article about prevention, it states that victims should be protected from victimization, especially women. The fourth point of the same article provides an important stress on strengthening the preventive measures and specifies the factors that push women to trafficking like poverty and lack of equal opportunities.

Second, when examining the Council of Europe Convention Action against Trafficking in Human Beings, it seems to be more gender-friendly as it takes into consideration women vulnerability and the importance of posing the question of gender equality as a reason for affecting women and victimizing them. It pinpoints the fact that international laws and frameworks should avoid paying into avoiding any discrimination based on sexual grounds and guarantee gender equality through combatting this phenomenon. All signatory parties to these conventions should pay attention to gender mainstreaming when working on raising awareness to protect future victims. When it comes to preventive measure, parties should take into account gender differences into tackling developing educational programs, paying attention to girls who might not get proper education and into reaching a positive change on the level of educational programs which play an unfair role into spreading unacceptable nature of discrimination based on sex, causing gender inequality in societies. Also, in helping victims, it is important to have a gender-sensitive approach into providing women with more adequate techniques. One of the other interesting points is that each party should pay attention to expatriation solutions to avoid re-victimizing women. Article 17 on gender equality bounds each party into promoting gender equality through the use of gender responsible measures. This convention shall not affect the rights and obligations derived from the provisions of the Protocol supplementing the United Nations Convention against Transnational Organized Crime, which is intended to enhance the protection afforded by it.

Third, the Tunisian Anti-Trafficking bill of law goes with the main principle of the Palermo Protocol as its stresses the importance of stating victims specially women as being the most vulnerable category. In addition, the Tunisian law has introduced important and new aspects of exploiting women that I have not found in any other convention in relation to trafficking which are the abuse of the fetuses for trafficking, forcing women to marriage, to pregnancy and renting their wombs. Another gender-sensitive aspect is shown in the penalties that are subject to

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augmentation in case the victim is pregnant or if the offender is the woman’s husband or relative. It adds a gender touch even though only one female expert participated in the drafting of this law. Salma Abida, the judge who was the only female in the committee which drafted this law, tells about her important addition to the bill, which makes it more sensitive to women rights and to female victims of trafficking. For her, this bill was inspired from the international instruments and the Palermo protocol which specifies women as most vulnerable. She added the renting or female womb and forcing women to get pregnant and the forced marriage as parts of slavery-like practices. She states: “If it wasn’t for me being there, as the only woman, I would not be sure if these terms would have been added to the bill.”

The Developments of the Legal Framework

I. Trafficking in Women and the International Legal Framework

This section will explore the evolution of international laws in relation to trafficking in persons prior to the adoption of the Palermo Protocol. Internationally, it has long been acknowledged that trafficking in persons is not merely a domestic issue, but rather, is a cross-border, transnational phenomenon. Hence, international laws play a fundamental role in shaping the conceptualizations of trafficking in persons.

This phenomenon has a long history of development from early stages of slavery to today’s modern forms of trafficking in persons and modern-day slavery. The international community went through a long way of developing texts and agreements to fight classical slave trade into reaching slavery-like practices, which jeopardized the dignity of people throughout history. These practices have been denounced in numerous legislative international instruments. Even though slavery and slave trade were abolished centuries ago, trafficking in its new forms is still thriving today against all international power and nothing seems to be able to restrain it, as little seems to be effective in the fight against it. The understanding of “all could be victims” of trafficking and the different forms of trafficking have changed over the past century. The issue of the lack of knowledge of the public about the phenomenon is a big obstacle, as well, which is leading thousands to the

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58 Abida, Salma. Judge at the Ministry of Justice. Interviewed by Racha Haffar. 15 April 2015. See Appendix X.

59 International law is necessary to tackle issues, such as human trafficking, which cannot be adequately addressed at the national level. Regional and domestic efforts to address this issue are fundamentally inadequate in isolation by the fact that such decisions bind only a limited number of policies and states.

webs of this global crime. In fact, the phenomenon has not been recognized until recently and wasn’t legally regulated at the global level as it was only until the early 1900s that the word “trafficking” first appeared.

Actually, the Convention against Trafficking in White slaves or "International Agreement to ensure the Effective Protection against Criminal Trafficking known as the White Slave Trade" made the first appearance of the word trafficking in 1904. Treaties in this matter have started in 1904 and culminated by the UN Trafficking Protocol of 2000. In order to understand comprehensively the current status of the legal framework on trafficking, it is necessary to take a closer look at the history of international instruments which led to the development of today’s framework. “It is through an understanding of why and how the current anti-trafficking agenda came into being that we can then move towards a more informed and aware critique of current practices.”

When the League of Nations officials started to become more concerned after noticing the fast growth of this phenomenon, which affected women badly by then, several international conventions in relation to this matter were adopted starting from 1904, 1910, 1921 and 1933. By clarifying the various developments which have contributed to the current conceptualization of today’s anti-trafficking laws, we can understand the efficiencies, yet weaknesses which are present in them today.

When it comes to the concept of gender, international laws have to a great extent adopted such perception of trafficking in persons, through which women are perceived as the ‘victims’ of trafficking for the purpose of different forms of exploitation, mainly of prostitution.

The following part will demonstrate the three main areas of international laws which have governed the contemporary framework through their developments. These areas are: slavery, prostitution, and labor.

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60 Supra note 13

61 Supra note 7, 3.


1. The Development of International Legislations

A. Anti-Slavery Conventions

As we have noticed, international instruments dealing with trafficking in persons date back to the abolition of slavery. By means of, the recognition of slavery and slavery-like practices as a form of exploitation for the purpose of trafficking in persons started to emerge with the development of international anti-slavery instruments. In fact, the early “white slave traffic” conventions created the basics of today’s contemporary anti-trafficking framework.

The beginning of the 19th century witnessed the rise of moral condemnations surrounding slavery and slave trade and the prohibition of these practices featured more than 75 conventions. They facilitated the development of international anti-slavery legal instruments and created the fundamental basis for the development of international anti-trafficking framework. Thus, related definitions of exploitation to trafficking, which were contained within the international anti-slavery laws have been transferred into the framework of trafficking in persons, to a big extent. The focus of early anti-slavery conventions was essentially on the ban of the slave trade from Africa. Actually, it was the treaty of Paris of 1814, which put forward the need to abolish the slave trade. At that time, the 1815 Declaration Relative to the Universal Abolition of the Slave Trade was the first of its kind to state that the slave trade was a violation of human rights. It is worth mentioning that both international anti-slavery and anti-trafficking frameworks adopt a criminalization approach to achieve the abolition of such practices.

A century later, the 1919 Convention revising the General Act of Berlin and the General Act of Brussels internationally put forward an obligation towards all involved parties to put their ultimate efforts in securing “the complete suppression of slavery in all its forms and of the slave trade by land and sea.” Following the establishment of the League of Nations 1919, the women’s movement shifted its attention to the international rather than the national issues. In the year 1921, and during the international conference in Geneva, hosted by the League of Nations, the term “traffic in women” was proposed to replace the “white slave traffic”. In


66 Ibid

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The 1927 Report of the League of Nations, international traffic was defined as: “the direct or indirect procurement and transportation for gain to a foreign country of women and girls for the sexual gratification of one or more other persons.”

The fight against slavery developed leading to the 1926 League of Nations International Slavery Convention, which was the first international instrument to define slavery and slave trade. With the birth of the United Nations in 1945, this Agreement was succeeded by the Convention on the Abolition of Slavery in 1953. It was only in 1956 through the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery that states found themselves obliged to adopt all measures to abolish practices similar to slavery, precisely debt bondage in addition to Serfdom, servile marriage, and the exploitation of children. The preamble of that convention states that "freedom is a right that every human being acquires at birth." In fact, this convention provides a definition of practices considered "practices similar to slavery," for the first time. "Member states shall take all appropriate measures, including legislation, to suppress all forms of trafficking in women and exploitation of prostitution of women.”

68 Supra note 18

69 Supra note 18


71 Article 1 Supplementary Slavery Convention defines ‘debt bondage’ as the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt of the length and nature of those services are not respectively limited and defined.

72 (Article 1 Supplementary Slavery Convention defines ‘serfdom’ as the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status Article 1 of the Supplementary Slavery Convention.)

73 Under Article 1 Supplementary Slavery Convention ‘servile marriage’ is any institution or practice whereby: i) a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or ii) the husband of a woman, his family or his clan, has the right to transfer her to another person for value received or otherwise; or iii) a woman on the death of her husband is liable to be inherited by another person

74 The exploitation of children in this context is any instrument or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour: Article 1 of the Supplementary Slavery Convention.) Therefore, the fight against trafficking in persons was strengthened and developed with the recognition of slavery and servitude as potential exploitative purposes of trafficking. The fact that the 1948 Universal Declaration of Human Rights mentions slavery in its 4TH Article, proves that slavery still existed at that time.
B. Anti-Prostitution Conventions

In addition to the anti-slavery conventions, the international anti-prostitution conventions contributed in a significant manner to the current conceptualizations of trafficking in persons, as these instruments succeeded in developing an international framework to combat trafficking in persons. However, the main purpose was to fight commercial sexual exploitation in which women came to be recognized as the main victims in this industry.

The ‘white slave traffic’ of the early 20th century was labelled after acts of abduction of Caucasian females who were found forced into prostitution after crossing national borders. Consequently, trafficking became linked to prostitution. And this focus on prostitution remained the main motive for international efforts to criminalize trafficking. These conventions related only to trafficking for the purpose of commercial sexual exploitation and focused on fighting this practice only as a means to abolish prostitution. The best proof on that is the 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, which declares prostitution ‘incompatible with the dignity and worth of the human person’. Equally, this convention shows how the international community was concerned with trafficking in persons for the purpose of commercial sexual exploitation.

In fact, the range of the 1910 International Convention for the Suppression of the White Slave Traffic remained unchanged, keeping the link between trafficking and commercial sexual exploitation of Caucasian females. The 1921 convention for the Suppression of the Traffic in Women and Children further validates the definition contained in the 1910 Convention; in that way, keeping an emphasis on prostitution as the exploitative purpose of trafficking.

The 1933 International Convention for the Suppression of the Traffic in

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76 See Preamble of the 1949 Convention.


80 Supra Note 78,15
Women of the Full Age defines trafficking as “the transfer of women across nation-state borders for immoral purposes, regardless of their consent or coercion.” So, here, this convention puts forward a new notion of victims which is broadened to show that even with the consent, victims remain victims and shall be treated as such. Referring to Tunisia as a study case in this research, it is highly important to see how the current laws fail to protect victims and their rights from this practice. (The case of Tunisian law will be explained in details in the next section of this chapter.)

It is also clear how these definitional limitations looking first at white women within borders, then across borders, then including all ages and still restricting it to the sex industry show how the gendered conception of the trafficking ‘victim’ had developed.

Additionally, these conventions show the connection created between trafficking in women and prostitution. It is worth mentioning that these four white slave traffic conventions gave importance only to the recruitment and transportation process and didn’t look at the end purpose of prostitution which remained a matter of national concern. For instance, the retaining of a woman in a brothel, even against her will, was not within the range of the 1910 Convention, but rather was considered as a matter of national jurisdiction. While many states condemned the exploitation of prostitution, the regulation of prostitution was considered to be a matter of national choice. The abolitionist movement greatly criticized this approach and marked it as useless in addressing the phenomenon, as according to the opinion of the abolitionists, it is regulating prostitution, what would actually stimulate and motivate the traffic in women. It was only until the 1949 International Convention for the Suppression of the Traffic in Persons and the Exploitation of Others that the abolitionist approach was adopted and the League of Nations draft of 1937 convention which consolidated


85 Abolitionism is a movement to end slavery, whether formal or informal in Western Europe and the Americas. It was a historical movement to end the African and Indian slave trade and set slaves free.

the four previous white slave traffic agreements. However, there are some inconsistencies in approach between the title, preamble and text of the convention, as explained:

The title refers to trafficking and the exploitation of the prostitution of others; the preamble acknowledges that both prostitution and trafficking in persons for the purpose of prostitution are incompatible with human dignity; and the text refers to commercial sexual exploitation as the exploitative purposes of trafficking in persons.

The 1949 Convention develops race, gender and age neutral terminology and removes the transnational element of trafficking in persons. By that, it extends the definition of trafficking in persons, while keeping in mind the focus on the sex industry. It explicitly connects trafficking in persons with the exploitation of prostitution. This approach provides a narrow vision to what victims of trafficking really are. As, it assumes that prostitution is the only generator of trafficking and that all prostitutes and women in the sex industry are victims. It fails to protect those who are trafficked for purposes other than sexual exploitation. After that, negotiations of the Trafficking in Persons Protocol came to surface after realizing the inefficiency of the latter convention. This was also a drive for the adoption of the 1979 CEDAW which was also a very clear statement and attempt to cut ties with the previous 1949 convention, and also the abolitionist approach, which was perceived as a failure to protecting women rights in relation to trafficking. In fact, the CEDAW was not spared from reinforcing traditional conceptualizations of the female victim of trafficking for the purpose of commercial sexual exploitation and such labels carry on to being the predominant in contemporary conceptualizations of trafficking in persons.


89 Supra Note 84, p.52

90 Supra Note 78, p.17

91 Supra Note 84, p. 55


93 Supra Note 84, p. 94
Consequently, these early anti-trafficking instruments jeopardized the positions of victims related to sex industry as immoral which in a way justifies the neglect to their rights as persons who have been through a lot of exploitation and human rights violations. This is applicable in the case of Tunisia today, and the state punishes victims of trafficking- women who have been caught in sexual acts while they were trafficked- and victimizes them by sentencing them to jail.

(More details on this will follow in the following sections.) However, analysis of international conventions of prostitution, show a persistent criminalization approach which drew a growing attention from policy makers and NGOs to work on protecting victims.

The gendered aspect of the traffic of women into the sex industry continues to dominate contemporary conceptualizations of trafficking in persons and more international efforts are being invested in that.94

C. Anti-Economic Exploitation Conventions

To carry on the same track of the development of international laws in relation to trafficking in persons, we must talk about the developments within the international labor laws prohibiting specifically, forced labor, exploitation of child labor, and exploitation of migrant workers. This has contributed to the contemporary trafficking in person’s framework, mainly by expanding the scope of trafficking to include the exploitation of labor outside of the sex industry and classical forms of slavery. Similarly, international laws have shifted attention to the rights of the child in the light of exploitation for labor and that helped in extending the framework of trafficking in persons today.

In addition, the International Labor Organization (ILO) has made it possible to shift the world’s attention to the trafficking phenomenon only from the angle of sex trade and prostitution when it passed certain conventions defending the rights of laborers and condemning their exploitation. Mentioning some of these conventions, which came as early as building upon the 1926 slavery convention, was the 1930 Forced Labor Convention95 and the 1957 Abolition of Forced Labor Convention.96 These measures have worked on preventing forced labor from putting people into slavery-like conditions. From the ILO standpoint, trafficking is

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a “degrading misuse of human resources resulting in undignified and unproductive work.” 97 These agreements oblige state parties to suppress and abolish forced or compulsory labor.

The 1999 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor98 shows the emphasis on prohibiting exploiting children as the worst form of child labor. When it comes to migrant workers, the ILO instruments also influence the international anti-trafficking framework. One of the most recent international conventions on this matter is the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,99 which contributes to the fight against trafficking in persons as many trafficked victims belong to this category of migrant workers. However, it is important to notice that there is a clear lack of interest by states to the treatment of migrant victims and their exploitation. It is apparent in the way they deal with many victims who face illegal status and confiscated papers. In the example of Tunisia, the state is not doing any extra effort in recognizing and helping them. There will be more information on this in the following sections and chapter.

2. The Palermo Protocol

These were the conventions which laid the basis for today’s international conventions and efforts into fighting trafficking. Along the history of international laws, global anti-trafficking measures were better addressed in a more comprehensive way in today’s most reliable and recent instrument among all, which has put forward what we define today as ‘trafficking in persons’. The United Nations Convention against Transnational Organized Crime and its two related protocols: the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, and the United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air, which entered into force in 2003-2004. These conventions were created by the United Nations Office on Drugs and Crime (UNODC), which have been supporting international laws in their fight against trafficking in persons. One of the most recent


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Instruments was the creation of the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) in 2007 in order to support these conventions.¹⁰⁰

The definition of trafficking in persons in its current form first appears in 2000. As a consequence to the discussions in Palermo, Italy, later that led to the Palermo Protocol which came into force December 12, 2002. One hundred seventeen signatory states agreed to fight all forms of trafficking in persons including (slavery, slavery-like practices, sexual exploitation, forced labor and removal of organs). The Palermo protocol entered into force December 25, 2003.¹⁰¹

When it comes to what this protocol has put forward, it is important to notice the new aspects in relation to definitions of victims. The protocol provides broader definition of trafficking in persons. It balances law enforcement and victims’ rights. It is worth mentioning that two comprehensive documents that relate to different international law instruments have shed the light on how trafficking victims should be treated.¹⁰² “These two documents were produced to ensure that trafficked persons were treated as victims rather than as criminals.” It is important that victims’ rights are protected specially women and children.¹⁰³ However, it remains always problematic to translate these conventions and agreements into reality as very few criminals are condemned and more victims are not even identified, let alone, be protected or rescued.¹⁰⁴

There are some uncertainties about how functional and feasible this protocol could be. It is evident that preventative mechanisms, investigative procedures, prosecutorial systems, and victim rehabilitation must be tailored to specific aspects of trafficking in persons including the different types of exploitation, law related issues, and victims. As victims of sexual exploitation differ from labor ones, and the latter differs from the ones of slavery-like practices like forced marriage.¹⁰⁵ ‘Trafficking in persons is a complex, multi-faceted problem that intertwines issues of law enforcement, border control, gender, crime, security and


¹⁰¹ Supra note 94, 53


¹⁰³ Supra note 100

¹⁰⁴ Houidi, Sami Ben. Assistant Director-General of the Department of judicial interests in the Ministry of Justice interviewed by Racha Haffar. 20 April 2015. See Appendix X

¹⁰⁵ Supra Note 58

human rights’.

The fourth World Conference on women in 1995 calls for “effective suppression of trafficking in women and girls for the sex trade”. So, it is important to point out the fact that with this protocol, the international community maintained a focus on trafficking in women.

3. Tunisia’s Compliance with International Laws

Although trafficking is a complex issue, these previously mentioned international legal instruments have been implemented to aid trafficking victims and to combat this worldwide phenomenon. The Palermo Protocol offers more influence than all these preceding hopeful agreements as it proves to be a law enforcement instrument. It requires states to take serious actions into penalizing traffickers, protecting victims and granting them residence whether temporary or permanent in the countries of destination. So, signatory parties are obliged to create their own national legislation which supports these provisions at the domestic level. Even those states which are not party to the UN Convention against Transnational Organized Crime and its two related protocols find themselves obliged to protect the rights of trafficked persons under provisions in the Universal Declaration of Human Rights.

The issue of compliance with anti-trafficking laws is problematic, but states can actually work on overcoming this. In fact, states get funds to support their national strategies in their combats but they shouldn’t rely on the UN solely as they have to expand their national legislations. It is highly important for everyone to recognize that trafficking is like an epidemic and no one could be spared of it. Therefore, states should realize that their roles in this fight are significant to the overall global fight. Just as the world objected to slavery collectively, it also requires collective opposition to abolish trafficking in persons. NGOs throughout the world undertake a big responsibility into monitoring human rights violations with respect to trafficking in persons. As they collect data and analysis and send it to the UN, which in turn is able to fully assess the violations then deals with the issue in relation to international laws. Further details on this will be provided in Chapter III. However, it is not only the role of NGOs to write reports, as states also are expected to submit regular ones regarding their level of compliance with the convention. The UN oversees these levels of national compliances demonstrated


107 Supra Note 26
by states and they monitor abuses to certain treaties at the same time. Regional and
domestic legislations are the backbone to the enforcement of international laws, as
the latter could not function in isolation from them. States with their domestic
instruments aim at combatting this phenomenon through provisions that go in
accordance with the international agreements, which are effective to tailor their
enforcement and monitor methods to their own needs.

Many obstacles face states in applying these international and national
legislations because of the complexity of applying them. Therefore, the crime not
only transcends borders but also jurisdictions. Applying international law to
someone who is in a different state takes a lot of resources, money and energy, and
many countries with limited resources find it hard to do so.

Another problem facing states is when it comes to enforcing anti-trafficking
laws there is a lack of training for officials who are supposed to be dealing with
this crime. Even if the law is implemented there is a gap in the performance of
local officers like border patrol officers, federal agents and police officers. This,
consequently, affects victims who are maltreated and find themselves at the
position of a criminal of illegal immigrant, either arrested or deported. Victims find
themselves short of language of the country where they were caught and that
creates problems at a bigger scale. In the case of Tunisia, those who were abroad,
upon their return find themselves in a position of a defendant trying to prove they
are innocent. In fact, Tunisian women who have been trafficked into Lebanon and
the gulf countries where faced by charges of prostitution upon their return to
Tunisia. When it comes to foreign women trafficked into Tunisia, these victims
find themselves also powerless as they can be faced with the fact that they are
illegal immigrants upon their illegal stay in the country. (This will be further
discussed in the next sections).  

II. Trafficking in Women and the National Legal Framework

This section will discuss the development of the national legal framework in
trafficking in persons. I will talk about the current legislation in use today, which is
applied to cases of trafficking and what the new anti-trafficking bill of law has to
offer. The central argument will focus on the issue of re-victimization and women
rights in relation to trafficked women.

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InternationalLaw.pdf>.

109 The information mentioned in this part is mainly based on 9 interviews with experts from different ministries
(Interior, Social Affairs, Women Affairs, Justice,) and experts from civil society available at Appendix X. In
addition, I will use an official document from the ministry of Justice about the country’s efforts in fighting this crime
available at Appendix II.
1. The Legal Development of National Laws

A. Pre-Revolution

Tunisia as any other signatory party was bound to sign and ratify the previously mentioned international instruments under international pressure to meet a certain level of compliance. The pressure from the UN, EU and US State Department started even before the revolution of 2011. The country found itself going behind others in the region as it hasn’t passed its own national law on trafficking hitting by that a lower status on the scale of Tier placements which is Tier Two Watch List.\(^{110}\)

There is a national bill of law against trafficking which was passed through the ministerial council and now it is waiting to be debated in the parliament. Experts are afraid this might take long resulting into pushing Tunisia’s placement in the Tier list into the last ranking which is the Tier 3; the worst in fighting trafficking in persons.\(^{111}\) Prior to the revolution, there was a series of texts condemning slavery and crimes related to trafficking which Tunisia has signed. Some of these instruments date back to 1846, as mentioned in Chapter I. They were signed to fight slavery, trafficking and slavery-like practices. According to the ministry of justice, Tunisia prohibited slavery since issuing the Public Order of Prohibiting Slavery January 23, 1846 and issued the first legal text prohibiting slavery and enslavement according to the decree of May 29, 1890. In the past century, Tunisia had ratified a series of texts related to trafficking, such as the Slavery Convention of 1926 and the Protocol amending the Convention and the Supplementary Convention on the Abolition of Slavery, of the Slave Trade and Institutions and Practices Similar to Slavery of 1956.\(^{112}\)

According to the Ministry of Justice,\(^{113}\) there is no legal text in the current Tunisian legal framework about trafficking, supposed to define trafficking in persons according to international standards, criminalizes it and describes it as an

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\(^{110}\) Tier 2 Watch List: States which do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards.

\(^{111}\) Tier 3: States which do not fully comply with the minimum standards and are not making significant efforts to do so.

\(^{112}\) The international agreements which were signed prior to the revolution include most importantly: The United Nations Covenant on Civil and Political Rights (16 December 1966); The UN Convention against Torture and other cruel, inhuman and degrading treatment (10 December 1984); Article 7 of the International Covenant on Civil and Political Rights states that "No one shall be subjected to torture or to cruel, inhuman or degrading." Article 8 provides that "no one shall be held slavery, slavery and the slave trade in all their forms shall be prohibited.'

\(^{113}\) The Ministry of Justice is the main governmental body dealing with the fight against trafficking in Tunisia.
independent crime, which has its own specific legal body and, which differentiates it from other similar crimes such as illegal immigration or other linked crimes.

When it comes to how the country and the judicial system dealt with victims prior to the revolution, it is important to highlight the fact that the re-victimization of victims of trafficking who were spotted in sexual acts related to prostitution was and is still the case until today. The laws Tunisia is using now don’t protect victims, and rather, they put them under judgment, once again. They could be put in prison for getting involved in acts of prostitution while the convict who abused the victim is set free, or charged with much less than what he/she deserves. This, in fact, is one of the reasons why the victims or the government never mentioned this topic before the revolution. Because the truth surrounding this topic involves government officials and people with power who could use nepotism into setting free some convicts who were pled guilty in sexual abuse.\textsuperscript{114}

Tunisian penal code includes prohibition of different forms of exploitation and prevents all forms of assault against humans in general. It consists of different crimes which have direct connection with trafficking in persons, and it has guaranteed combating this phenomenon until now, to some extent.\textsuperscript{115} Most importantly, in this matter, Tunisia was committed to ratify the Palermo Protocol on fighting trafficking in persons in 2003; however, and after more than a decade, still there are no internal laws to go with what Tunisia signed in accordance. There is just the previously mentioned bill of law on trafficking in persons.\textsuperscript{116} On a different note, it is worth mentioning that there is a radical development at the level of the anti-trafficking national bill and procedures dealing with female victims of trafficking.

**B. Post-Revolution**

In the post-revolution era, the international pressure which existed before grew as the country is going through transitional changes and it opened its doors to all different commitments to human rights in order to satisfy the international community.\textsuperscript{117} In a sense, the growing structure of governmental and non-governmental bodies, which are paying a larger respect for human rights, is clearer now. Nevertheless, we cannot find one single organization dedicated for the fight

\textsuperscript{114} Supra Note 34

\textsuperscript{115} Official Governemntal Document: The Response of the Ministry of Justice about the Country’s Efforts in Fighting Trafficking in Persons in Tunisia, appendix I.

\textsuperscript{116} Yacoubi, Amal. Project Officer at the EuroMed. Interviewed by Racha Haffar, 19 January 2015. See Appendix X.

\textsuperscript{117} Abdallah, Abdelhamid. Previous head of mission at the Ministry of Human Rights and Transnational Justice. Interview by Racha Haffar. 2015 January 22. See Appendix X
against trafficking. Today, if one looks around, he/she may notice the big number of national and international parties which don’t consider trafficking in persons as a big problem threatening Tunisia. Even Tunisians themselves demonstrated a lack of knowledge in this regard. Thus, it is this lack of knowledge about the topic what led to the growth of the phenomenon in the country as it can be interpreted as a form of negligence. The issues that have emerged after the revolution and which I have mentioned in Chapter I are hindering the fight against trafficking. The national anti-trafficking law would have been promulgated if these issues didn’t exist. As mentioned in the previous section of this chapter, the international instruments signed by Tunisia are thoroughly mentioned in the document of the Ministry of Justice.

2. Current Legislation in Force

Even though there are no specific laws in the Tunisian legal system concerned with trafficking in persons, there are many different applicable texts, which criminalize different forms of trafficking in persons and which guarantee- to a certain extent -combating this phenomenon, even in a partial way. The Tunisian constitution states “All citizens, male and female, are equal in rights and duties, and are equal before the law without discrimination. The State guarantees to citizens, male and female, individual and collective rights and freedoms, and provides them with the conditions for a dignified life.”

In addition to the constitution which guarantees rights and dignity for citizens, the Tunisian Penal Code and the Labor Code both include laws dealing with such crimes. They provide a group of laws prohibiting sexual exploitation and economic exploitation of labors. Here, I will only focus on the ones which are most important in dealing with trafficking-related practices, and they are as follows (the rest are included in Appendix I pages 4-9.)

A. The Tunisian Penal Code

The Tunisian Penal Code criminalizes sexual exploitation in its different...
forms and helps protect different rights related to women, namely:121

Begging and exploitation of vulnerability (Art.171), fraud of identity papers (Art.193), abuse of children(Art. 210-224), abduction and kidnaping(Art. 237 and following), enforcement (Art. 283), deception(Art. 291), criminalization of rape (Art.227), criminalization of pimping(Art. 232) Criminalizing harnessing someone without legal obligation (Art.105 penal code), criminalization of sexual assaults and secret prostitution and using prostitution as a job to get a salary or mediating in it or motivating others into doing it (Art.226 of penal code and what follows).

When it comes to using women wombs or abusing fetuses for commercial services, the law number 93 of 2001 prohibits such practices.

B. The Tunisian Labor Code

The Labor Code prohibits the economic exploitation of workers and regulates certain related aspects. In addition to the Tunisian national legislation which is centered on the principles of respecting human entities, prohibiting all forms of slavery, enslavement, sexual abuse, physical abuse; they also pay attention to forced labor and economic exploitation. In fact, Tunisia has ratified a large number of conventions with the support of the ILO in protection of workers. The content of these agreements was taken, essentially, by the Labor Code. Some of the provisions in the Labor Code against labor exploitation are common to all workers, others are for vulnerable workers; women and children and the rest are for foreign workers.

However, the protection given to workers by these rules remains very inadequate. As follows are some of the laws:

Organizing salaries (Art.828 of the obligations and contract code), salaries for lifetime until death of employee are invalid as this long life period of payment is considered as a convincing form of enslavement, which Tunisian law is being aware of as a violation to the laws of prohibiting slavery (Art. 833).

The Labor Code issued in 1966 paid attention to contractual relations in the professional framework and put comprehensive rules to protect against forced labor and servitude into creating balanced relations between employers and employees. Regulations include working hours, payments, regulating women working at night, administrative and health control, etc. The law that regulates domestic servitude conditions guarantees protective measures against their abuse. Article 79 of 1965 sets the maximum working hours per week to 48 hours. Most importantly, the Labor Code also protects women and children below 18 years

against heavy work such as underground work in mines and quarries, or works recoveries, processing and storage. The Code prohibits also night work of women and children.\(^{122}\)

### C. Current Anti-Trafficking Bill of Law

Tunisia has been under a lot of pressure from the international community to form its own national law, which has to comply with international standards and agreements in the fight against trafficking. It is important to point out that since Tunisia signed and ratified the Palermo Protocol in 2003, there has been slight work done in developing this national legal framework until the actual planning started in 2010. So, prior to the 2011 revolution, the ministries in charge started to think about this bill of law. The actual work began in August 2012 when the Ministry of Justice’s Anti-Trafficking office, which was made up of three persons drafted the first Anti-Trafficking legislation in November 2012. Now, the final draft of this national bill of law on trafficking in persons is awaiting approval in the parliament. Experts hope that it will pass no further than by the end of 2015, as for them it is a priority and should be also considered as such by the parliament.\(^{123}\)

In an interview I conducted with Sami ben Houidi, about the other reasons than the international pressure that pushed Tunisia to draft this national bill, the latter stated the following: “I see that the punishment is not enough, currently the laws in use don’t classify crimes related to trafficking as felonies and rather they are classified as offences which set the convict to a maximum of five years imprisonment. With the new change, and by considering them as high violations of human rights, we will punish the criminals according to what they deserve, and there will be an elevation in the penal laws.”

According to Salma Abida,\(^{124}\) this new law will bring three main differences after applying it. For her, the notion of the victim will become sacred; as for the current laws and notions applied to victims, women who are lured, abused, got their passports confiscated, were obliged or not to be part of the prostitution act, are participants in this act and they have to be penalized according to the judicial body. Now, this will change as experts are devoting a great deal of effort and attention to this matter in order to re-establish the notion of victims.

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\(^{123}\) Amari, Sadok. Interview of the Attorney General at the Ministry of Justice. Interviewed by Racha Haffar. 3 April 2015. See Appendix X.

\(^{124}\) Abida, Salma. Interview of the Judge at the Ministry of Justice. Interviewed by Racha Haffar. 15 April 2015. See Appendix X.
Consequently, legal experts want to make sure that the female victim will not be charged for any action related to the trafficking incident. In addition, the consent of the victim will not be taken accountable for, and it will not be considered when there is a presence of force, threat, or any other form of exploitation of the female victim’s vulnerability.

To be more specific, this bill is following the provisions of the Palermo Protocol as it is adopting the consent part of Article 3(b), which specifies that if one of the means set forth in Article 3(a) is used, it is irrelevant whether the person expressed consent or not. This new bill of law has also devoted a number of mechanisms for providing help and protection to victims (further information will be provided in chapter III).

Trafficking in persons has grown from a national framework into a transnational one where many other countries are now involved as countries of destination for Tunisian victims and vice-versa. Tunisian women are exploited in the Middle East, and more specifically in Lebanon and the Gulf countries. However, it is noted by experts who are criticizing the current laws in use that these laws are insufficient for the defense of women rights. And they are hoping this new law will bring about the inevitable change awaited. Experts are afraid this law might take two years or even more and this delay might harm more victims in the process.

When it comes to criminalizing traffickers, the bill is concerned with national and transnational trafficking, whether the crime is done by a single actor or whether it is an organized crime by a group of people. It also broadens the list of offenses to ensure a comprehensive reach for criminal acts. In fact, the new provisions in this bill show the inefficiency of the current laws as when it comes to prosecution, penalties are insufficient and are not severe enough or equal to other crimes with more serious penalties, such as rape. For example, the penal code sets five years imprisonment for forced prostitution of women and 10 years imprisonment for exploiting a person for forced labor, while the penalties set for rape range from five years imprisonment to the death penalty. So, some real changes have to be done on this level, soon.

In Tunisia, the efforts which have been taken to domesticate the UN Protocol into national legislation are still considered limited until this draft law promulgates. For example, in Tunisia, Article 231 of the Penal Code criminalizes women who get involved in prostitution even by coincidence to imprisonment up to two years. And, what is more shocking and more relevant to trafficking, Article 232

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125 Article 3 (a) of the Palermo Protocol is the previously mentioned definition of trafficking in persons in Chapter I.

126 Jaouadi, Najet. The responsible for the department of social prevention of the judicial police under the Ministry of Interior. Interviewed by Racha Haffar. 23 April 2015. See Appendix X.
criminalizes procuring a woman for unlawful sexual intercourse and intermediating in it to up to only three years in prison. We see the need for urgent change in these laws as they have to be reinterpreted more deeply by the state to cover trafficking and the modern forms of slavery. Thus, these scattered laws made Tunisia take so long to come up with the new specific law and; therefore, paved the ground for this phenomenon to grow.

4. The Overall Efforts of Tunisia in Dealing with this Phenomenon

Tunisia has invested in a number of international, national and regional efforts to fight trafficking in persons. At the international level, Tunisia was present in different international workshops and platforms working on the fight against trafficking in persons, such as the workshop in Vienna organized by the Euromed in April 23, 2013. There is also collaboration at the level of states between Tunisia and the US Department of State office with a focus on monitoring and combating trafficking in persons.

At the regional level, Tunisia has participated in regional conferences such as the one on Human Trafficking and the Protection of Illegal Immigrants in Khartoum October 13, 2014. The concerned authorities stated that due to international, regional and bilateral cooperation in the fields of justice and security, today, there is more space for cooperation between Tunisia and other international and regional actors.

At the national level, experts from the Ministry of Justice explained the role Tunisia played with the only international organization working in Tunisia on the fight against trafficking. The IOM has established the S.H.A.R.E project "Support and Hand-over of Assistance and Referral mechanisms as well as Exchange of practices in anti-trafficking" in 2011 with close collaboration with the Ministry of Justice. The S.H.A.R.E project initiated a baseline study, the first of its kind in Tunisia to scan the phenomenon of trafficking in persons. Along with it there were many trainings and awareness campaigns for the reason that - as Salma Abida argues “when we started working on the S.H.A.R.E project, many people didn’t even know what the meaning of trafficking is. This is what we started working on, an empty field that has nothing. And worse of all is how we kept saying that we are not directly concerned with this phenomenon and we don’t have it. All this proves


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The level of seriousness the problem has reached.”

The S.H.A.R.E project established mechanisms and exchange of practices to fight this phenomenon and to get a better understanding of the situation. This project includes ministerial representative from different ministries, civil society and international organizations. There is also a collaboration with NGOs which deal with women rights for awareness and which provide care for victims within the national work plan of protecting women from violence and which the ministry of women affairs is in charge of.129

When it comes to governmental bodies specialized in the fight against trafficking, it is worth mentioning that at the level of the government, there should be a committee working on this.130 However, since this bill hasn’t been issued yet, the committee cannot be formed. There are different cells created in different ministries to combat trafficking except for the ministry of interior which has made a specialized security body to fight it and to work with other bodies in collecting information, analyzing them and using them to trace traffickers and victims. Thus, a provisional national committee was established within the Ministry of Justice to supervise the national action plan, and it will take care of the work until the bill promulgates and consequently the national committee exists.

Tunisia’s policies prior to the 2011 revolution contributed in deepening the misbalance between authorities and citizens which helped crippling the efforts of eliminating the root causes of this phenomenon. Yet, after the revolution, the development programs adopted by the government have been working on limiting social and financial causes leading to trafficking.

Raising awareness is one of the most prominent actions on the government’s agenda for the coming years.131 Many governmental bodies and non-governmental ones are working on raising awareness by targeting the Tunisian youth to convince them of the dangers of being victims of trafficking during illegal immigration and young females who intend to go and work abroad through unregulated contracts of being victims of sexual exploitation. Nevertheless, this development will happen at the level of experts not the citizens as the topic doesn’t reach all citizens for it is not mentioned enough in the media.132 More support and work is needed to achieve awareness through campaigns, educational programs, conferences, seminars, printings and brochures to introduce and define this phenomenon and the main

129 Supra Note 8, 16.

130 This national committee is supposed to undertake responsibilities of creating strategies in collaboration with other public and private sectors. It is in charge of providing protection to victims of trafficking and creating preventive measures, integration strategies, trainings for officials and awareness campaigns and others more.

131 Appendix III: Government’s agenda in relation to trafficking in persons.

132 Supra Note 126
axes of the new bill of law. There is also a big attention given by Ministries of Justice, Interior, Foreign Affairs, Social Affairs, Health, Finance, and Women’s Affairs, as well as members of civil society to organize conferences, workshops and trainings; both to include the civil society and to introduce the new knowledge on this topic to the government officials as a part of capacity building strategy. The trainings were for police and border security officials and military officials who are responsible for the security at the refugees’ camps and borders. In collaboration between the Ministries of Social Affairs and Women’s Affairs and the government, different shelters were set up for vulnerable groups such as single mothers, youth at risk, and sick elderly; however, no specialized centers for trafficking victims were established. When it comes to recruitments, the government continues to investigate the operating recruitment agencies in Tunisia by requiring them to sign contracts by the Ministry of Employment before recruiting Tunisian workers for employments abroad.

The Developments of Categories of Transnational Female Victims in Tunisia

I. Categories of Transnational Female Victims in Tunisia

In this chapter, I will explore the different categories of transnational (cross-border) female victims of trafficking in Tunisia. Then will discuss the categories of trafficked women in Tunisia prior to the revolution, and show how the revolution has added new categories of victims in Tunisia. Since this research has an international relations perspective, I will focus especially on the trafficking of foreign women in Tunisia and trafficking of Tunisian women abroad. Consequently, I will be dealing with internal trafficking in the country briefly. Meaning, my focus is only on transnational trafficking. I will use data and testimonies to support my argument. I will also examine the role of different actors in providing protection and help for these victims.

1. Who could be a Victim in Tunisia?

Briefly, I would like to start by exploring the trafficking of minor girls in Tunisia for both sexual exploitation and servitude. Most of these young females are from the North West part of the country; from cities such as Seliena, Ain Drahem and Tbarka. They get sent out by their families to work for rich families who live in the capital or other coastal cities. They could be as young as 10 years-old and they face all forms of exploitation and enslavement. Here, the purpose is primarily
for servitude. There are intermediaries called “Samsara” who find the girl a suitable house and then they take her salary- either to split it with her family or even just for themselves- leaving her with nothing. And at the same time, these girls get sexually abused and exploited making of them even more vulnerable victims.\footnote{Wakil, Lubna Al. «Presentation on child protection delegate in Bizerte, Reality of Trafficking in Children and Minors through the work of Delegates Minors through the work of Delegates of Child Protection.» s.d.}

In fact, during 2013, there have been 5655 notices of children in potential similar situation of exploitation, where females represented 49.4 percent making 2857 notices.\footnote{Department, U.S State. «U.S. State Department Trafficking in Persons Report.» June 2013. www.state.gov. 4 February 2015 <http://www.state.gov/documents/organization/210742.pdf>.

Also, these minors and underage exploited females could easily get involved in illegal prostitution, convicted by law and persecuted instead of being treated as victims. In this same context of prostitution, foreign women could be victims of international trafficking networks. Some of them are held in detention centers and prisons for illegal prostitution. In fact, in 2012, 129 foreign women were put in such centers, but none was identified as a victim of trafficking by the Ministry of Interior.

In addition, females who are victims of sexual violence whether it is committed by a stranger or a family member, they become more vulnerable to exploitation. Some women rescued turn to prostitution because they start perceiving themselves as slaves or sex objects. Female students are facing high risks of Orfi\footnote{Orfi: Customary marriages are illegal but allow the couple to consummate their relationship without a formal marriage.} marriages and for being abandoned after being deceived into these marriages. Once they get pregnant, they find themselves abandoned in the streets with their newly born babies. Same applies to single mothers, as they find themselves stigmatized in a judgmental society what makes them find themselves forced into illegal prostitution after having limited access to housing and employment.\footnote{Supra Note 8, 69} They become homeless and might find resort in the arms of their traffickers. One of these single mothers, while she was pregnant, found no solution but to turn to prostitution to pay for accommodation. After a study conducted by the Ministry of Social Affairs on single mothers in 2007, it was found that the average age of these females was 26 years. Women coming from rural areas face great marginalization and they are vulnerable for the lack of social and economic developments in their regions. They face wage discrimination as they get up to two times less than men doing the same work and they are so poor.\footnote{Ibid 8} Consequently,
traffickers find in them a great prey.

When it comes to immigration, smuggled women and those who were found in illegal status of immigration should not be treated as criminals who should be deported out of the country. In other words, a woman who travels and migrates for a better job or who has a status of a refugee and found herself trafficked should not be punished and treated as an illegal alien. Tightened legislations on borders pave the way for traffickers to abuse more women and put women under a lot of harassment. These women find themselves in the hands of international traffickers and unwelcomed by any destination country. In fact, from my interview with experts at the IOM, I realized that many migrant women who come here to work find themselves in an illegal situation after being trafficked and they fear telling the authorities about what happened to them not to be put in prison for their illegal status, so they just bear longer with their trafficked situation. To be more precise, and other than the African victims I will mention in the next parts, many refugees who fled the Syrian war found themselves staying illegally in Tunisia. Some of these Syrian refugees got married to Tunisian men who failed to get them a residency, and since they have no family and support, they get abused by their husbands. Some of them end up begging in the streets with a confiscated passport if they get caught by the police, leaving them with no option but to be vulnerable to any kind of trafficker. The same applies to African women who are brought to Tunisia through intermediaries who faked contracts of decent jobs for them. They stay for a bit then after finishing the legal period of three months residency; they find themselves in the streets without residence, rights, or illegal status, so they join prostitution networks for survival. In 2013, four African women were assisted by Beity alongside other women from different nationalities facing similar situations as the following table demonstrates:

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139 According to UNHCR, the number of Syrian refugees reached 6338 in North Africa (1 February 2013).

140 Article 9 states that "All foreigners staying in Tunisia more than three uninterrupted months or six non-consecutive months in a year, must obtain a visa and a temporary residence permit which will be issued in accordance with this Act."

141 Mawahem, Hedia. Beity, Association for Women without Homes. Interviewed by Racha Haffar. 23 January 2015. See Appendix X.

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These figures show how little the number of needy women reach out to help as there must be much more than this. It also demonstrates the different nationalities of females victims who live through such situations. This could also show the urge for establishing more specialized centers to provide proper help for all specific different types of victims.

2. The Pre-Revolution Context of Transnational Trafficking in Women

A. Foreign Women and Sexual Exploitation

When looking at the categories of trafficked female victims in Tunisia prior to the 2011 revolution, we notice that when it comes to the trafficking of foreign women into sexual exploitation in Tunisia, back in the 1990s, they represented about 80 percent of the prostitutes in Tunisian Cabarets. These trafficked foreigners were mainly Europeans and Egyptians. The latter, have been trafficked through international pimping networks, according to a press article by Attariq newspaper. They are fooled into prostitution by false promises of working as dancers in nightclubs. However, today, it is totally the opposite, the locals represent the majority. In 2007, three Ukrainian women were identified as victims of sexual exploitation and even forced labor in Tunisian hotels. In addition, some Dominican women were sold in Tunisian luxurious hotel for prostitution.

<table>
<thead>
<tr>
<th>Year</th>
<th>Nationalities</th>
<th>Total Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013</td>
<td>Algerians, Libyan, Africans, Palestinian</td>
<td>8</td>
</tr>
<tr>
<td>2014</td>
<td>Cameroon, Russian, Bulgarian, Ivorian, German,</td>
<td>10</td>
</tr>
<tr>
<td>2015</td>
<td>Brazilian, Syrian, Africans</td>
<td>3</td>
</tr>
</tbody>
</table>

These figures show how little the number of needy women reach out to help as there must be much more than this. It also demonstrates the different nationalities of females victims who live through such situations. This could also show the urge for establishing more specialized centers to provide proper help for all specific different types of victims.

142 Supra Note 8, 65
143 Ibid 67

B. Foreign Women and Domestic Servitude

Through this research, I came to realize that it is not only today that African women are trafficked in Tunisian into domestic servitude. In fact, this phenomenon dates back earlier than we think. In 2008, a documented case of two young females from Ghana were working for a high official taking care of his sick daughter; these two got their papers confiscated and they couldn’t leave. They had to work all the time, and in 2010, they were still there in the service of this high official who enjoyed a diplomatic protection. This immunity protects many officials who exploit women and keep them under control, women are brought from West and East Africa to work as servants in Tunisia and they get exploited and get trafficked for domestic servitude, as reported by IGOs and NGOs to authorities. In fact, studies and information regarding this topic remain limited and all concerned actors should conduct further research and investigation in this filed, as it is hard for women to be trafficked and cross borders without the help of well-organized national networks.

C. Tunisian Women and Sexual Exploitation Abroad

In 2007, a 22-year-old Tunisian woman who was a victim of trafficking for sexual exploitation in Turkey was assisted by an international organization. Her story began when her friend persuaded her to go work as a baby sitter for a Turkish family. Once there, she found herself forced into prostitution. However, according to the ministry of interior, most cases of prostitution in Turkey are voluntary and not coerced. It is confirmed that trafficking in women into prostitution happens through a legal procedure; a valid passport and visa when they were first offered jobs abroad. Between 2009 and 2010, many daughters were taken by their fathers to the “prostitutes market” to be sold off to customers. The specific ages of these girls or their place of origin are not documented, though. In 2009, two women were rescued from being trafficked into forced prostitution in Jordan.

In fact, all this proves the fact that Tunisia is indeed a country of origin of victims of trafficking in the Middle Eat; namely Lebanon and the Gulf and also

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145 Supra Note 8, 67


147 Ibid

West Africa. Lebanon is a channel for victims trafficked into West Africa. Recruitment could also happen in the internal regions of Tunisia such as El Kef, where victims could be directly transported to destination countries; i.e. Ivory Coast for sexual exploitation. Many women get recruited by their friends, acquaintances and/or through the internet and the social media, of course. However, in the next part, I will talk more about the growth of categories and numbers of victims in the post-revolution context, which is caused not only by the advance of technology but also by the wars and unstable situations in the region.

3. Trafficking in Women and the Context of the Tunisian Revolution

Tunisia has always been considered as a transit portal for immigrants and refugees from Africa into Europe as it is situated at the tip of the African continent. Consequently, foreigners of different nationalities get the status of trafficked victims in this context. The revolution was a catalyst when it comes to internal and cross-border trafficking as with the Libyan and Syrian wars, refugees at the borders of the Tunisian land who fled the wars into the camps were exploited and the phenomenon grew. The borders areas with both Algeria and Libya make great hubs for smuggling and trafficking. Migrant women victims of unrests in these neighboring countries find themselves vulnerable in Tunisia.

In fact, according to Sadok Amari, the fact that the country is not fighting trafficking is because of the financial and social instabilities the country is facing, which increased after the revolution. The emptiness and security vacuum created after the revolution helped prepare the atmosphere for more exploitation as when it comes to transnational victims; cross-border female victims of different African nationalities are trafficked into domestic servitude and prostitution. The rising terrorism today does not leave the space for trafficking to appeal to decision makers as a priority. The most important thing experts insisted on is the fact that the laws have to change and that authorities have to work on making the anti-trafficking bill as a priority to save more victims and bring more villains to justice. It is also important to pin-point that one of the main factors of trafficking is poverty.

The openness to the use of technology encouraged traffickers through the easy connectivity and easy reach to deceive victims more. Social media today, which at some point played an important role in the success of the revolution, is also playing an important role in the success of trafficking operations. These aspects have thrived throughout the region in recent years and changed the nature

149 Ivory Coast, Benin, Senegal. (put transcription of interviews if needed) check appendix.

150 Supra Note 8, 18.
of demand and shifted it to a national supply.\textsuperscript{151}

In 2012, an unprecedented increase in illegal prostitution was observed by the First Instance Court of Tunis. This development in internal prostitution led consequently to the increase of external prostitution. Now, there are two cases of clandestine prostitution at least per week, which should be given more attention as these women could be trafficked abroad.

Between 2010 and 2012, which is the revolution period, the UNODC noticed that there are higher proportions of trafficked victims into forced labor in North Africa and the Middle East than other parts of the world.\textsuperscript{152}

As a result of the change in the Tunisian context following the revolution, there is a change in the categories of trafficking in women accordingly. It is important to note that Jihad al-Nikah only existed after the revolution, which is considered as a new form of exploitation, connected to a religious mainstream. It found a convenient ground to develop and to take new dimensions with the presence of the security vacuum. The only proof of the existence of this form of trafficking is the quote of an official who demanded his name remains anonymous in the Ministry of Interior back in 2012, when he stated that the number of sexually exploited Tunisian women- who were falsified into Jihad prostitution- doesn’t exceed fifteen. They were persuaded to offer social services for Jihadists,\textsuperscript{153} such as providing them with medical care, preparing their meals and washing their clothes. However, this phenomenon remains controversial as no proofs or statistics are provided by authorities.\textsuperscript{154}

In addition, there is a rise in Orfi marriages after the revolution. According to the Ministry of the Interior, this type of marriage is not as frequent, but staff members working with single mothers noticed an upturn after the revolution. It is also important to note that students reported having been contacted to work in the Gulf countries; knowing it as a good cover for exploiting them into prostitution.

New definitions and notions were added to the new previously mentioned anti-trafficking bill of law to broaden the range of victims. First, when it comes to

\textsuperscript{151} Interview Jaouadi, Najet. Responsible for the department of social prevention of the judicial police under the Ministry of Interior. Interviewed by Racha Haffar. 23 April 2015. See Appendix X.


\textsuperscript{153} Jihadists: Muslim warriors who take on duties to maintain religion.

\textsuperscript{154} Own translated from France 24. "تونسيات مارسن "جهاد النكاح" في سوريا بعدن إلى بلادهن حماما" September 2013. france24.FR. 15 April 2015 http://www.france24.com/ar/20130919-%D8%AA%D9%88%D9%86%D8%B3-%D8%AC%D9%87%D8%A7%D8%AF-%D8%A7%D9%84%D9%86%D9%83%D8%A7%D8%AD-%D9%88%D8%B2%D8%A7%D8%B1%D8%A9-%D8%A7%D9%84%D8%AF%D8%A7%D8%B9%D8%A7%D9%85%D8%AD-%D8%A7%D9%84%D8%B9%D8%A7%D9%85%D8%AD-%D8%A7%D9%84%D8%AF-%D8%A7%D9%84%D8%B9%D8%A7%D9%85/D8%AD-%D8%A7%D9%84%D8%AF-%D8%A7%D9%85/D8%AD-%D8%A7%D9%84%D8%AF-%D8%A7%D9%85/D8%AD-%D8%A7%D9%84%D8%AF-%D8%A7%D9%85/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%AA%D9%88%D9%86%D8%B3-%D8%AC%D9%87%D8%A7%D8%AF-%D8%A7%D9%84/D8%A7%D9%85/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%D9%84/D8%AD-%D8%A7%
definitions (which are mentioned in chapter I) the most important new addition to female victims are forcing women for the purpose of marriage and coercing them to pregnancy or renting their wombs. As previously mentioned, the notion of consent from the victim has been discharged and the victim will no longer be charged for any of the actions she was involved in whether by her consent or not.

Let’s take the example of the most controversial case of cross-border trafficking in Tunisian women. March 13, 2013 witnessed a big controversy in the Tunisian legal system and a lot of criticism arose about the case of the 85 Tunisian women who were caught in a crime of trafficking by a Lebanese trafficking network. However, three of the 85 were charged for prostitution. The addition of the slavery-like practices like debt bondage to the new bill of law will save such victims from being pled guilty. In this part, I will only explore the change in notion and the details about the victims and their trials will follow, where I have dedicated a whole part to disclose different aspects about cross-border victims of trafficking in post-revolution Tunisia.

There is also a change at the level of defining the convict who exploited the victim into prostitution and it will include family members such as the husband if he persuaded his wife and changed her destination. The punishment will be of a minimum of 15 years.155

With all this, we can notice the development of the notion throughout history. Back in 1846, it was only limited to slavery and now it includes all aspects and notions related to different characteristics that might relate directly or indirectly to the phenomenon.156 Furthermore, the notion of age will be changed from article 231,157 which doesn’t specify the age of the victim into making it clear that women above 18-years-old will be charged with prostitution. Logically, minors will be always lured under threat or not, they shouldn’t be treated as criminals.158

There is another bill of law “Against all Forms of Violence Against Women”, which includes a chapter about trafficking in women; however, experts from the Ministry of Justice indicated that there is repetition and it is redundant, so it might be dismissed as all aspects are covered in the anti-trafficking bill. Consequently, I was advised not to use it for the sake of avoiding confusion.159

155 Houidi, Sami Ben. Assistant Director-General of the Department of judicial interests in the Ministry of Justice interviewed by Racha Haffar. 20 April 2015. See Appendix X

156 Ibid

157 Article 231 of Penal Code

158 Jaouadi, Najet. The responsible for the department of social prevention of the judicial police under the Ministry of Interior. Interviewed by Racha Haffar. 23 April 2015. See Appendix X.

159 Abida, Salma. Judge at the Ministry of Justice. Interviewed by Racha Haffar.15 April 2015. See Appendix X.
Experts could not hide their resentment towards such laws failing to protect women, as stated by Mohamed Messai. “We have been using the same laws since the Bey time, which is 1913, when it comes to protection of women from crimes; we have to protect them first from such laws, which are failing them. We need to change the laws, and it’s a must.”

4. Recent Transnational Cases of Trafficked Victims

In this part, after disclosing the changes and developments brought in to the trafficking in women context in post-revolution Tunisia, I would like to study the two main cases of transnational actions of trafficking in women. First, the case of Tunisian women trafficked abroad, mainly in Lebanon and the Gulf countries. Second, foreign women trafficked in Tunisia. This part will explore these cases in their current status following the revolution, their development and will be supported by first-hand statistics, court cases, and victims’ testimonies obtained through my research.

A. The Case of Tunisian Women Trafficked Abroad

When it comes to Tunisian women who are exploited abroad, it is worth mentioning that after the revolution, the number has risen. Previously, when I mentioned Lebanon, Jordan and the Gulf countries, the numbers detected were really low; only ranging between one to two victims. Today, we hear of cases including 85 victims. The famous case of those 85 Tunisian female victims trafficked in Lebanon had created much debate. In September 2012, those victims were sentenced for different penalties for prostitution and pimping. The story began when a Lebanese pimp travelled to Tunisia to make a deal with Tunisian intermediaries who would take in charge the recruitment of girls for him. Usually, it is easier when it happens through the internet and social media, but also, the recruitment through hairdressers is very effective. These young women are offered simple jobs yet with a rewarding salary as waitresses, dancers or singers. They are easily recruited via e-mails with their photos in different positions. It only takes the girl to pay between 400-500 dollars for the intermediary to provide her the paperwork, the visa and the contract. Of course, they are deceived as these contracts and papers are fake and are just a method to fool them into believing the job is real. The pimp offers the girl through the intermediary an artist visa, which is issued by the Lebanese Consulate and also passports issued by the Tunisian authorities. The intermediary who is basically responsible for all the recruitment

160 Messai, Mohamed. Researchal Judge at the Center of Legal Studies. Interviewed by Racha Haffar 20 April 2015. See Appendix X.
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process receives a commission of 500 dollars for each girl and he/she gets the money through Western Union. Upon their arrival to their destinations, these girls were tested for any STDs. They found them selves obliged to sign contracts as prostitutes at night clubs after their passports were confiscated from them. They were also faced with reality of reimbursing the visa, housing and travel expenses to their trafficker. This situation of Debt Bondage obliges them to join the prostitution network illegally, as they cannot afford to pay the money back or even afford their return ticket back to Tunisia. They find themselves sometimes drugged and forced into prostitution. As an encouragement to stick around, they get paid 100 dollars per client. One of the worst things is keeping them tied with the Kafala system. And of course they are threatened by force and blackmailing to stick to their new jobs. They work and sleep in the same building and they are always escorted by a member of the network. Some victims get offers of marriage to be encouraged, and actually one of them was married Orfi to one of the cabaret customers where she worked. However, the recruitment process is worrying Tunisian authorities, especially when it is done through social media, as it is harder to trace according to the Ministry of Interior. The Ministry of Interior with close collaboration with the Interpol managed to detect this network. It is obvious that these two bodies had difficulties in detecting the victims as these actions are carried out within the legal framework of migration flows for employment (by providing three- months renewable contracts).

When we tackle this incident from a legal perspective and after the authorities arrested those 85 Tunisian women on basis of prostitution charges upon their return from being forced to work in prostitution in August 2012. The judge dropped charges of 79 of them and the rest arrested for illegal prostitution and pimping. First, we see how the current laws fail female victims forced into prostitution after being trafficked. They were not identified or believed to be victims and were convicted under laws of Penal Code (articles 231 and 232) for the absence of a specific law on trafficking. However, if the new anti-trafficking bill of law was an applicable law by then, these women wouldn’t have gone through all these accusations and convictions. In fact, as mentioned in the previous chapter, this bill will broaden the range of victims to guarantee no victim of trafficking

161 STDs: Sexually Transmitted Diseases.

162 The situation arising from forcing the debtor to perform work or services either by themselves or another dependent person as a guarantee to a debt they awe if the fair value of that work or service is not used to pay off this debt or if the service’s period or nature was undetermined.

163 The kafala system is another term to sponsorship. It is a system used to monitor migrant laborers in the Middle East, mainly in Lebanon, Bahrain, Iraq, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE.

164 Interpol: International Criminal Police Organization, an association of over 100 national policeforces, devoted to fighting international crime through collaboration among intelligence agencies around the world.

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would face similar fate of being pled guilty in illegal prostitution. One of the victims in a different incident, A. A., was promised to work as a nurse and when she arrived to her destination it wasn’t the case. The pimp asked her to repay the 3000 dollars he had already paid for her plane ticket and visa. When her phone was confiscated, she couldn’t contact her family and was obliged to stay there until she pays off her debt.

For the Tunisian judicial system now, a victim is only a victim if she returns back to Tunisia quickly enough for the judges to believe her, otherwise she is accused of wanting to work as a prostitute and wanting the money she gets from it. Najet El Jaouadi states: “Some of them stay up to two years and come back talking about different boyfriends, that is for us pure prostitution and we don’t regret putting such women in jail.”

Some other victims were released because they proved being deceived into falsified jobs. The court’s case states that N., the Lebanese trafficker, who was behind this crime, along with three female intermediaries and three female victims were sentences to jail. N. got sentenced to three years imprisonment, while the other three intermediaries got a sentence of a year and the victims of trafficking who were convicted of illegal prostitution got a sentence of eight months in prison. This shows how unserious laws are in deterring such crimes and punishing network traffickers in such way. Three years of imprisonment is considered as nothing compared to the seriousness of this crime which affected severely the lives of 85 women and maybe some others. So, is wondering about the legitimacy of revictimizing these three victims a valid point when we examine the defaulted law

When it comes to statistics, there is a huge lack of national efforts in providing accurate statistics of transnational trafficking crimes against Tunisian women abroad. It was only until January 2015 that the Ministry of Interior provided me with statistics about women victims of sex trafficking in the Middle East for the years 2012-2013-2014. The number of female trafficking intermediaries detected in Tunisia in 2012 was 38, in 2013 it was 24 and in 2014 it was 39. When it comes to the numbers of victims detected in 2012 it was 87, in 2013 it was 177 and in 2014 a total of 88. However, the IOM only identified two Tunisian victims exploited in trafficking abroad (Liberia and USA), mainly in forced prostitution and forced services. In the quest for testimonies from Tunisian victims trafficked abroad, I faced a lot of difficulties in reaching them and

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165 Jaouadi, Najet. The responsible for the department of social prevention of the judicial police under the Ministry of Interior. Interviewed by Racha Haffar. 23 April 2015. See Appendix X.

166 Case number 2278, 14 March 2013, Court of First Instance in Tunis.

167 See Appendix IV for statistics of Ministry of Interior.

168 See Appendix V for IOM statistics.
getting their direct stories as my applications in different NGOs and ministries were rejected. However, it was easier to get testimonies of foreign women trafficked in Tunisia as NGOs were permitted to pass them to me.

After studying the Lebanon case, I would like to point out some other similar, yet separate incidents. There are cases of women being arrested upon their return in Tunisia after declaring being sexually exploited in Lebanon and Bahrain. There is an incident of 28 women who were trafficked in Lebanon in 2012. A pimp was behind sending them to Lebanon and sending others to Bahrain. Two of these women trafficked in Bahrain were interviewed and they stated that they were kept in their rooms all day without any freedom of movement, in 2012. The only testimony I got was the story of one of the victim’s fiancé who spoke on Ettounisia channel when the program ‘Labes’ shed the light on trafficking cases and their processes. So this victim is one of the 28 mentioned above.

B. Foreign Women Trafficking in Tunisia

After the revolution, more foreign women, specifically Africans, have been found subject to trafficking in Tunisia. In 2011, a case of an Ivorian woman who has been held in domestic servitude was revealed. She was kept by a senior official. Another case of an Ivorian woman held in domestic servitude by another senior official of the same institution in Tunis came to surface. In addition, seven Nigerian women were identified as trafficking victims into domestic servitude in Libya by networks in Italy when the ship they were on while heading to Europe, which was full of migrants was assisted by Tunisian Coast Guard after getting stranded at the sea in 2012. Two weeks later they were repatriated back to Nigeria.

The only statistics which exist in Tunisia covering the profiles of this category of trafficked foreign women in Tunisia are provided by the IOM. They have been assisted in the period between 2012 and 2015. I got this document in April shortly after its preparation. Since 2012, the total number of victims detected

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169 See AppendixVI for proof

170 Supra Note 8, p.64

171 February 2013.

172 Check Appendix VII for testimony.


174 Supra Note 8, 65.

175 Ibid
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and assisted by the IOM was a total of 43 victims. Among these victims, 23 come from Ivory Coast (58%), 9 from Nigeria (22%), 2 from Tunisia, 2 from Mali, 2 from Colombia and 1 victim from each of Cameroun, Ghana, Senegal, Philippines and Congo. From the total number, the highest percentages were those of Ivory Coast (54%) and Nigeria was second (21%). The types of exploitation were as follows:

- Thirty six cases of domestic servitude.
- Five cases of exploitation in forced labor.
- One case of sexual exploitation and forced labor.
- One case of sexual exploitation.

The majority of victims are females aged (18-52), 21 of them are women coming from Ivory Coast who were exploited in domestic servitude in the capital Tunis and other Tunisian coastline cities. There was another group of young Nigerian females who were detected among illegal migrants rescued at the sea in 2012 as they were exploited in Libya in domestic servitude and some signs show that they were possibly exploited in forced prostitution upon arrival in Europe. The majority of the victims assisted were adults (88%); however, five of them were minors- below the age of eighteen (2 Nigerians, 2 Ivorians, 1 Malian.)

I managed to get two testimonies about trafficked Ivorian female victims in Tunisia. The first testimony is by Father David, who headed the funeral of a migrant victim to the Christian cemetery of Sfax. He testified to the ATFD on the situation of Ivoirians trafficked into domestic servitude in Sfax. Testimony is provided in Appendix VIII. The second one is a story of a Malian victim of domestic servitude in Tunisia presented by Amal Association.

II. Governmental and Non-Governmental Organizations and Trafficking in Women in Tunisia

In this final section, I will talk about the efforts made by governmental and non-governmental bodies in the post-revolution period in protecting and helping

\[1^{76}\] These statistics are coordination with public national institutions, organizations of civil society and foreign consultants in Tunisia. In the framework of the S.H.A.R.E project activities.

\[1^{77}\] See Appendix V for document handed in April 2015 by IOM

\[1^{78}\] David Mayeda Gnandouwa is the priest to whom these Ivorian trafficking victims dared to resort to for help.

\[1^{79}\] Sfax is a city located 270Km southeast of the capital Tunis.

\[1^{80}\] See Appendix IX for Malian victim testimony.
victims. This includes state’s instances and civil society actors, basically IGOs and NGOs. Then I will give a general thorough criticism to what have been missing in the fight against trafficking in women in Tunisia by these different actors.

1. Post-Revolution Governmental Efforts in Providing Protection and Help for Victims

When it comes to the protection of the witnesses and victims, the penal code doesn’t have any precise laws in this matter; however, the new bill of law has put forward some new articles in this matter, and I mention the ones I didn’t mention earlier:

- Providing physical protection for victims, witnesses, whistleblowers, judges and everyone involved in informing the authorities about the crimes.
- Hiding the identity of anyone who asks for it depending on the danger degree assessed by the judicial body in charge.
- Victims get the right to ask for information and guidance about appealing for compensation.¹⁸¹

When it comes to the health, social and psychological protection for victims, the new law will provide victims with:

- Medical help
- Judicial support with no costs to ensure rights for the victims and guidance with judicial help to start their cases against their perpetrators.
- Helping victims return to their countries.
- Social help (education, housing, jobs) for victims to reintegrate in their lives again.

Regarding the efforts of enhancing national capacity to prevent and fight trafficking in persons:

- The S.H.A.R.E project in cooperation between the Ministry of Justice and the IOM has been working on enhancing national capacities since 2011.
- In the framework of the project, a series of six workshops were organized during 2013 in the capital and the regions in order to train officials on identifying victims and the different needed methods for helping them.
- Over hundred officials benefited from these trainings; including teams from

¹⁸¹ See Appendix II
different ministries (Social Affairs, Women Affairs and Family, Foreign Affairs, and Justice). Also, judges, public prosecutors, representatives of embassies, consulates and diplomats.

In addition, this new bill would also provide a green line for victims to directly reach the Tunisian authorities from any place they are at. Since 2011 the Tunisian government has improved its knowledge about the topic and the range of victims through research and investigations conducted after the revolution, and through the creation of a database of trafficking crimes which was initiated by the ministry of interior in 2012.

2. Post-Revolution Non-Governmental Efforts in Providing Protection and Help for Victims

Alongside the state’s efforts, there must be some coordinated actions on the level of civil society, NGOs and IGOs to effectively counter trafficking in Tunisia. Combining efforts could create synergies, which will prevent trafficking and also provide better protecting and help to victims. Even though we notice a growing interest in this issue lately, more specifically after the revolution; however, little has been done to fight trafficking in Tunisia. It is worth mentioning that the role of NGOs and IGOs is so important in combatting this crime, but there is a huge absence for organizations specialized in this field. It is true that with the help of the IOM and the S.H.A.R.E project which put together governmental and non-governmental bodies closer in their work against this, there is still a lot to do. International organizations such as the IOM, UNHCR\textsuperscript{183}, The High Commissioner for Human Rights (OHCHR) and The United Nations Population Fund (UNFPA) are working together on this; nevertheless, they all agree on the need to rely more on civil society to provide appropriate services to vulnerable groups of trafficking, especially women with a better understanding of the local context. But it is sad to see how underdeveloped this network is in Tunisia and how limited their capacities and resources are.

Tunisian NGOs which are involved directly in the fight against trafficking are at the same time a part of the S.H.A.R.E project and they are: Amal

\textsuperscript{182} Abida, Salma. Judge at the Ministry of Justice. Interviewed by Racha Haffar. 15 April 2015. See Appendix X.

\textsuperscript{183} The United Nations High Commissioner for Refugees (UNHCR) prevents trafficking in persons among vulnerable groups (asylum seekers, repatriated, stateless persons, internal displaced persons) and assist victims.
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Association, Beity Association, the Tunisian Red Crescent, ATFD, AIESAT, AFTURD, Caritas, and Terre d’Asile. According to the Ministry of Justice, the role of these NGOs as it sees it is that of a partner of the previously mentioned S.H.A.R.E project. These NGOs are specialized in different fields and they work on other types of victims, but this doesn’t stop them from trying to help any potential trafficking victim. One of the problems facing these NGOs is that there is little research done to uncover the magnitude of this problem.

The IOM has made an awareness-raising campaign based on a video called “The Story of Fatma.” The video tells a story of a Tunisian young woman seeking a job online; she eventually gets to the destination country of her new job after going through an easy recruitment procedure to find herself a victim of trafficking. During an interview with Hanen Ben Belgacem, working at the IOM, I got to learn about the way the IOM helps victims trafficked in Tunisia to return home. According to Hanen, once a victim is identified, she gets social and psychological help and gets encouraged to file a case against her perpetrator. In the case of refusal for their security and because of fear of traffickers, they get help to go back home through a purchased airplane ticket and some money to start a little project back home to sustain their living. Some of them go to seek help to return home without realizing they are victims. However, the IOM also helps get those with illegal status—who stayed longer than three months—an exemption from the government; as without the Exemption they have to pay a fine of 80 dinars per extra illegal month, which they can’t afford. Personally, from what I have read in different sources, I believe it might not be safe for many of them to be sent back home as they might find themselves back to the same situation prior to their trafficking incident, especially victims coming from conflict zones. Also, if a

184 Amal Association
185 Beity Association
186 AIESAT: L’Association Internationale des Etudiants et Stagiaires Africains à Tunis
187 AFTURD : Association des Femmes Tunisiennes pour la Recherche sur le Développement
188 Caritas: Christian Charity
189 Terre d’Asile: NGO working on immigrants’ rights.
192 Belgacem, Hanen Ben. Project Assistant at the International Organization of Migration. Interviewed by Racha Haffar. 15 May 2015. See Appendix X.


61
network or gang was involved, they might threaten the safety of the victim and her family. And in the cases of refugees fleeing wars, they might not have a home to return to in the first place. The only way to properly fight this crime is by uniting efforts between the different sectors and make sure the public also gets involved in this through raising awareness.

3. General Criticism

I will end this chapter by providing a thorough criticism in relation to the laws, protection of victims, and overall performance. Even though the government is making significant efforts like the ones mentioned in the previous parts, it is important to note that it does not fully comply with the minimum standards for the elimination of trafficking. When it comes to criticizing the overall performance in relation to the legal framework and its development, we can mention that the legal vacuum is an important default. More than a decade after signing and ratifying the Palermo protocol and still there is no national legal framework to fight trafficking. The government still doesn’t consider the current bill of law as a priority. It is even more frightening that the laws in use today haven’t been ratified since 1913. More concern is expressed by experts about the fact that the bill has not promulgated yet. For them, this delay is dangerous as it jeopardizes the situation of trafficking in the country specially, and human rights generally. Abdelhamid Abdallah stated: “This shows how slow we act and how much damage we cause to ourselves by losing all this time in advancing our legal framework.”

There are other gaps on different levels. There is no national central unit of collecting data in relation to trafficking analysis information and making statistics. There are no accurate statistics about the most spread forms and cases of trafficking nationally and transnationally. There are no clear and exact information about the link between the crimes of trafficking and illegal immigrations and no specific statics about the crimes of trafficking. There is a huge lack in statistics in relation to victims, which I already spoke about earlier. The government doesn’t recognize all these gaps as a real problem affecting the nation, and the concerned authorities assume that trafficking is not wide spread. However, the government’s continued determination that trafficking in persons is not a significant problem in the country has created a hindrance for police and court officials to address trafficking cases.

On the level of prosecution, it’s true that there was a raise from zero

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prosecutions and convictions in 2012 into one sex trafficking prosecution in 2013 using the existing legal framework, that increase remains very low. In fact, these numbers of course lack accuracy as there is a lack of statistics. In the Lebanon case the pimp was sentenced to only 3 years imprisonment under article 232 of Penal Code. This penalty doesn’t show the seriousness of the offense and is for sure insufficient. However, and according to the ministry of justice, this information is different as in their report, 177 victims were recorded in 2013 and there were 50 cases at courts in the first 7 months of 2014 and the penalties were between 6 months and 3 years. So, this inaccuracy in tracing crimes and criminals is in fact problematic.

When it comes to victims, there are no specific tools or national mechanisms as a reference to recognize them especially among illegal immigrants and to provide protection for them. There are no specific methods to help victims except what the child protection code provides guidelines against sexual or economic exploitation of children such as prostitution or begging. There are no exact data about the nationalities and sexes of victims. No exact data about the re-trafficked victims and the reasons which made them fall again in the hands of traffickers. There are no data on mechanisms and tools of directing victims to specific authorities or facilities for protection and help.\textsuperscript{195} No exact statistics about the different categories of trafficked victims but the one about the foreign victims trafficked into Tunisia and the Tunisian women trafficked abroad in prostitution. It is true that maybe the explicit cross-border forms of trafficking such as the Lebanon case are not wide spread, but trafficking in Tunisia is increasing and the denial by the public for the little knowledge and the denial by authorities helps in aggravating the situation and subjugating more women to more victimization, suffering and loss of their rights. Therefore, the country is violating what Article 46 of the constitution says about protecting women.\textsuperscript{196} The government does not encourage victims by any kind of policies to come forward ask for prosecution of their trafficking offenders.\textsuperscript{197}

The matter of reintegration is off the table as the absence of the specific law has led to the absence of specified centers in taking care of reintegrating victims back into their societies. Even though the government is cooperating with

\textsuperscript{195} Official Governmental Document: The Response of the Ministry of Justice about the Country's Efforts in Fighting Trafficking in Persons in Tunisia, appendix I.

\textsuperscript{196} The State commits to protecting women's achieved rights and works to promote and develop them. The State shall guarantee equality of opportunity between men and women in the bearing of all responsibilities and in all fields. The State shall strive to achieve equal representation for women and men in elected councils. The State shall take the necessary measures to eradicate violence against women.

international organizations and actors into offering temporary shelters and social services to Libyans, Syrians, and other people fleeing political unrests. There are no previous registered cases of cooperation with other Arab, African or Western states in judicial and security matters. There are no specific data on the number of victims who received protection services with all its different forms, without specifying their ages, sexes nationalities and the type of services they got.

Finally, Tunisia not only risks the well-being of its citizens for not applying its own national law, but also risks the United States aids and its classification of Tunisia on its trafficking ranking. This means the country will hit the lowest level at the Tier List, which is for those states that put the least effort in fighting trafficking.

**CONCLUSION**

This research helped me discover some facts about trafficking in women in Tunisia. The first chapter of this research traced the historical timeline of the emergence of slavery and trafficking in persons throughout history. It also defined concepts necessary to understand the phenomenon of trafficking in women in Tunisia as it shows the relations between the different faces of slavery that are embodied in trafficking. The chapter explores the different forms of exploitation which affect a female victim according to the new legal texts and definitions such as the Palermo Protocol. It adds to this the new definitions introduced at the Tunisian national context through the new anti-trafficking bill of law. This bill brought new concepts of exploitation to the surface in relation to women’s rights, such as renting women wombs and forced marriage. In addition, it creates a link between traditional slavery in Tunisia in the past with today’s trafficking. By introducing the new post-revolution Tunisian context, exploitation with all its forms in Tunisia makes more sense today in the light of the recent changes at the social, political, economic and legal levels. The first chapter also tackled trafficking in women from a gender perspective, showing the main reasons making of women the biggest proportion of abused citizens in their societies.

The second chapter shed light on the legal developments of trafficking-related laws which advanced starting from the early 1900s. International legal instruments played an important role in combatting slavery and putting trafficking in its current context today. If it was not for these tools, slavery would have been more spread and more victims would have had to endure inhumane practices. The Palermo Protocol which came into practice in 2003 was the latest international

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198 *Supra Note 195*

199 See Appendix II
instrument to put forward a global accepted definition, mechanisms, and strategies for a better updated fight against trafficking. Although Tunisia signed and ratified this Protocol accordingly in the same year as a way of compliance with international standards to fight the trafficking crime, it failed to validate its own national anti-trafficking law on time. The Tunisian legal system still lacks the practicality in dealing with such crime and its victims, as laws of the Penal Code applied today have proved to be inefficient in prosecution and protection. The Tunisian legal framework is out of date and short in achieving justice to affected women victims of trafficking. Experts and concerned authorities found themselves obliged to put forward more efforts in the field of fighting trafficking. They started to organize workshops, campaigns to bring the proper know-how of fighting trafficking and protecting victims. However, these efforts are still limited and need to be boosted in an efficient manner.

The last chapter examined the scene of trafficking in post-revolution Tunisia. It explained how the revolution played a catalyst in advancing forms, categories and numbers of trafficked women. Throughout the chapter, I analyzed categories of vulnerable groups in Tunisia. Students, single mothers, and immigrants make up a big portion of the total number of victims. In addition, the research presented statistics of both categories of transnational trafficked women in Tunisia. Ivorian women make up the majority of foreign women trafficked in Tunisian for servitude with 58 percent of the total number followed by Nigeria with a total of 22 percent.200 Tunisian women trafficked abroad for sexual exploitation make a total of 88 victims in 2014.201 Moreover, the new forms of trafficking in post-revolution Tunisia include the Jihad al-Nikah on which no concrete data could be traced for the fact that there is so much secrecy on the issue. Tunisia makes a perfect country of origin, transit and destination of trafficked victims with a strategic location at the tip of the African continent that makes it a great attraction to illegal immigrants fleeing their African countries towards the European continent. The advance of technology, education and lack of employment make many women seek better jobs abroad. Traffickers find a great opportunity to exploit women with false promises. Here one can mention the case of eighty five Tunisian women who were pled guilty upon their return to Tunisia from being trafficked in Lebanon into prostitution.

The focus here was on the notion of re-victimization of Tunisian women. Women exploited in prostitution once trafficked face harsh accusations from Tunisian authorities. They are not considered as victims unless proved otherwise - according to articles 231 and 232 of the Penal Code-and might end up convicted

200 See appendix V for full statistics
201 See appendix IV for full statistics
for a year imprisonment. This is a consequence of the absence of specific laws categorizing victims as such. The new Tunisian Anti-Trafficking bill of law puts forward the notion of exempting victims from the effort of proving their innocence and automatically categorizes them as victims regardless of their situation.

Trafficking in women in Tunisia has reached a new alerting status and needs more attention. Although governmental and non-governmental bodies have started to put more efforts in standing against this phenomenon, there still remains a huge lack in combatting its growth and development. Today, we see more of it than yesterday, and it exists in all forms and corners of the country. Look around carefully and you might detect a victim, but the public might be ignorant of the whole thing since there is little knowledge and awareness about the issue.

Throughout this research, I faced many challenges that hindered my data collection. First of all, the topic is new to the Tunisian scene and not much research has been done about the issue. I had to conduct my own field work to get first-hand information. Second, I faced a lot of difficulties to reach victims. When I applied for an authorization from the ministry of interior to meet certain victims related to the Lebanon case or to the Jihad al-Nikah or even prostitution, I was faced with rejection and all I got was false promises. When it comes to the Jihad al-Nikah, I could not find any proper documented cases to study and introduce in my research. In addition, reaching victims through the NGOs was also difficult as the number is limited and these victims refuse to be interviewed for safety measures. Third, the lack of knowledge of some of the interviewees was problematic for the research for not enough showed awareness in regard to this issue. There is a lack of understanding about the definitions and forms of trafficking in persons and I had to explain it practically to every single person instead of getting the information I seek from them. There were some problems reaching certain officials which prevented further collection and analysis of data. In many cases I also was not welcomed and helped even by some NGOs.

During this research, I came to find recommendations on a professional level given by organizations, national authority officials and experts in different sectors. I will put forward some of these recommendation that might really help improve the scheme of fighting and preventing trafficking in women in Tunisia, and provide a basis for a better way of dealing with victims.

The first thing that has to be done at the legal level for a real fight against this crime is to pass the anti-trafficking law for the importance of having a specific legal framework at the national level. The anti-trafficking commission already mentioned in Chapter II should start working as soon as possible to take in charge many anti-trafficking actions and future plans. This commission could create a database for statistics and launch awareness campaigns. Educational campaigns, seminars, and workshops should work on raising awareness about trafficking for a
better prevention. It is important to start implementing measures against discrimination vulnerable groups face, especially in relation to gender, origins, region, occupation, and family status (divorced women and singles mothers). A comprehensive national action plan should be taken into consideration in parallel with the legal framework. In fact, laws related to the protection of vulnerable groups have to be reinforced by the government and laws failing victims should be revoked. There must be an adoption of national legislation for asylum seekers, and a reinforcement of laws concerning illegal immigrants.

Second, when it comes to victims, the government should develop measures and techniques to identify victims through providing trainings for specialized authorities among vulnerable groups, illegal immigrants, asylum seekers and foreigners working in Tunisia. The government should set up specialized shelters and centers to help and assist trafficking victims psychologically, physically and socially in to protect them from their traffickers. This should include a green line and a toll free center for instant reach of authorities. Developing a National Referral Mechanism—which includes all stakeholders in order to strengthen national cooperation including governmental bodies, non-governmental bodies, civil society, international organizations, local unions, UN agencies and even media outlets- to cover all aspects for the protection and assistance of victims. It is necessary to create measures for transnational victims to go back home and help them with their reintegration in their countries of origin. The states should provide alternatives to laws of repatriation of victims especially when they need the protection of the destination country, such as resettlement in a third country.

Creating cooperation and partnership between the state and the private sector to guarantee national victims get access to education, trainings, and employment is a must. There should be a focus on strengthening the capacity of police officers and border control officers and justice ones through trainings of investigation research techniques for a better reach of victims and traffickers.

When it comes to the regional level, it is recommended to initiate a collective database for information and statistics. Exchanging legal and technical expertise help alleviate the level of deterrence in the region as a whole. Creating a mutual fund among these states of the region for supporting and integrating victims

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204 Supra Note 202

205 Ibid
could bring some positive changes in their lives. It is also suggested by the Ministry of Justice to Support the Arab initiative into building capacities through the intensive training workshops and regional meetings to help authorities work in this matter.\textsuperscript{206} Sami ben Houidi stated the importance of strengthening the fight against poverty as it helps save many prospective victims. Understanding the schemes of unemployment help overcoming the obstacles created by poverty and which in turn affects the Tunisian population.\textsuperscript{207}

At the personal level, I have come across some ideas to help improve the fight against trafficking. I believe it is highly important to work on strengthening the capacity of civil society and to create NGOs interested in trafficking in persons. Hence, it is impossible to fight trafficking networks and help vulnerable women at risk without launching NGOs specialized in this field who could have trained staff into identifying and assisting different forms and categories of national and cross border victims. These NGOs could take in charge the responsibility to raise awareness among university students and even reach out to the Ministry of Education to spread the knowledge through integrated curricula and textbooks. In relation to the exploitation of domestic servants, there should be specialized inspectors assigned for checking homes where potential victims could be recruited. Moreover, the public needs a comprehensive understanding about the topic in the light of the immense ignorance demonstrated by citizens. This could be done through print-outs, leaflets, booklets and catalogues to be distributed in public spaces in different events. It could include introducing the definitions of trafficking, the ways it may happen, who could be a victim, how to detect one and report him/her to authorities. It could also include authorities to directly reach them for any suspected crime. Finally, when I think about cases like the Lebanon one, I find it beneficial if the state keeps track of women who travel for jobs abroad and create a rescue team. This strategy could work if the state makes sure to keep the contacts of these working women and to contact them upon their arrival.

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I am greatly thankful to my professors who guided me in the past three years

\textsuperscript{206} See Appendix II

\textsuperscript{207} Houidi, Sami Ben. Assistant Director-General of the Department of judicial interests in the Ministry of Justice interviewed by Racha Haffar. 20 April 2015. See Appendix X
and never hesitated to give me advice and encouragement when needed.

I am particularly thankful to the people who showed willingness to help me find my way through this past year into completing this work.

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Appendices

Appendix I: The Tunisian Anti-Trafficking Bill of Law

Appendix II: Ministry of Justice document on the efforts of Tunisia in the fight against trafficking in persons

Appendix III: Government’s agenda in relation to trafficking in persons.


Appendix V: Statistics handed by the IOM in April 2015 about the profiles and numbers of victims of trafficking assisted in Tunisia (2012-2015)

Appendix VI: Certificate from the ATFD as a proof for not being able to get through to victims testimonies

Appendix VII: Victim Testimony 1

Appendix VIII: Victim Testimony 2

Appendix IX: Victim Testimony 3

Appendix X: Interviews. Upon request, audio file available from author.
Appendix I

The Tunisian Anti-Trafficking Bill of Law
ويشمل الاستغلال تملاً للذكاء أو دمها أو دعراً من أشكال الاستغلال الجنسي أو
الخادمة أو الخدمة عبأ أو الاسترقاق، أو التعذيب الشهية بالوقت أو الاسترداد، أو التسلق، أو
التجنيد، أو الأنشطة، أو الخلاقين أو الأشخاص أو الأشخاص، أو الأطفال، أو الأطفال، أو الأطفال، أو الأطفال.

2- حالة استغلال:

أي وضع معنوي في التنسيق أنه مضطر للذكاء للتعذيب للاستغلال تجاه خاصة عن كونه تفاصيل أو عن
حالته غير القانونية، أو حالة الاستغلال الشديد، أو حالة العرض الشهير في حالة الإدمان، أو حالة الحمل
لدى المرأة أو حالة قصور نهائية، أو يُبني بيع الشخص المهني عن الاستغلال الجسدي.

3- الخادمة أو الخدمة عبأ:

أي عمل أو خدمة يُبرم على شخص تحت التزام بأي عقد ولا يكون هذا الشخص قد
تعرض له معاملة مختارة.

4- الاسترقاق:

أي وضع تمارس فيه على الشخص المطلبات المطلبة عن حق الملكية كلها أو بعضها.

5- الممارسات الشهيرة بالبرق:

تشمل الحالات التالية:

إباد الدين: وضع الناشئ عن إجبار مدين على أداء عمل أو خدمات بنفسه أو بصورة
شبه أخرى، تأليف مدين؟ نادل متخذه بذاته إذا كان مكان ذلك العمل أو تلك الخدمات لا يوفر
واسطة هذا الدين أو إذا كانت محلة أو طبقة العمل أو الخدمات غير محددة.

القتال: وضع الناشئ عن إجبار شخص بموجب اتفاق بأن يعيش ويمزح على أي شخص
آخر وأن يرغم عمل أو خدمات لذالك الشخص بعرض أو بغير عرض، بدون أن يملك حرية تغيير
وضعه.

- إباد المرأة على الزواج
- إباد المرأة على العمل أو استضافة رحمها.

- استخدام طفل في أنشطة غير شرعية أو إجرامية أو في ترويج لل_correction

- تبني طفل لغرض استغلاله: أو كان نوعه.

- الاستغلال الاقتصادي أو الجنسي للأطفال بمناسبة تغفيهم.

6- الاسترداد:
الاستغلال الجماعي:

الحصول على مبالغ ائمتها من خلال توريد شخص في أعمال دعارة أو بياء، أو في تقديم أية أنواع أخرى من الخدمات الجنسية بما في ذلك استغلاله في المشاهد الإباحية، وذلك عبر إنتاج مشاهد ومراقبة إباحية أو مسحك أو ترويجها بأية وسيلة كانت.

8- جماعة إجرامية مشروعة:

جماعة ذات هيكل تنظيمي مؤلفة من ثلاثة أشخاص أو أكثر تكون لأي مدة كانت و تعمل بطريقة متناسبة على ارتكاب جرائم البيع والشتائم بالأشخاص المتحصين عليها بهذا القانون بقصد الحصول بصورة مباشرة أو غير مباشرة على مبالغ مالية أو مادية.

9- وقائع:

كل أمر تكون لأي مدة كانت مهما كان عدد أعضائه بقصد ارتكاب جرائم البيع والشتائم بالأشخاص المتحصين عليها بهذا القانون دون أن يلزم وجود تنظيم هيكلي أو توزيع محدد ورسمي للأدوار بينهم أو أن تستمر عضويتهم فيه.

10- جريمة غير طبية:

تكون الجريمة غير طبية في الصرف التالية:

- إذا ارتكبت في الإقليم الوطني وبدولة أجنبية أو أكثر
- إذا ارتكبت في الإقليم الوطني وجرى الإعداد أو التخطيط لها أو إدارتها أو الإشراف عليها بدولة أجنبية،
- إذا ارتكبت في دولة أجنبية وجرى الإعداد أو التخطيط لها أو إدارتها أو الإشراف عليها بالإقليم الوطني،
- إذا ارتكبت في الإقليم الوطني من مجموعة منظمة تمارس أنشطة إجرامية في أكثر من دولة واحدة،
- إذا ارتكبت في الإقليم الوطني ولنتمجت عنها أنواع هامة في دولة أجنبية أو ارتكبها في دولة أجنبية،
- وكانت لها أنواع هامة في الإقليم الوطني.

الفصل 3:

1- أثارت سلالة الاستغلال الجنسي نشاطاً داخل اللجنة حول ما إذا كان إ草案 هذا القانون يلزم عنة إنهاء التشريع المنظم للعبة العقل، وآثر اللجنة ترك الحسم على هذه المسألة للجهات الحكومية المعنية.
ينطبق هذا القانون على جرائم الاتجار بالأشخاص المرتكبة داخل الإقليم الوطني وكذلك الجرائم المنصوص عليها بهذا القانون والجرائم المرتبطة بها.

الفصل 4:
تنقسم المحاكم العدلية دون غيرها بالنظر في جرائم الاتجار بالأشخاص المنصوص عليها بهذا القانون، بالنقض والجرائم المرتبطة بها.

بتقلق أحكام السجiera الجنائية ومجلس الإجراءات الجنائية ومجلس المراقبات والعقوبات المدنية والنصوص القانونية الخاصة على الجرائم المنصوص عليها بهذا القانون بقدر ما لا تتعارض مع أحكامه.

ويحضر الأطفال إلى مغنية حماية الطفل.

الفصل 5:
لا يعد يرضى الضحية تقدير وقوع جريمة الاتجار بالأشخاص إذا استعملت في ارتكابها إحدى الوسائط المنصوص عنها بالعدد 1 من الفصل 2 من هذا القانون.

ولا يشترط لقيام أمر الاتجار بالأشخاص استعمال تلك الوسائل إذا كانت الضحية طفلا أو شخصاً دينياً أو من ذوي الإعاقة.

ولا يعتبر رضا الضحية طرفًا يحمل على تخفيض العقوبات المنصوص عنها بهذا القانون.

الفصل 6:
لا يؤخذ من ارتكب بدون سوء نية جرماً مرتبطة ارتباطاً مباشرًا بإحدى جرائم الاتجار بالأشخاص التي كان ضحية لها.

الفصل 7:
تستطيع الدعوى العمومية في جرائم الاتجار بالأشخاص المنصوص عليها بهذا القانون بمضى خمسة عشر عامًا كاملة إذا كانت ناتجة عن جنابة واعرة خمسة أعوام إذا كانت ناتجة عن جنحة.

الباب الثاني:
في جرائم الاتجار بالأشخاص

القسم الأول
في من يعاقب
الفصل 8:
يعاقب بالسجن مدة عشرين أسبوعًا وبحسب قدرها تسمى ألف دينار كل من يرتكب إحدى جرائم
الإتجار بالأشخاص المنسوب عليها بالفصل 10 من هذا القانون.

الفصل 9:
يعاقب بنصف المقويات المقررة لجرائم الإتجار بالأشخاص المنسوب عليها بهذا القانون أو للجرائم
المرتبطة بها كل من يتحسس عليها بناءً على سينسية أو ارتكابها عندنا ببرود هذا الفعل، بحكم طبيعته أو
وفي سياقه، خطأ باعتدال ارتكابها.

وإذا كان العقاب المستوجب هو الإعدام أو السجن بقية العمر يعوض ذلك العقاب بالسجن مدة عشرين
عامًا.

الفصل 10:
يعاقب بالسجن مدة سبع سنوات عقوبة أوردوها أربع أو ألف ألف دينار كل من اخترقت أو شارك في
عنوان كان، داخل تراب الجمهورية أو خارجه، في جماعة إجرامية مشتركة أو وفقه يهدف إلى إعداد
أو تحضير أو ارتكاب جرائم الإتجار بالأشخاص المنسوب عليها بهذا القانون.

وتكون مدة العقوبة خمسة عشر عامًا وبحسب قدرها مدة ألف دينار لمكوني ومديرو الجمعيات أو
الرفاقات المذكورة.

الفصل 11:
بقع تبعيات الذات المعنية إذا تبين أن ارتكب جرائم الإتجار بالأشخاص المنسوب عليها بهذا
القانون يتظاهر الغرض الحقيقي من اخترقت أو تم تلقيتها أو إذا حصلت لها منه مثاقب أو مداخل أو
إذا تبين أنها تزود الدعم بأي شكل من الأشكال للأشخاص أو تنظيمات أو أنشطة لها علاقة بجرائم
الإتجار بالأشخاص المنسوب عليها بهذا القانون.

تعاقب الذات المعنية بخطة تساوي قيمة الأموال المتحصل عليها من جرائم الإتجار بالأشخاص
على أن لا يقل مقدارها عن خمس مرات قيمة الخطة المستحيلة للأشخاص الطبيعيين.

كما يمكن للمحكمة أن تقضي بحظر الذات المعنية من مباشرة النشاط لمدة آساه خمسة أعوام
أو أن تقضي بحلها.
ولا يمنع تبعيذاً الذات المعنية من توقيع العقوبات المنصوص عليها بهذا القانون على سبيلها أو مساعدها أو الشركاء فيها أو عونها إذا ثبتت مسؤوليتهم الشخصية عن هذه الأفعال.

الفصل 12

يعاقب بالسجن لمدة سنة أعوام ونصف سنة perdona تلائمة لكل من يساعد ارتكاب إحدى الأفعال التالية:

1 - إعداد مخل لاجتماع أعضاء تنظيم أو وفق أو أشخاص لهم علاقة بجرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون أو أيهم أو إخراهم أو إخراجهم أو ضمان فراهم أو عدم التوصل للكشف عنهم أو عدم عقبتهم أو على الاستغادة بحصول الفعل.

2 - توفير أي وسيله كانت أسلحة أو مواد أو معدات أو وسائل نقل أو تجهيزات أو مؤونة أو مواقع الإلكترونية لفائدة تنظيم أو وفق أو لفائدة أشخاص لهم علاقة بجرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون.

3 - إنشاء أو توفير أو تسهيل أو التوصل أو التنظيم بأي وسيلة كانت ولو دون مقبول تخول شخص إلى التزام التنظيم أو مغادرة صفقة فتاوة أو خلسة سواء تم ذلك بمثابة أو بما أو خلا من نقاط العبور أو غيرها بهدف ارتكاب إحدى جرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون أو كان ذلك الشخص ضحية لها.

4 - وضع كيانات أو خيارات على دمتعا تنظيم أو واحد أو على دمتعا أشخاص لهم علاقة بجرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون.

5 - إنشاء أو توفير أو تسهيل أو التوصلا للمعلومات مباشرة أو بواسطة لفائدة تنظيم أو واحد أو لفائدة أشخاص لهم علاقة بجرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون أو واحد أو يعتبر عليهم أو الاستغادة منها أو عدم عقبة مرتكبيها.

6 - صنع أو اختلاس سلعة تعريف وثيقة أو جواز سفر أو غير ذلك من الرخص أو الشهادات المذكورة بالفساد 193 إلى 199 من المجلة الجزائية لفائدة تنظيم أو واحد أو لفائدة أشخاص لهم علاقة بجرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون.

الفصل 13
يعاقب بالسجن مدة عام وبخطية قد يلغى حتى خمسة آلاف دينار كل من يشيع غرقاً أو كان خاضعاً للسر المهني عن إشاع السلط الذي نظره قولاً بما ينفع إلى علامة من مجموعات أو مجموعات بما أمكن له الإطلاع عليه من أجل حول ارتكاب جرائم الإتجار بالأشخاص المنقص عليها بهذا القانون.

لا يمكن القبض بعفو الغرق أو الموازنة الجزائية ضد من قام عن حسن نية بواجب الإتجار.

الفصل 14:

بعد مرتكب تجربة إعالة سير العدالة كل من:

- استعمل القوة أو التهديد أو عرض ضعياً أو هدايا أو مكافحة من أي نوع أو ورث بشيء، من ذلك تحمل شخص على الإدلاء بشهادته زور أو لإخضاع الحقائق سواء كان ذلك في مخبر أو مصلحة منهم وذلك في كافة مراحل الدعوى العمومية المتعلقة بجرائم الإتجار بالأشخاص.

- استعمل القوة أو التهديد أو عرض عطلياً أو هدايا أو منافع من أي نوع أو ورث بشيء، من ذلك لعدم كشف ضحايا الإتجار بالأشخاص أو لتحملهم على عدم رفع شكايته أو لرجمهم في التشكيك.

- اعتدي على شخص أو على مكافحة أو على أدفأ أهلاً أو مكاسبهم بعرض الانتقام إثر الإدلاه، أو تقديم ذيل في دعوى جزائية متعلقة بجرائم الإتجار بالأشخاص.

- اطلع بحكم وظيفته على معلومات تنطلق بتعيين جزائية من أجل جرائم الإتجار بالأشخاص، وتعود إشاعة الأشخاص يشتهي في توريدهم في تلك الجرائم بعرض إعالة سير الأبحاث أو عدم كشف الحقائق أو انضمام من التحلي والعقاب وذلك دون المسار بحقوق الدفاع.

الفصل 15:

يعاقب مرتكب جريمة إعالة سير العدالة طبقاً للصورة المقررة بالشريعة الأولى من الفصل المقدم بنفس طرقية المجرة محل التعيب لكن دون أن تتجاوز مدة للسجن عشرين عاماً.

وتكون العقاب بالسجن مرة أخرى، خاصة أعوان وبخضوع قدرها عشرين ألف دينار في باني القصور الأخرى.

ولا يمنع ذلك من تطبيق العقوبات الأكثر شدة إن تقتضي الحال ذلك.

القسم الثاني:

في الإعفاء من العقوبات والتحذير منها

الفصل 16:
يُعفى من العقوبات المستحقة من بادر من المتهمين لجماعة إجرامية منظمة أو وفقاً بهدف إلى ارتكاب إحدى الجرائم المنصوص عليها بهذا القانون أو الجرائم المرتبطة بها، بإبلاغ الشرطة ذات النظر بالإرشادات أو المعلومات مكتوبة من اكتشاف الجريمة وتتدي تنفيذها.

ولا يمنع ذلك المحكمة من إخضاعه للمراقبة الإدارية أو منعه من الاقامة في أماكن معينة لمدة لا تقل عن ثلاثة أعوام ولا تفوق عشرة أعوام إلا إذا قضت المحكمة بالحجب من هذه العقوبة إلى ما دون أذنها القانوني.

لفصل 17:

عقاب المثمن لجماعة إجرامية منظمة أو وفقاً أو من كان له مشروع فردٍ بهدف إلى ارتكاب إحدى الجرائم المنصوص عليها بهذا القانون أو الجرائم المرتبطة بها بناءً على العقوبة المقررة أصالة جريمة الإتجار بالأشخاص أو الجرائم المرتبطة بها إذا مكنت الإرشادات أو المعلومات التي تولى إبلاغها إلى السلطات ذات النظر من التحقيق أو التنبؤات أو التحقيق من وضع هذه الجرائم الإتجار بالأشخاص أو الجرائم المرتبطة بها أو من الكشف عن جميع ذاتها أو بعضهم أو من إلقاء القبض عليهم.

و يكون العقاب المستوجب السجن مدة عشرين عاماً إذا كان العقاب المقرر أصالة للجريمة الإعدام أو السجن بقية العمر.

القسم الثالث

فبض يزيد العقوبات شدة

لفصل 18:

يشترط عقاب السجن مدة خمسة عشر عاماً وبخطية من خمسين ألف دينار إلى مائة ألف دينار إذا ارتكب جريمة الإتجار بالأشخاص:

- ضد طفل أو باستخدامه;

- ضد شخص عديم الأهلية أو من ذوي الإعاقة أو باستخدامه;

- ضد إمرأة حامل;

- ضد مجموعة من ثلاثة أشخاص أو أكثر;

- إذا كان مرتكب الجريمة زوجا للضحية أو أحد أصولها أو فروعها أو ولداها أو كانت له سلبية عليهم.

- إذا ارتكبت الجريمة ممن استغل صحته أو السلطة أو التسهيلات التي خولتها له وظيفته أو نشاطه المهني،
- إذا ارتكبت الجريمة بتدليس وثائق الهوية أو السفر أو الإقامة،
- إذا ارتكبت الجريمة باستخدام مواد مخدرة أو مؤثرات عقلية،
- إذا نتج عن الجريمة إصابة الضحية بسقط أو عجز بدني مستمر لم تتجاوز درجته العشرين بالמרי أو إصابتها بحد الأمراض الجنسية المزمنة.
الفصل 19:
تكون العقاب بالسجن من خمسة عشر عاما إلى عشرين عاما وبطليمة من خمسين ألف دينار إلى مائة ألف دينار:
- إذا ارتكبت جريمة الإتجار بالأشخاص من مجموعة إجرامية منظمة أو من وفاق;
- إذا ارتكبت جريمة جزئيا في جرائم الإتجار بالأشخاص;
- إذا كانت الجريمة عبر وطنية;
- إذا نتج عن الجريمة إصابة الضحية بسقط أو عجز بدني مستمر تجاوزت درجته العشرين بالمار.
الفصل 20:
تكون العقاب بالسجن بقية العمر وبطليمة من مائتي ألف دينار إلى مائتي ألف دينار إذا ترتب عن ارتكاب إحدى جرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون موت الضحية أو إصابتها أو إصابتها بمرض يؤدي إلى وفاتها.
الفصل 21:
إذا ارتكب الجاني عدة جرائم متتابعة، بعاقب لأجل كل واحدة بانفرادها، وفي كل الحالات لا تضم العقوبات بعضها.
القسم الرابع
في التحقيق
الفصل 22:
على قاضي التحقيق حجز الأسلحة والذخيرة والمعدات والتجهيزات والوثائق وغيرها من الوسائل المعدة أو المستعملة لارتكاب الجريمة أو تسهيل ارتكابها، والأشياء التي يشكل صنعها أو مسكها أو استعمالها أو التاجر فيها جريمة.

وتجدر بالذكر أن المحجوز يتضمن ذا الصفة أو من وجد لديه ذلك المحجوز إن أمكن ثم يحجز قاضي التحقيق ينوي في الحجز يتضمن وصفا للمحجز وخصائصه وجميع البيانات المقدمة مع ذكر تاريخ الحجز وعدد القضية.

الفصل 23:

يمكن لقاضي التحقيق الآن من تبلاع نفسه أو يطلب من النائب العامية بوضع المكاسب المنفولة أو المفروضة أو الأرصدة المالية الراجعية في منتجة تحت الحجز وتحديد أوجه التصرف فيها أو وضعها عند الأقضاء تحت الإłącz.

و عليه تمكين في الشبهة بجزء من إمانته يفي بنغطية الضروريات من حاجاتنه وحاجيات أسرته بما في ذلك المسكن.

كما له الإذن يرفع التدابير المشتر إليها نو دون طلب.

بنت قاضي التحقيق في مطلب رفع التدبير في أجل أجلسه أربعية أيام من تاريخ تقديمه.

والقرار الصادر عن قاضي التحقيق يرفع التدبير أو يرفضه كليا أو جزئيا يقبل الاستئناف لدى دائرة الإتهام من طرف وكيل الجمهورية والمنضون فيه أو محاميه قبل مضي أربعة أيام من تاريخ الإطلاع بالنسبة لوكيل الجمهورية ومن تاريخ الإعلام بالنسبة لبعض.

والاستئناف وكيل الجمهورية يحول دون تنفيذ القرار.

وفي صورة الاستئناف يوجه قاضي التحقيق ملف القضية إلى دائرة الإتهام بمجرد اقتسام أجل الاستئناف بالنسبة لوكيل الجمهورية والمنضون فيه أو محامييه.

ويجب على دائرة الإتهام البث في مطلب الاستئناف في أجل أجلسه أربعية أيام من تاريخ اتصالها بالملف.

الفصل 24:

يتم سماع الضحايا و الشهود والخبراء والمبلغين فردا في غياب ذا الشبهة ولا تجري مكافحتهم به أو يحضرهم من الشهود إلا بإضافة.

القسم الخامس
في محكم القضاء

الفصل 25:

تطلب حصولها بطريقة مباشرة أو بتقزيم أو تمزح عن كاملة، سواء بقيت تلك الأموال على نفوق أو تم تحويلها إلى مكان آخر.

وفي صورة عدم التوصل إلى الحجز القطي بحكم بخطية لا تلقى في كل الحالات على قيامة الأموال التي تعتمد بها الجريمة تقوم مقام الاستئصال.

وعلى المحكمة أيضا أن ت قضى باستئصال الأسلحة والذخائر والمعدات والتجهيزات وغيرها من الوسائل المستعملة لارتكاب الجريمة أو تسهيل ارتكابها، أو استعمالها أو الاتجار بها.

والمحكمة أن ت قضى بمصادرة جميع المكاسب المنفولة أو العقارية والأرصدة المالية للمحكوم عليه أو بعضها إذا ثبت استعمالها أو تقويض تمويل أشخاص أو تنظيمات أو أنشطة لها علاقة بالجرائم المتصور عليها بهذا القانون.

الفصل 27:

لا يمكن في كل الحالات أن تئمال الأحكام المصادرة باستئصال الأموال أو بمصادرتها تنفيذها لهذا القانون من الحقوق التي اكتسبها الغير عن حق هذه.

الفصل 28:

لمحكمة أن ت قضى بحرم العقوبة عليه من مباشرة الوظائف أو الأنشطة المهنية التي استقل بمقتضىها للمصالح المشروعة لارتكاب إحدى جرائم الاتجار بالأشخاص.

كما يتم الحكم بالمعاقبة الإدارية أو العقوبة، وفقا للإجراءات في الأحكام العامة لمنحة، لذالك تعديلات محددة لا تقل عن ثلاثة أعوام.

ولا تفقع عشرة أعوام إذا قانت المحكمة بالفعل من هذه العقوبة إلى ما دون أدنى القانون.

لا يمنع ذلك من الحكم بكل أو بعض المصلحة التكميلية الأخرى المقررة قانونا.
الفصل 29:

الحكم للمحاكمة بنفس الحكم يطرد وترحيل الأجانب المحكوم عليه من أجل جرائم الاتجار بالأشخاص من القرن التونسي بعد قضائه للعاقب.

ويحظر على الأجانب المحكوم عليه وفق هذا القانون دخول البلاد التونسية مدة عشر سنوات إن كان العاقب من أجل حفظ رفيدة الحياة إن كان العاقب من أجل جرائم

وكل من يخالف ذلك يعاقب بالسجن من عام إلى خمسة أعوام وخطية قدرها عشرة آلاف دينار.

والمحاولة موجهة للعاقب.

القسم السادس

في طرق التحري الخاصة

الفصل 30:

في الحالات التي تقضيها ضرورة البحث يمكن اللجوء إلى اعتراض لتسلاة ذوي الشهبة

بمقتضى قرار كتيب متعلق بخلال الجمهورية أو قضائي التحقيق.

يشمل اعتراض الاتصالات الحصول على بيانات المرور والتخصص أو الاططاع على محتوى الاتصالات وكذلك تسجيلها أو تسجيلها باستخدام الوسائل القناعية المتاحة واستمرارها في ذلك، عند الإطلاع، بمشغول الشبكات العمومية للاتصالات ومشغول شبكات النفاذ ومزودي خدمات الاتصالات كل

حسب نوع الخدمة التي يسديها.

وتتضمن بيانات المرور في مصدر الاتصالات والوجهة المرسلة إليها والشبكة التي تم عبرها وساعة

والوقت ورقم ردة ونوع الخدمة المذكورة.

وينقسم قرار وقليل الجمهورية أو قضائي التحقيق جميع العناصر التي من شأنها التحقيق

بالاتصالات موضوع طلب الاعتراف بالأفعال الموجهة له ومدته.

لا يمكن أن يتراوح مدة الاعتراف أربع أشهر بدءًا من تاريخ القرار قابلة للإعادة مرة واحدة لنفس

المدة بمقتضى قرار معل.

ويتم على وجه المكلفة تنفيذ الاعتراف إعلام وكيل الجمهورية أو قضائي التحقيق بحسب

الأحوال بالترتبات التي تم اتخاذها لإمضاء التاريخ العلمي لإمامة عملية الاعتراف.

ويمكن في أي وقت الرجع في القرار المنصوص عليه بهذا الفصل، كلما دعت الضرورة إلى ذلك.

الفصل 31:
The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.
لا يستحسن بعملية الاكتراقب.

لا يأخذ المخترد حزنا إذا قباه بدون سوء فناء بالأعمال التي تتطابق عملية الاكتراقب.

الفصل 36:

يؤثر مأمور الضابطة المدنية المعمد المدح على مراقبة سير عملية الاكتراقب ويترف ثنايرا في العرض إلى ويلي الجماعية أو إلى قضائي الاكتراقب كما دعت الدور إلى ذلك وكذلك عند نهاية عملية الاكتراقب.

لا يلتفث برغم القضية إلا التقرير النهائي.

الفصل 37:

في الحالات التي تقضيها ضرورة البحث يمكن لوكيل الجمهورية أو قضائي الاكتراقب بحسب الأحوال أن يفذ في مقتضى قرار كتبي معالجا إداريا الضابطة المدنية ضرورة إعادة نفاذ إلى الأفاطر وتثبيت وفق تسوية كلام وصورة توثق الشهية بصفة سريه ودون علمهم بأعراضهم الشخصية.

ويمكن قرار ووكيل الجمهورية أو قضائي الاكتراقب بحسب الأحوال الإنذار بدخول الأ�性 أو العريضة الخاصة ولو خرج الساعات المنصوص عليها بفصل 95 من مدة الإجراءات الجزائية ودون علم أو محاولة ماكية العلبية أو صاحب المكان أو أي شخص له حق عليها.

ويمكن قرار الدور الكوري جميع العناصر التي من شأنها التعرف بالأعراض الشخصية أو بالأماكن أو العريضات الخاصة أو العريضة المدنية بمرافقة المعمد لعملية القمع المذوبة لها ومنتها.

لا يمكن أن تتزامن هذه المراقبة السامية البصرية أربعاء أشهر بداية من تاريخ القرار وتكون قابلة للتمديد مرة واحدة للمسددة بمختص قرار معلم.

ويمكن في أي وقت يوجد في القرار المنصوص عليه بهذا الفصل كما دعت الدور إلى ذلك.

ويمكن الذهبية أو قضائي الاكتراقب أو مأمور الضابطة المدنية حسب الحالات، الاستعانة بممارسه من الأمور المؤهلين أو أهل الخبرة لوضع الدعوة التاركة.
تتضمن جميع المكتبات والموارد والتقارير والسجلات المتعلقة بالhargaات السمعية البصرية بخلف مستقل خاص يقع إضافته للملف الأساسي قبل اتخاذ قرار في إجراء البحث أو قبل إصدار قرار في ختم التحقيق.

تحذر الجهة المكلفة بإجراء الحرمة السمعية البصرية عند إعداد أعمالها تقريرًا يتضمن وصا للفترات المحدّدة والعمليات التي أجريت ومكانها وساعتها ونتائجها ورفعها. ويرفع وجود اللسمنات السمعية البصرية التي تنفي جميعها والخبراء للكشف عن الحقيقة.

تُنقل المحاذاة البارزة بلغة أجنبي إلى اللغة العربية بواسطة مترجم محترف.

إذا لم يتوفر عن المعطيات المجمعة من الحركات السمعية البصرية تنبؤات جزائية فإنها تنتمي بمقتضيات الحماية وفقًا للتشريع البارز يعمال في مجال حماية المعطيات الشخصية.

الفصل 38:

عند النظر سنستنتج عناية بجميع الأفراد الذين يطلبون واحدًا إحدى المعلومات المتعلقة بعمالات الاعتداء أو الاعتداء أو الخروقات السمعية البصرية أو المعطيات المجمعة منها، ولا يمنع ذلك من تطبيق العقوبات الأكثر شدة إن أقتضي الحال ذلك.

الفصل 39:

لا يمكن استخدام وسائل الإثبات التي وقع جمعها بمناسبة عملية احتراق أو اعتراض أو في حالة سمعية البصرية إلا في حدود إثبات العواقب الممكنة بالبحث.

تُعد السجلات السمعية البصرية جاهزة من البداية العمودية بمجرد صدور حكم با تكسير أو النيابة.

ورغم ما تعدد ذلك يقع إعدامها بمجرد إحداثها للمجرد الحساب العمودية بمرور الزمن بحضور ممثل عن النيابة العمودية.

وتحرر في كل الأحوال محذور في الفرصة.

الباب الثالث:

في الهيئة الوطنية لمكافحة الاتجار بالأشخاص

الفصل 40:
The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.
التنظيم الدورات التدريبية والإشراف على برامج التكوين على الصعيدين الوطني والدولي،
- التعرف بالتبادل التي تتخذه الدولة لمكافحة الاتجار بالأشخاص وإعداد升起ية على المسائل التي تطلب المنظمات الدولية إعداد الرؤية فيما ذات العلاقة ببعض تشكيلها،
- المساعدة في تنشر البحوث والدراسات لتحديث التشريعات المنظمة للمجالات ذات العلاقة بالإتجار بالأشخاص على ضوء المعايير الدولية وأفضل الممارسات بما يحقق تنفيذ برامج الدولة في انتظام لهذه النظام.

الفصل 43

تشتري الهيئة في تنفيذ المهام الموكولة لها بالمصالح والمهارات العمومية المختصة في جميع المعلومات والإحصاءات حول المسائل المرتبطة بهما وتنفيذ إجراءات حماية الضحايا والشهود والملحقين وإجراءات مساعدة الضحايا.

الفصل 44
تعم الهيئة الوطنية لمكافحة الاتجار بالأشخاص على تنشيط التعاون مع نظيراتها بالبلد الأجنبية التي تربطها بها اتفاقات تعاون وتعزيز بتبادل المعلومات معها بما من شأنه أن يكفل الإتجار المبكر بالجرائم المدنية بهذا القانون وتقديم ارتكابها.

وينتظر التعاون المشترك بإلغاء الاتفاقية المذكورة على احترام مبدأ المعاملة بالمثل وعلى النزاع توجهاتها إلى البلاد الأجنبية، يقتضي التشريع المنظم لها، بالتماشي بالمرتبة، وعدم إحالة المعطيات والمعلومات المجمعة لديها أو استغلالها لأغراض أخرى غير مكافحة الجرائم المدنية بهذا القانون وزجرها.

الفصل 45

تعد الهيئة الوطنية لمكافحة الاتجار بالإنسان شريرًا سنويًا عن نشاطها يتسنى وجهها اقتراحاتها لتطوير الآليات الوطنية لمكافحة الاتجار بالإنسان تجنبها إلى كل من رئيس الجمهورية ورئيس مجلس عدل الشعب ورئيس الحكومة يتم تسليمه للعثور.

كما يمكن للهيئة إصدار بلاغات حول نشاطاتها وبرامجها.

الباب الرابع

في آليات الحماية والمساعدة

القسم الأول

في إجراءات الحماية

الفصل 46

تتولى التدابير القانونية للمحافظة الجسدية للضحايا والشهود ومساعدي القضاء والمختوق والمعلن وكل من تكفل بأي وجه من الوجه بواجب إشعار السلطات ذات النظر بحذى جرائم الاتجار بالإنسان في الحالات التي يكون فيها ذلك لزانا.

كما تنال التدابير المشار إليها عند الاقتضاء، على أفراد أسر الأشخاص المشار إليه بالمقدمة وكل من يخفي استهدافه من أفرادهم.

الفصل 47

يمكن القاضي التحقيق أو نفيه من الهيئات القضائية في حالات النظر المذكورة، وفي وقائع النشرة.

ذلك إجراء أعمال البحث أو الأذن بالعقاد الجنسة غير مكانها المعاد مع اتخاذ التدابير اللازمة لضمان حق المشتبه في الدفاع عن نفسه.
The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.

97
The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.

98
تعتمد معالجة جميع المعلومات والبيانات المتعلقة بقضايا الإتجار بالأشخاص عند تنفيذ أحكام هذا القانون وفقاً للتشريع الجاري به العمل في مجال حماية المتعاثرات الشخصية.

الفصل الثاني:
في إجراءات المساعدة

الفصل 55:
تعمل الهيئة الوطنية لكافحة الإتجار بالأشخاص بالتنسيق مع المصانع والهيئات المعنية على توفير المساعدة الطبية اللازمة لضمان التأفيج الجنسي والنفساني للضحايا الذين هم في حاجة إلى ذلك. ويتمتع الضحايا عند الأطباء بمجالية العلاج والتدوين بالعفايلة الصحية العمومية.

الفصل 56:
تعمل الهيئة الوطنية لكافحة الإتجار بالأشخاص بالتنسيق مع المصانع والهيئات المعنية على توفير المساعدة الاجتماعية الضرورية للضحايا لتسير إعادة إدمامهم في الحياة الاجتماعية وإيابتهم وذلك في حدود إمكانات الساحة.

الفصل 57:
تتكفل الهيئة الوطنية لكافحة الإتجار بالأشخاص بإدخال الضحايا حول الأحكام المنظمة للإجراءات القضائية والإدارية الكلية بمساعدة على تسوية وضعية وحصون على التعويض المناسب من الأضرار اللاحقة بهم.

الفصل 58:
يمكن منح الإعانة العدلية للضحايا الإتجار بالأشخاص للمزاحمة إنجاز الإجراءات القضائية المدنية أو الجزائية المتعلقة بهم.

وتشمل الهيئة مساعدة الضحايا على تكوين ملفات قصد الحصول على الإعانة العدلية طبقاً للإجراءات القانونية الحالية بها العمل.

ويمكن النظر في طلب الإعانة العدلية مع نوايا ورخصة القضية المضافة.
الفصل LOOP

يمكن لضحايا الاتجار بالأشخاص المذكورة لقيامهم أحكام بآتة بالتعويض تعديل تنفيذها على المحكوم ضده أن يطلبوا الحصول على تلك المبالغ من صندوق الدولة.

تحل الدولة محل ضحايا في استخلاص المبالغ التي وقع صرفها باعتبارها دينا عموميا.

الفصل LOOP

تتم الهيكل والمؤسسات المعنية على تقديم العودة الطوعية لضحايا الاتجار بالأشخاص إلى أوطانهم وذلك مع مراعاة مسالمتهم، وتتسق مع الدول الأجنبية المعنية لرفع العقوبات المادية والإدارية التي تحو. دون تحقيق ذلك.

وتحت النظر المصموعة في طلب ضحايا الأجانب الخاصة بالإقامة مؤقتا في البلاد التونسية أو التمديد فيها لمساهمة إرادة الإقامة الرامية إلى ضمن حقوقهم مع مراعاة وضعهم الخاص.

الباب الخامس

في جرائم الاتجار بالأشخاص المرتكبة خارج تراب الجمهورية

الفصل LOOP

تكون المحاكم التونسية مختصة بالنظر في جرائم الاتجار بالأفراد المحكوم عليهم بهذا القانون والجرائم المرتبة بها المرتكبة خارج تراب الجمهورية في الصور التالية:

- إذا ارتبطت من قبل مواطن طويل.
- إذا ارتبطت ضد أطراف أو مصالح تونسية.
- إذا ارتبطت متضمن أو مصالح أجنبية من قبل أجنبي أو شخص بحريني المحاكمية يوجد محل إدارته المحتد أ мехانة التعايب أو من قبل أجنبي أو شخص بحريني المحاكمية وحد بالتبادل التونسي.

ولم تطلب السط الأجنبي المختص بالنظر تسلية بصفة قانونية قبل صدور حكم يات أو نهائي بشأن ما قبل المحاكم التونسية ذات النظر.

الفصل LOOP

لا ترتفع إثارة الدعوى العمومية في الصور المنصوص عليها بالفصل المجاني من هذا القانون على تجريم الأعمال موضوع التباع مبتنى قانون الدولة التي ارتبطت فيها.
الباب السادس
في تسليم المجرمين
الفصل 65
لا يمكن اعتبار جرائم الإتجار بالأشخاص، بأي حال من الأحوال، جرائم سياسية غير موجبة للتسليم.
لا يمكن اعتبار جرائم الإتجار بالأشخاص، بأي حال من الأحوال، جرائم مالية غير موجبة للتسليم.
الفصل 64
تستوجب جرائم الإتجار بالأشخاص المنصوص عليها بهذا القانون التسليم وفقا لأحكام الفصل 308
وما بعدم من مجلة الإجراءات الجزائية إذا ارتكبت خارج تراب الجمهورية ضد أجنبي أو مصاليح أجنبيّة
من قبل أجنبي أو شخص عضو الجنسية وجد بالتراب التونسي.
ولا يتم التسليم إلا في صورة تنفي السلك التونسي ذات النظر طلبا قانونيا في ذلك، من قبل دولة
مهيمنة بالنظر وفقا لقانونها الداخلي.
لا يمكن التسليم إلا في صورة تنفي السلك التونسي ذات النظر طلبا قانونيا في ذلك، من قبل دولة
مهيمنة بالنظر وفقا لقانونها الداخلي.
الفصل 65
إذا تقرر عدم تسليم شخص موضوع تتبع أو محكمة لأجل جريمة من الجرائم المنصوص عليها بهذا
القانون يقع تتبعه وتهوي أمام المحاكم التونسية. إذا كان موجودا بالتراب التونسي سواء ارتكبت الجريمة أم لم
ترتكب بالتراب المنكمور ويقطع النظر عن جنسية الجاني أو كونه عديم الجنسية.
الفصل 65
تلقى أحكام الفصل 171 كاملة من المجلة الجزائية.
ينشر هذا القانون بالواجد الرسمي للجمهورية التونسية ويفجر كقانون من قوانين الدولة.
Appendix II

Ministry of Justice document on the efforts of Tunisia in the fight against trafficking in persons
الاتفاقية العربية لمكافحة جرائم تجارة الإناث التي وقعتها تونس في 21 ديسمبر 2010.


كما صادفت تونس على اتفاقيات دولية أخرى تعتبر وثائق مرجعية في المبادرة العالمية لمكافحة تجارة الإنسانية لسنة 2007 ذكرت منها بالخصوص:


نظام رواة الأساسي للمحكمة الجنائية الدولية الذي وافق توسع على الانضمام إليه بمثابة المرسوم عدد 44 المؤرخ في 19 فبراير 2011 وصادفت على هذا الانضمام بمثابة الأمر عدد 549 المؤرخ في 14 مايو 2011.

المurator الثاني

ثانيا: فيما يتعلق بتبرير صور وأشكال الاتجار بالبشر

2. النصوص والتشريعات المتعلقة بمنع ومكافحة الاتجار بالبشر وتجريم صور وأشكال الاتجار المختلفة.

تتضمن إعداد ملاحظة أولية تخص جميع التساؤلات الوردية بالاستبان وهي عدم وجود نص تشريعي في النظام القانوني التونسي السابق حاليًا يعرّف الاتجار بالبشر للأشخاص طبق
المعايير الدولية وبحجمهم يوصفه جريمة مستقلة لها أركانها القانونية بما يميزها عن
الأعمال السابقة لها (جريمة الهجرة غير الشرعية) أو المبرمة بها.

ولكن لم يكن هناك في التشريع التونسي الحالي قانون مستقل يعتني بالرقابة من الإتجار
بالأشخاص ومكافحته، فإن عدد النصوص المخفية في المنظومة القانونية التونسية تجرب
صورة وأشكال مختلفة من الإتجار بالأفراد وهو ما من شأنه أن يضمن إلى حد ما مكافحة
هذا الظاهرة ولو بصفة جزئية وذلك من خلال:

- بدأت تونس بمنع الاسترقاق منذ إصدار الأمر العلي المورخ في 23 جانفي

1846 المتعلق بمنع الاسترقاق.

- كما أصدرت النص القانوني الأول يتعلق بجرائم الاسترقاق والعبردية بموجب
الأمر العلي المورخ في 29 ماي 1890.

- تضمنت المجلة الجزائية التونسية تجريم صور متعددة من الاسترقاق ومنعت
كل أشكال الاعتداء على الإنسان بسرة عامة كما تضمنت جرائم متعددة لها
صلة بالإتجار بالأشخاص ضمت إلى حد الآن التنصي عظرة الإتجار بالبشر.

وفيما يلي أهم الجرائم التي يمكن إدراجها في هذا المجال:

1. تجريم الاسترقاق واحدية حالة الاعداد كاستخدام طفل أو أكثر في التسول
(أمر 3 أبريل 1950 والفصل 17 من المجلة الجزائية).
2. تجريم اصطلاح أو تقديم جواز دخول للخارج أو رخصة دخول داخل التراب
العنصري (الفصل 39) وما بعده من المجلة الجزائية.
3. تجريم سوء معاملة الأطفال أو تعريضهم للخطر (الفصل 210 وما بليبه والفصل
224 من المجلة الجزائية).
4. تجريم الفرار بشخص كالاختطاف وتحويل الوجه والأنف ونقل (الفصل 237
ومن بليبه من المجلة الجزائية).
5. تجريم الاعتداء على الحريات الذاتية كحبس شخص دون إذن قانوني (الفصل 250
ومن بليبه من المجلة الجزائية).
6. تجريم العصب والمساومة (الفصل 283 وما بليبه من المجلة الجزائية).
7. تجريم التحويل وغيره من أنواع الإتجار (الفصل 291 وما بليبه من المجلة
الجزائرية).
8. تنظيم انتبه والكارثة بموجب القانون عدد 227 سنة 1958 المورخ في 4 مارس
1958 يتعلق بالولاية المومية والكارثة والانتبه وإخضاعهما لرقابة السلطة
القضائية بما يسبح إمكانية الإتجار في الأطفال.
9. تنظيم إسناد تلب طلبه للطفل المعنيين أو جمهور النسب بموجب القانون عدد
سبة التي صنيع جملة في عملة أو الإتجار خارج إطار الزواج.
10. نص المشرع في مجال حماية الطفل الصاعد في 9 نورمبر 1995 السياسة
الشرعية العامة في مجال الطفلة التي تأسست على مبدأ عام ينص على بأن المجتمع
منتب للطفل بالحماية من كافة أشكال العنف أو الضمر أو الإساءة البدنية أو المعنوية

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The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.
العنوان: الوضع الناشئ عن الازام: شخص يمر بالاتفاق بأن يعيش ويحمل على
ارض شخص آخر وأن يتم عمل أو خدمات لهذا الشخص بعوض أو بغير
وعوض دون أن يملك حرية تغيير وضعه.

- إقرار المرأة على الزواج.
- إقرار المرأة على العمل أو استنكار رحمها.
- استخدام طفل في النشاط غير مشروع أو إجرام أو في نزاع مسلح.
- تبني طفل لغرض استغلاله أو كان نهبه.
- الاستغلال الاقتصادي أو الجنس للأطفال بناءً على تشغيلهم.

4. الاستخدام: إجبار شخص على القبض بعلم أو أداء خدمات وفقاً لشروط لا يستطيع
ذلك الشخص الخلاص منها أو تغييرها.

5. الاستغلال الجنسي: الحصول على منافع أياً كانت طبيعتها من خلال توريث شخص
في أعمال دعارة أو بيع أو في تقديم أي نوع آخر من الخدمات الجنسية بما في
ذلك استغلاله في المشاهد الإباحية وذلك عبر إنتاج مشاهد ومعاد إباحية أو مشاهد أو
ترقيها بآية وسيلة كانت.

ويقابل الفصل 8 من نفس المشروع كل من يرتكب إحدى جرائم الاتجار بالأشخاص
المصوص عليها أعلاه بالسجنا والخلاصة.

3-2 النصوص والتشريعات المتعلقة بالتهوية غير الشرعية

يخضع دخول الأجانب إلى تونس وإفاقاتهم فيها وخروجهم منها إلى أحكام القانون
عدد 7 لسنة 1968 المؤرخ 3/8/1968 والمتعلق بقانون الأجانب. وتضمن هذا
القانون أحكام زجية لردع استقبال وإيواء قانوني دون اعتراض الإجراءات
المعترف بها في القانون.

- تخضع حركة الأشخاص عبر الحدود إلى أحكام القانون عدد 40 لسنة 1975 المبرم
في 15/5/14 المتعلق بقوانين السفر ووثائق السفر. وعزز القانون الأساسي عدد
- صب القانون بتحرير المهاجرين لغاية وإخراجه إلى البلد الفرنسي أو
إخراجه منه خصصاً بما كانت الوسيطة المستعملة وثيقة العقد في صورة حصول
وفاق تنظيم.

- يجري الفصل 145 من مادة الطيران المدني كل قائد طائرة يقرر بمركباً أو بإلزام
ركاب خلافاً لالتزامات البالغ أو الفصل 151 من نفس المجلة كل من
وضع بندية التدريس علاء حد على ستين.

- يجري الفصل 73 و76 من المجلة التشريعية والجغرافية البحرية كل شخص يعبر
حفرة وكل شخص يساعد بالبحر أو بالبحر السفاري خفية على الإبحار أو النزول
بالبحر أو يقف.

- أسس مسؤولية الأشخاص الاحترافية عن جرائم الاتجار بالبشر بنظامهم القانوني.
The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.
المعلومات والبيانات والإحصاءات المتعلقة بالاتجار بالأشخاص لتصحيح أحداث قاعدة بيانات

هدف التحقيق في إجراء المهام الموكلة لها ونشر الوعي الاجتماعي بمخاطر الاتجار بالأشخاص عن طريق الحملات التحسيسية وإقامة المؤتمرات والندوات وإصدار النشرات والأنشطة. تنظم الدورات التدريبية وإشراف على برامج التكوين والتدريب بالتعاون الذي أنشأت هذه الدولة لمكافحة الاتجار بالبشر وإعداد الأدلة على المسائل التي تتعلق المنظمات الدولية بإجراء البحوث والفحص والدراسات لتقييم التشريعات المنظمة للمجالات ذات العلاقة بالاتجار بالأشخاص بما يحقق تنفيذ برامج الدولة في التصدي لهذه الظاهرة.

4.3 بيان أوجه التعاون والتنسيق بين الجهات الحكومية ومنظمات المجتمع المدني بشأن جهودمنع والمكافحة وحماية الضحايا مع تزويدها ببيانات ومقدمة من المنظمات غير الحكومية المعتادة في هذا المجال وبياناتها.

لا تتوفر حاليا قائمة رسمية في المنظمات غير الحكومية المعتادة في مجالمنع والمكافحة وحماية الضحايا وبياناتها.

* تتألف الهيئة الوطنية لمقاومة الاتجار بالأشخاص المزمع إحداثها عند المصادقة على مشروع القانون من ممثلين من الجهات الحكومية المعنية ومنظمات المجتمع المدني والجهات المسؤولة والشخصيات الوطنية المحترمة. تتم تنصيب الهيئة العامة من قبلهم.

جهود كافة الأطراف المختلطة والتعاون فيما بينها لتنفيذ رؤية وطنية لمقاومة هذه الظاهرة.

5.3 بيان أوجه التعاون والتنسيق بين الجهات الحكومية وقطاع الأعمال بشأن جهودمنع والمكافحة وحماية الضحايا.

القطاع الخاص شريك في كل البرامج التي تقترن وتنفذ حاليا في تونس ومن بينها برنامج "الإطار" الذي تم تنفيذه خلال سنوات 2011-2014، والذي سيترافق في إطار مرجعة ثانية تمتد من 2014 إلى 2017 بالتعاون مع المنظمة الدولية للهجرة في إطارية من وزارة الخارجية الأمريكية، إذ تمت دعوة الاتحاد التونسي للصناعة والتجارة والصناعات التقليدية ب推薦ه للتعاون مع الجهات المختلطة في القطاع الخاص ليكون توزيعهما في اللجنة العليا لتيقنة المشروع كما تتم برامجية تنفيذية خاصة في إطار المشروع لتبادل expérience القطاع الخاص لمقاومة الاتجار وتنفيذ تدابيرمنع والحماية والمثابة.
ال развитيات الأثر في وضع برنامج عمل وطني من قبل الحكومة التونسية لمكافحة ظاهرة عمالة الأطفال (plan d'action national de lutte contre le travail des enfants) بالنسبة للسنة الممتدة بين سبتمبر 2013 وديسمبر 2015 وذلك في إطار البرنامج الدولي (IPEC: International Programme on the elimination of child labour).

2-3 النظام المؤسسي لمنع ومكافحة الإتجار بالبشر وخصائص القوانين والقرارات المتعلقة بإنشاء وتشكيل اللجان والهيئات والجهات الوطنية وإدارات مكافحة الإتجار بالبشر.

* اعتباراً لدعم صدر القوانين المتعلقة بالوقاية من الإتجار بالأشخاص ومكافحته واعدت الهيئة الوطنية لمكافحة الإتجار بالأشخاص، فإنه لا يوجد المنظومة التشريعية والتنظيمية اللازمة في تونس قوانين أو قرارات خاصة بإنشاء هذه اللجنة وتنظيمها لأسماء وأن الفصل 41 من مشروع القانون قد أتاح إلى أمير لضبط تنظيم الهيئة وطرق سبها.

* غير أنه تجد الملاحظة بأن بعض الوزارات احتجت خلال خلاصة مكافحة الإتجار بالإتجار بالأشخاص، من وزارة الداخلية التي أشتكها الأمية المتناثرة في مواجهة الإتجار بالأشخاص تتعاون مع مختلف الأجهزة المختصة بنجع المعلومات وتراجعتها وتبادلها واستغلالها للكشف عن الجرائم ومساعدة الضحايا.

3-3 هن توجد عدداً مركزية وطنية تختص بجمع المعلومات والبيانات المتعلقة بالتجار بالبشر وتحليلها وإعداد الإحصائيات والدراسات بشأنها (وحدة معلومات). مع موافقتنا ببياناتها وتبعتها ومباحثاتها ويدافعها وتحقيقها على نحو تفصيلي. في حالة عدم وجود هذه الوحدة المركزية تأمل موافقتنا بالمساعدة التقنية اللازمة لإنشائها وتأليها.

* لا يوجد حالياً لوحدة مركزية وطنية في تونس تختص بجمع المعلومات والبيانات المتعلقة بالإتجار بالأشخاص وتحليلها وإعداد الإحصائيات والدراسات بشأنها.

* وقد نص مشروع القانون المتزمن بالوقاية من الإتجار بالأشخاص وفق تعديله على إحداث هيئة تسمى "الهيئة الوطنية لمكافحة الإتجار بالأفراد" تولى خاصية.
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لا تهتم بذلك المجال، وركزت مركز إستغلال في الغرمان يرقص الوعي بخطورة الإتجار بالبشر. تستشهد خاصة بعد الشباب إفلاسه بخطورته ونوعية الإتجارة عند الهجرة سريًا. واكتسبت الرياح في العمل خارج الحدود بعقود غير منظمة لإيقافهم بخطورات الوقوع. ضعافًا لاستغلال الجنسية.

غير أن هذه الجهود تحتاج إلى مزيد الدعم والتنسيق وهو ما يصح إلى تحقيقه مشروع القانون من خلال تكلف الهيئة الوطنية لمكافحة الإتجار بالأشخاص "بتشريع الطلب" الذي يحظر جميع أشكال استغلال الأشخاص ونشر الوعي الاجتماعي بخطورات الإتجار بهم عن طريق الحملات التوعوية والبرامج التدابير التوعوية وأنشطة المؤسسات والانشقاقات وإصدار التشريعات والأذن.

1. البحث والدراسات والبحوث والمراجعات التي قامت بها سلطاتكم الوطنية.

في مجال مكافحة الإتجار بالبشر.

من بين النتائج الإيجابية التي حققتها في إطار المرحلة الأولية لمشروع "دعم ونقل البيانات المساعدة والتجزئة وتقييم الخبرات في مجال مكافحة الإتجار بالبشر" (المشار إليه "Etude exploratoire de la traite des personnes en Tunisie".

أعلاه هو إعداد دراسة وطنية أولية حول "الإتجار بالأشخاص في تونس".

من قبل فريق عمل متحدة، وشملت هذه الدراسة الميدانية فحصًا تطوعيًا جامعًا لمنطقة والبحث والتعاطي والممارسات والتوازن والتنمية في هذا المجال وتنسيق بين المغرب والحدود والحماية والتعاون والتعاون.

وقد تم عرض نتائج هذه الدراسة بصورة رسمية يوم 21 جوان 2013 من قبل المنظمة الدولية للهجرة بالاشتراك مع وزارة العمل التونسية لتبعت على إثر ذلك نشرها بثلاث نُهات.

ومن الإتفاقية مع تلك التاريخ تم عقد سلسلة من الاجتماعات بهدف مزيد تنشئة نتائج الدراسة حول الإتجار بالأشخاص ووضع استراتيجيات وطنية لمكافحة الإتجار بالأشخاص. تضمن أيضاً على معالجة الأسباب الجذرية للإتجار بالأشخاص ووضع إجراءات خاصة بالضحايا (العنف على الضحايا والمساعدة والخبر والقوانين) وتجريم الإتجار بالأشخاص والتعاملات.

3.4 جهود الإعلام في رفع الوعي بظاهرة الإتجار بالبشر.

* يتم تنظيم حملات إعلامية وترويجية على نطاق واسع للتعريف بالإتجار بالأشخاص ووعي على الأفراد والمجتمع ككل وذلك من خلال تشكيل الصحافيين ضمن لجنة القيادة.
The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.
* توجد حاليا لجنة فنية مكلفة بإعداد مشروع قانون ينظم وضع اللاجئين ومفروض أمر
* يتعلق بإحداث هيئة وطنية أحماءة اللاجئين.

المؤشر الخامس

خامسا: فيما يتعلق بالتحقيق والاتهام والمحاكمة في جرائم الاتجار بالبشر

1.5 نوعية وأعمال جرائم الاتجار بالبشر الأكثر شيوعا، الوطنية منها والمتعلقة للحدود
* ووسائل ودروب الملاجئ.
* لا توجد حاليا إحصائيات دقيقة عن أعمال جرائم الاتجار بالأشخاص الأكثر شيوعا
* وطنية أو عبر وطنية.

2-5 وسائل تطوير الضحايا أو الإيقاف بهم والسياطر عليهم.
* لا توجد حاليا بيانات ومعطيات دقيقة عن وسائل تطوير الضحايا.

3.5 الحالات التي تم من خلالها تطوير الضحايا أو التغريب والإيقاف بهم والسياطر عليهم
* عن طريق وسائل تقنية المعلومات.
* لا توجد حاليا بيانات ومعطيات دقيقة عن وسائل تطوير الضحايا باستخدام تقنية
* المعلومات.

4.5 هوية الجماعات الإجرامية المنظمة الضالة في ارتكاب جرائم الاتجار بالبشر.
* سواء كانت تمارس أنشطتها ب蹟يقة الدولة أو خارجها، مع بيان طبيعتها وتركيبتها وبنينها
* وأماكنها ونشأتهم والصلات بينها وبين غيرها من الجماعات الإجرامية الأخرى، وأسلوب
* ارتكاب تلك الجرائم، وحركة عاداتها.
* لا توجد حاليا بيانات ومعطيات دقيقة عن وسائل تطوير الضحايا باستخدام تقنية
* المعلومات.

5.5 بيان ما إذا كان هناك ارتباط بين جرائم الاتجار بالبشر والهجرة غير الشرعية سواء
* من إقليم الدولة أم إلها.
* لا توجد حاليا بيانات ومعطيات دقيقة عن الموضوع.

6-5 إحصاء بقضايا الاتجار بالبشر التي تم الإبلاغ عنها منذ بداية عام 2011 حتى نهاية
* شهر يونيو 2012، بما يشمل ذلك من بيانات بعد وأرقام ونوعية تلك القضايا وعدد
* أسماء المتهمين وضحايا فيها وجنسيتهم، ما تضمنه من صور استغلال، وما تم من
* تحقيقات واتهامات وما صدر فيها من قرارات وأحكام.
* لا توجد حاليا إحصائيات دقيقة عن جرائم الاتجار بالأشخاص.

* في ظل غياب نص قانوني خاص يتعلق بمكافحة الاتجار بالبشر، يتم تطبيق أحكام
* المجلة الجزائية وبقين تتبع المخالفين من أجل تعاليم القيادة السري والتحريض على النجاح.
الturnstile في خناص العين والتحبيس. وقد سجل خلال سنة 2013، عدد 177 قضاء تم الاحتفاظ
بـ107 شعبية واحتفاظهم على العدالة كما سجل عدد 50 قضاء خلال السنة الأولى من
سنة 2014، وتم الاحتفاظ بعدد 85 أشخاص منهم. وتتراوح الأحكام الصادرة بين عدم السماح
الدعو والسجن لمدة تتراوح بين 6 أشهر و3 سنوات.

7-5: بين المبتكِر أو الأقسام أو الدوائر الأمنية والقضائية المتخصصة في جرائم الإتجار
بالمجهر، واعتمادها وصفات القالبين عليها، وخبرتها وكميتها في مجال مكافحة
جرائم الإتجار بالمجهر.

* هياكل العدالة الجزائية العامة مخصصة بالنظر في قضايا الإتجار بالأشخاص (أعرا
المشريحة المدنية المنصوص عليها في الفصل 10 من مجلة الإجراءات الجزائية واجهة القضاء
الدولي،).

* نجد في الإشارة إلى أنه من بين التدابير التي تم اتخاذها لإحداث خليصة لمكافحة الإتجار
بالبشر صيغة الإذاعة القاضية للقيادة الاجتماعية بإدارة الشرطة المحلية (مع إمكانية إحداث
مساحة لمكافحة الإتجار بالبشر صيغة الجهينة الجديدة المقررة للإذاعة)، تقدر بمباشرة هذا
الصنف من القضايا عبر إتخاذ حملة من الإجراءات (توضيح محذرة بتحت ضرائب اتفاقات
المشروطات بتردده على الديون المستقلة للناس، للعمل في مجال المعاشراء، وضد الوسطاء
والاحتضان، وفقا للجنسية و knull الإجراء من إصدارا للذين هم بحالة تفريغ بالتفريغ، والتشريع مع
نقطة العبور الجهوية وال珀يزية للإذاعة من التحريكات الحيوية للأشخاص المعروفين بترددهم
على الدور المستقلة للناس، لاستدعائهم في مجال المعاشراء، وطة الإعدادات العامة
للحصول على معلومات تصل بالوسطاء والمشاركة، والتشريع مع الجمعيات التي تعلل
بإذا الإجراء للناس ضحايا الإتجار، بالمؤسسات التقنية، والاجتماعية، ومشاركة ضمن لجنة
قيادة في خطة العمل الوطنية المتعلقة بحماية المرأة من العنف التي تشرف على تنفيذها
وزارة المرأة والأسرة يشارك فيها ممثلون عن مختلف الوزارات والمنظمات والمنظمات
المدنية).

المؤر السامس

ساسسا: فيما يتعلق بحماية الضحايا والشهداء

1-6: التشريعات أو النصوص القانونية المتاحة الخاصة بحماية الضحايا والشهداء.

* ثم تكرر منظومة الإجراءات الجزائية في تونس نظاما خاصا بحماية الضحايا
والشهداء، والمبني على أن محاكم الإجراءات الجزائية تحت على بعض الأحكام المتوقعة
التي تدعو حماية الضحايا والشهداء، كالتي أن أقول للذين ترددين إلى المحكمة
وإجراء المرافعة سرا إذا رأى الأمر نفسه، أو إلى المجازية، ودورة عودة إلى المحكمة
المحددة ناحية قاضي العام ومراعاة للأخلاق (الفصلان 65 و143) وتجريم
إلغاء الإصرار في غير السمة الثقيلة (الفصل 254 من مجلة الجزائية).

* وفي المقابل، أقر مشروع القانون المتعلق بالوقوف من الإتجار بالأشخاص وعلاقته
جمنية من الأحكام الخاصة بحماية الضحايا والشهداء، وذلك من أهمها:
- إقرار مبدأ عدم مخاطرة من ارتكاب جرائم مرتبطا بارتباط مباشرا بإحدى جرائم
الإتجار بالأشخاص التي كانت ضحية لها.
التطويرات في تجاوز النساء في تونس بعد الثورة.

العواقب:
- تورط المرأة الجنسية للأساليب الضخمة وال.lookup ومساعدات القضاء المخترق والمختلف.
- بالتعاون مع وكالات من كنفهم وفاذ من وجه الأردي بواجهة السلم ذات النظر.
- وإجراءات الاعتراف بالأفراد في كل الحالات التي يكون فيها ذلك ملزمًا.
- كما تسحب التدابير المشار إليها عند الإفادة على أفراد أسرة الأشخاص المتضررين وكل من يضحى استهدافه من أقاربه.

овать الصحايا والشهود والخبراء والمبلغون في غياب ذي الشفعة ولا
- تجري مكافحتهم أو تسيرهم من الشفعة إلا برضاهم. ويمكن المحاكمة المتعددة
- في حالات الخطر الملم وانقتضت الضرورة ذلك، تكلي تصريحاتهم باعتمال
- وسائل الاتصال المكثفة أو المسموعة الملائمة دون وجب حضور المنفي بالأمر
- شخصياً.

أعمال مقر الإقامة وذلك يمكّن الأشخاص المشمولين بالحماية في صورة دعوتهم
- إلى الإدلاء بصورتهم لدى مأمور العاطفة المحلية أو لدى قاضي التحقيق أو
- وغيرها من الجهات القضائية من أن يعتنوا متحمسين لدى وكيل الجمهورية
- الشخصي. تريد

العوامل الأمثلة تسمح حق المعتدي في الدفاع عن نفسه.

العوامل التدهورية بذلك يمكّن الأشخاص المشمولين بالحماية في حالات الخطر الملم
- أن يطلبوا عدم الكشف عن هويتهم. ويترد وكيل الجمهورية أو القاضي القضائي
- المتعمد وجاهزة للطلب في ضوء طبيعة الخطر ودقة من تدابير الإجراء على السير
- المعايرة والموضوعية.

للمجتمع القضائي المعهود أن تقرر من تقضت نفسها أو طلب من مثل النية
- المعمودية أو بناء على طلب كل من له مصلحة في تلك إجراءات الجائزة بسورة
- سريّة. ويجدر في هذه الحالة عند المعلومات عن المراقبات أو القرارات التي من
- شأنها أن تأتي بالحماية الخاصة للحماية أو سعيهم.

عن كل من عرض جلالة الأشخاص المقصودين بالحماية أو متكسبهم أو حياة أو
- مكاسب أفراد أسرهم إلى الخطر وذلك بالإفصاح عن أي معلومات من شأنها
- الكشف عن تغطية الحماية لأذهانهم أو الإفصاح تبعياً.

العوامل الرئيسي للثقة على الضحايا وخاصة بالمنافذ العدوانية وإدارات الهجرة
- والإقامة والجنسية ودوائر أقسام الشرطة والمؤسسات الاجتماعية والصحية والجهات
- المسؤولية عن تنفيذ قواعد العمل.

Mécanisme national pour la protection des victimes et des personnes liées aux événements de violence et d'exploitation.
الفتيات الشابة المخدرة على طائر القنبلة يتعرضن للإتجار بالنساء في مكان العمل والبيوت ودور الخروج، بينما لا يوجد تقارير دقيقة عن نوعية وجنسيات الضحايا.

لا يوجد غالباً بيانات ومتطلبات دقيقة عن نوعية وجنسيات الضحايا.

بيانات الإتجار بالنساء تم إعداده أثناء الاستغلال الذي تعرضوا له.

لا يوجد غالباً بيانات ومتطلبات دقيقة عن هذا الموضوع.

آليات إتخاذ الإجراءات لكشف وتحقيق شكاوى الضحايا ومساعدتهم وتوافر المساعدة اللازمة لهم.

تدابير الحماية الأمنية والقانونية التي توفرها السلطات الوطنية لحماية ضحايا الإتجار بالبشر.

لا يوجد غالباً نظام خاص بالحماية الأمنية والقانونية لضحايا الإتجار بالأشخاص.

يقترح مشروع القانون حملة من التدابير الخاصة بحماية الضحايا تمثل خاصة فيما يلي:

- إقرار مبدأ عدم مواجهة من ارتكب جرماً مرتبطاً ارتباطاً بإختلاف جرام.
- إقرار مبدأ تصرف الموظفين في شكله يقيد ضحايا الإتجار بالأشخاص.
- إقرار مبدأ تصرف الموظفين في شكله يقيد ضحايا الإتجار بالأشخاص.
- إقرار مبدأ تصرف الموظفين في شكله يقيد ضحايا الإتجار بالأشخاص.

إخفاء مقر الإقامة وذلك يمتلك الأشخاص المخمورين بالاعتماد في صورة دعوتهم إلى إهداء بوم ملاتهم لدى مؤسسات مكافحة المنطقة أو لدى قائمى التقدم أو غيره من الهيئات القضائية أن يعينوا محل مخابزهم لدى وكيل الجمهورية المختص.

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العلاقل أنه يمكن للضحية الحصول على المعلومة اللازمة حول كيفية المطالبة بالتعويض من خلال الاستيلاء بالمرشد القضائي ومساعد لرئيسي الجمهورية يوجد مكتبة بمقر المحكمة الإندبندنت.

والمشكلة الحقيقية في الحصول على الإعانة العملية في المادة المدنية وذلك في كل طور من أطرار الشروط في المادة الجزائية كأنما بالحق الشخصي ويمكن منح الإعانة العملية لتنفيذ الأحكام والمساءلة حتى العلم العلماء أحكام القاضي عدد 23 سنة 2002 المؤخر بمنحة الإعانة المدنية.

4.4 أثر مشروع القانون المتقدم بالموافقة من الأحكام بالأشخاص ومبادئ التعويض المنقحة للضحية نذكر من الأحكام الخاصة بوسائل الإنصاف وسبيل عبر العرش والتعويض المنقحة للضحايا نذكر من أهمها:

- تشكيل الهيئة الوطنية لمكافحة الاتجار بالأشخاص بإرسال الضحايا حول الاحكام المنظمة للإجراءات القضائية والإدارية الكبيرة بمساعدتها على تسوية وضعيتهم وتحقيق تلقى التعويض المناسب عن الأضرار المهيئة لهم.

- منح الإعانة العملية لضحية الاتجار بالأشخاص لمساندة الإجراءات القضائية المدنية أو الجزائية المتعلقة به.

يمكن لضحايا الاتجار بالأشخاص المدامهم أحكام بانة بالتعويض تعذر تبنيه على المحكمة، في كثير من الأحيان، في صالح بعض أساليب الاتجار في استخلاص المبالغ التي يُنفقها باعتبارها دينا عمليا.

9-6 هل توجد ليجيم ومسائل قانونية أو تدابير أخرى تشريعية أو إدارية تضمن تقديم التزبي (التعويض الع النقبي)

جاء بالفصل الأول والثاني من مجان الإجراءات الجزائية أنه ينتمي على كل جريمة دعوى عمومية تهدف إلى تنفيذ القانون ويرتب عليها أيضا في صورة وقوع ضرر نمأ مباشرة من الجريمة. دعوى مدنية لحجة ذلك المطاردان المادي والعنفي لكل من الحق الشخصية.

وينضوي الفصل 82 من مجل الالتزامات والعقد أنه من تسبب في ضرر غيره عده منه واعتناصا بوجه غاني سواء كان ضرر جسديا أو مقروبا فعليا جبر الضرر الشكلي.

10-6 تحديد عدد الضحايا الذين قد تم لهم بالفعل خدمات الحماية والمساعدة باشكالها المختلفة، مع تحديد سن كل ضحية وجنسيتها وتوزع الخدمة التي تم تدليها إليها.

لا توجد حالات بيانات ومعطيات دقيقة عن هذا الموضوع.

غير أن وزارة الشؤون الاجتماعية قامت بدراسة مراكز الإحالة والتوجه الاجتماعي لإعطاء تعليمات بخصوص إحداث وحدات تعني بحماية ضحايا الاتجار بالبشر.
قائمة بالمداري والمنشآت المخصصة للرعاية الصحية والتعليم وإعادة إدمج ضحايا الإتجار بالبشر.

لا يوجد حاليا بيانات ومعطيات دقيقة عن هذا الموضوع.

هنا توجد نصوص قانونية أو برامج لحماية المبلغين وتشهود بشأن جرائم الإتجار بالبشر والتمكينها.

سيق الإجابة عن هذا السؤال في جزء منه بالعدد 16 أعلاه لمعايير التشريعات أو النصوص القانونية المتعلقة بحماية الضحايا والشهود.

المحور السابع
سابعا: فيما يتعلق بالتعاون الدولي في مجال مكافحة الإتجار بالبشر.

1-7 وسائل التعاون القضائي والأمني الدولي المتعلقة بالنظام القانوني لمكافحة جرائم الإتجار بالبشر والتشريعات المتصلة لها.

بفضل اتفاقيات التعاون الأمني والقضائي الدولية والإقليمية والثنائية تباع المنظورات القانونية التنسيبية وسائل التعاون القضائي والأمني الدولي للكافحة جرائم الإتجار بالبشر ومنها: المساعدة القانونية المتتابعة في المسائل الجنائية، تسليم المجرمين، التحقيقات المشتركة، تقلل الإجراءات، الاعتراف بالأحكام الجزائية الأجنبية وتنفيذها، مساعدة عائدات الجرائم المثل...

الأسس القانونية التي يتم الارتقاء إليها في الاستجابة لطلبات التعاون القضائي والأمني في مجال مكافحة جرائم الإتجار بالبشر.

- القانون الوطني في صورة عدم وجود اتفاقيات دولية أو إقليمية أو ثنائية للتعاون الأمني والقضائي.

- يوفر تكوين نوع ومعايير الإتجار بالإنسان وبخاصة النساء والأطفال المكلن

- اتفاقية الأمم المتحدة لمكافحة الجريمة المنظمة عبر الوطنية

- اتفاقية الرباط العربية للتعاون القضائي.

- عرض التجدید السابق في التعاون القضائي والأمني في قضية الإتجار بالبشر، سواء مع الدول العربية أو الأجنبية.

لا يوجد حاليا بيانات ومعطيات دقيقة عن هذا الموضوع.

4-7 مقتراح بشأن تعزيز التعاون الدولي لمكافحة جرائم الإتجار بالبشر.

تعزز قوات الاتصال بين السلطات المختصة في مجال مكافحة الإتجار بالبشر.

سيما في مجال تبادل المعلومات والبيانات والتدابير الحذرية وأمن الوثائق وطرق الوصول الإتجار بالبشر.

دعم جهود الدول العربية على غرار تونس في إنشاء قوات بيانات وإحصاءات وطنية ومنظمة أرصد حالات الإتجار بالبشر وقواعدها وخصائصها.
The Developments of Trafficking in Women in Post-Revolution Tunisia. Haffar.

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Appendix III

Government’s agenda in relation to trafficking in persons

<table>
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<tr>
<th>Qandara</th>
<th>Estimate</th>
<th>Al-qada</th>
<th>Al-amr</th>
<th>Al-inzal</th>
<th>Al-haktah</th>
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\[ \text{Journal of Modern Slavery, Volume 4, Issue 1. Summer 2018} \]
Appendix IV


<table>
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<tbody>
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<td>177</td>
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<td></td>
</tr>
</tbody>
</table>
Appendix V

Statistics handed by the IOM in April 2015 about the profiles and numbers of victims of trafficking assisted in Tunisia (2012-2015)
L'OIy a également identifié 2 victimes tunisiennes de la traite des personnes exploitées à l'étranger (Liberie et EUN) essentiellement dans la prostitution forcée et les services forcés (restauration).

Les types d'exploitation sont les suivants :
La majorité des victimes sont des femmes âgées de 18 à 52 ans. Parmi ces femmes un grand nombre viennent de la Côte d'Ivoire (21 femmes), et elles ont été exploitées dans la servitude domestique à Tunis et sur le littoral tunisien.

Un autre groupe de jeunes femmes nigériannes victimes de la traite, a été détecté parmi les migrants irréguliers rescapés en mer en 2012 : elles avaient été exploitées en Libye dans la servitude domestique, et des indices montraient qu'elles allaient possiblement être exploitées dans la prostitution forcée une fois arrivées en Europe.

En outre, 5 hommes exploités dans le travail forcé (1 dans l'agriculture, 1 dans le bâtiment, 1 dans la restauration et 2 dans l'industrie du spectacle) ont été identifiés et assistés par l'OIM.

La majorité des victimes sont des adultes (85%). Pourtant, 5 victimes de la traite de moins de 18 ans (nationalités : 2 Nigériennes, 2 Ivoiriens et 1 Malien), soit 15%, ont également été assistées par l'OIM Tunisie.

En termes d'assistance, l'OIM a soutenu les victimes en matière d'hébergement, kit d'hygiène, assistance médicale, assistance juridique, conseil/orientation, et assistance au retour volontaire et à la réintégration dans leur pays d'origine.
Appendix VI

Certificate from the ATFD as a proof for not being able to get through to victims testimonies

شهادة امتناع عن التصريح

تونس في 09 ديسمبر 2014

يشمل مركز التوجيه والاستماع للنساء ضحايا العنف بالجمعية التونسية للنساء الديمقراطية(" رشا حفاز") قد توجهت إلى الجمعية في 14 نوفمبر 2014 كقصد تمكينها من الحصول على تصريحات من النساء ضحايا الاتجار والوافدين على مراكزنا وتظرف لعدة هذه الحالات تلتمس سوء من الاتصال بأربعة متاهين ورفض تصريح.

و بذلك تذكر عليها الحصول على شهادات هؤلاء الضحايا.

مسؤولة مركز التوجيه والاستماع

الجمعية التونسية للنساء الديمقراطية
Appendix VII

Victim Testimony 1

The testimony as taken from original source, IOM:

L., a 20 year old young woman, was engaged before her departure for Dubai. She comes from a middle class family and stopped her studies in order to follow a beautician training course. One of her Tunisian friends, who had lived some time in Dubai before returning to Tunisia, praised the economic opportunities there. She said she knew a woman who worked with her brother in the labor migration of Tunisians to Dubai. L. then gets into contact with this woman who reassures her and her fiancé, on the seriousness of the job offer in a beauty center. Recruitment criteria are physical beauty and being young. The visa and contract of L. are quickly prepared. The contract states that she will work in a beauty salon owned by the woman in question. She does not advance any travel expenses. These will be deducted from the salary she receives in Dubai. L. left Tunisia in November 2012. Upon arrival, she is received by a Syrian man. He allows her to use his phone to contact her fiancé. She tells the latter she was taken to a house hosting Tunisian, Moroccan and Algerian women and not into a hotel, as originally intended. For some time, L. remains unemployed. They were preparing her papers and her badge, she explains to her fiancé.

Time goes by and L. no longer answers her boyfriend when he calls at night. The few times she picked up the phone, it was after 3am when she was drunk. However, L. did not drink alcohol before leaving for Dubai. L. told him that she worked from 22pm to 03am, with a break at midnight. It was difficult, according to her fiancé, to know whether she consented or not to exercise that activity at night. Worried, the fiancé of L. called the woman who hired L. asking for explanations. She said that alcohol was prohibited at the workplace of L., and that it was not her, but the man who employed her. Later, L. called her boyfriend at night, drunk and crying, telling him about humiliating working conditions. Her calls are interrupted and she is still under control. She was able to talk to him three times in three months. It is forbidden for women to go out, call or use Internet telephony (Skype). The fiancé of L. contacted her employer, without success.

They eventually got back to him via Facebook and suggested that he should recruit beautiful young women between 20 and 28 in Tunisia for 100 dinars per head (50 Euros). In just three weeks, the network could have recruited 28 women. Some young women working with L. returned to Tunisia on February 10th, while some others were transported to Turkey. He learnt that his fiancée was in Lebanon.
He learned that the contract signed by L. was falsified and in English, misunderstood by his fiancée. L. was supposed to come back with the others, at the end of her contract, but her employer decided differently. As of February 12, he could no longer get in touch with his fiancée. L. was detained by Tunisian authorities upon her return to Tunisia. In this case, all the elements are present to conclude, a priori, to a case of trafficking into sexual exploitation. L. was recruited and transferred from one country to another on the basis of deception about the nature and conditions of the work. Her movements and external communications were monitored. She was housed with women of different nationalities in one place, with the presence of alcohol as a means of control used by traffickers to enslave their victims. The fact that L. could earn money does not change her status as alleged victim. In order not to disturb the families and relatives of their victims, but also for better control, traffickers sometimes offer to pay them. This salary doesn’t make them any lesser victims of trafficking.

Upon her return from Lebanon, L. was arrested for illegal prostitution and considered a criminal. She may be convicted for an offense that she was probably forced to commit. She no longer has the support of her fiancé and risks the rejection of her family if they discovered her activities.

Measures must be taken to sensitize police and Justice Officers, the Media and the general public, to not re-victimize these young women by condemning or stigmatizing them.
Appendix VIII

Victim Testimony 2

The second testimony of Father David from Caritas NGO in Sfax- the original one as provided by ATFD in French:

Je suis très heureux d’être invité par l’ATFD pour rendre témoignage sur la situation des domestiques ivoiriennes ici à Sfax en Tunisie. Je dis merci à tous les membres de l’ATFD pour cette belle occasion qui nous permet d’être la voix des sans voix, de celles qui sont confinées dans les maisons et ne peuvent pas sortir par peur d’être violentées une fois encore par leurs maîtres et maîtresses. Ceci dit, ce que j’essaie d’exprimer ici est né de mon expérience d’écoute et d’observation auprès de celles que nous appelons « petites bonnes ivoiriennes ». C’est plus un partage qu’un texte scientifique !

Le P. David préside l’enterrement d’un migrant au cimetière chrétien de Sfax. Ces derniers mois j’ai reçu six coups de fil de six filles différentes, sans compter celles et ceux qui contactent mes autres confrères, car le phénomène touche aussi les garçons. Comme c’est un témoignage, je me borne sur ce qui me concerne.

Elles m’appellent et on se donne rendez-vous soit à la paroisse soit au 52 (c’est ainsi que beaucoup appellent le presbytère car l’adresse est 52 Av. Taieb Mehiri). Les histoires de celles que j’ai rencontrées diffèrent rarement : elles sont ivoiriennes et plus précisément d’Abidjan, elles portent des prénoms chrétiens et sont arrivées ici par un réseau qui semble très organisé. Le mode opératoire aussi varie peu, et celui qui revient souvent est le suivant : la fille va à la plage de Grand Bassam, un garçon l’aborde, dépense sans compter et finalement ne demande rien en échange. Une à deux semaines plus tard, il appelle la fille et lui fait savoir qu’il a besoin de son aide. Il a un frère en Italie qui est un homme d’affaires, il voyage beaucoup et il a besoin de quelqu’un de confiance pour surveiller de près ses affaires ; il a pensé à elle car elle a l’air sérieuse. Il est prêt à payer son billet d’avion d’Abidjan-Tunis, car elle n’a pas besoin de visa pour rentrer en Tunisie. Mais elle doit contribuer par la modeste somme de cent mille francs CFA (environ 155 €). Dès qu’elle arrive en Tunisie, un autre frère sera là et se chargera d’organiser le reste du voyage.

La fille se laisse emballer et c’est le début d’un voyage en enfer : arrivée à Tunis, quelqu’un l’attend à l’aéroport ; dès l’aéroport l’escroc récupère tout ce qu’elle a sur elle comme argent. Il l’a conduit dans un appartement où elle trouve d’autres filles entassées. Toutes espèrent un jour regagner l’Europe. Mais pour cela...
il faut de l’argent. C’est la raison que le démarcheur avance pour les plonger dans toutes sortes de trafic : prostitution, serveuses dans un café, bonne dans un foyer etc.

Pour celles qui sont envoyées dans une famille sfaxienne le démarcheur leur fait savoir que c’est lui qui a payé son billet d’avion et il réclame 5 mois d’avance sur le travail que va effectuer la fille. La fille est payée entre 450 et 500 Dinars tunisiens, soit entre 225 et 250 € le mois. S’il prend 5 mois de salaire cela lui fait soit 1125 € ou 1250 €. Or, un billet d’avion Abidjan-Tunis aller/retour dépasse rarement les 600 € ! A cela il faut ajouter tout l’argent récupéré sur elle à l’aéroport qui est souvent la cotisation de la famille, fruit de la vente du terrain de tel frère ou oncle pour l’aider à atteindre l’Eldorado.

Le pire c’est le travail que la fille doit effectuer pour rembourser cet argent empoché par le démarcheur : Elle est la première à se lever dans la maison et la dernière à se coucher et la plupart du temps ce sont de grandes maisons, en plus avec 2 à 3 voitures une pour madame, l’autre pour monsieur et la troisième pour conduire les enfants à l’école et c’est la pauvre qui doit se lever tôt pour laver ces voitures, arroser le jardin, nettoyer la maison, préparer les enfants pour l’école. Elle travaille entre 14h et 16h par jour. Ce qui fait que la plupart d’entre elles, au bout des 5 mois elles sont fatiguées, pour ne pas dire fanées et demandent à partir d’elles-mêmes avec zéro dinar : elle a travaillé pour un autre. Partir d’accord, mais où aller ? Retour à la case de départ. Soit elle retourne chez son démarcheur et là elle est exposée à tous les chantages ou bien elle trouve une autre famille et recommence le même travail avec le même calvaire car elle est exposée à toutes sortes de violences : physiques, sexuel, psychologique.

En 2013, l’une d’entre elles était décédée : il n’y avait pas de chauffage dans sa chambre et pour se chauffer elle a allumée le charbon de bois et le lendemain on a trouvé son corps sans vie.

Au mois de mars 2014, je suis allé visiter une autre fille hospitalisée à Sfax et souffrant gravement du VIH avec un enfant de trois ans en charge.

Malgré tout cela les familles en Côte-d’Ivoire continuent de croire au miracle et envoient de l’argent pour ces filles afin d’aller au bout de leur objectif : l’Europe. Par exemple : cette année en quelques mois, j’ai reçu des virements successivement de 800, 550 et 525 DT pour trois filles de la part de leurs familles pour qu’elles continuent leurs voyages et ce ne sont pas des familles aisées. La plupart, pour envoyer ces sommes, sont obligés de vendre terrains et produits agricoles pour soutenir leur fille : véritable investissement dans le vide.

Toute tentative que nous avons menée pour encourager les filles à retourner au pays a été vaine. Elles perçoivent leur retour comme un échec et préfèrent têter les pieds ici et s’exposer à tous les dangers.
Appendix IX

Victim Testimony 3

Third Testimony of a Malian victim as originally taken from Amal NGO:

This is a presentation of a case of a young African victim of trafficking into domestic servitude.

K. is a young Malian who initially suffered a border smuggling network. In fact, the network promised to help her cross borders to settle in a country of Europe. But they convinced her that before they reach Europe, they will pass through Tunisia first where she should work as a hairdresser in a beauty salon with a formal contract. To be able to cover the expenses of her movement from Mali to Tunisia and then to Europe. Upon her arrival to the Tunisian land, K. found herself at a wealthy family, her papers were confiscated by the recruiter and she was not allowed to go out or to leave. She worked day and night without stopping. This situation went on for months, until the time when she was spotted by a member of the church who helped her to contact the authorities concerned.
Appendix X

Upon request, audio file available from author.