

International Human Trafficking and Forced Labor
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Distinguished members of the Commission, thank you for allowing me the honor of testifying before you today on behalf of The Protection Project at The Johns Hopkins University School of Advanced International Studies on the status of human trafficking in the Arab Region.

I am proud of the work of The Protection Project in combating human trafficking in different Arab countries, training prosecutors and judges in Saudi Arabia on the rights of victims of trafficking, implementing the national action plan to combat human trafficking in Egypt, educating religious leaders in Lebanon on human trafficking as a form of exploitation, establishing law clinics in law schools in Qatar, Oman, and Kuwait to draft laws on the rights of domestic workers, working with civil society in Jordan to adopt model laws on the establishment and operation of NGOs and cooperating with academic institutions in Iraq on the rights of the vulnerable people including victims of human trafficking.

Human trafficking, or trafficking in persons, takes many forms in the Arab World, including slavery, begging, domestic servitude, forced labor, temporary marriage, child marriage, sale of children for the purpose of adoption, prostitution, recruitment into armed forces, and trafficking of organs. In Egypt, an estimated two hundred thousand to one million street children are recruited into forced begging. Foreign laborers represent 66.9 percent of the total labor force in Gulf Countries and they may be subject to exploitation. In Kuwait, Bahrain, Qatar, and the United Arab Emirates, foreign workers constitute over 75 percent of the labor force. Their inability to attain access to justice or seek adequate restitution is an egregious flaw within the *kafala* or “sponsorship system,” and one which is inconsistent with international human rights standards. Domestic workers represent 5.6% of total employment in the Arab region. In Lebanon, there are currently 1.2 million foreign workers, mostly from Southeast Asia. Of those, 400,000 are employed as domestic workers who are typically not covered by existing labor laws, making them vulnerable to abuse and forced labor. The often indistinct identification of trafficking as smuggling further compounds the challenge in both correct identification of the issue and in utilizing an appropriate legal and social response.

I am encouraged by the many steps that have been taken to combat the problem since the passage of the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children of 2000. The Qatar Foundation to Combat Human Trafficking is implementing a three-year Arab Initiative to enhance the capacity of Arab parliamentarians, law enforcement officials and members of civil society to combat human trafficking. The Human Rights Commission in Saudi Arabia is chairing a unit to raise awareness about human trafficking in accordance with the principles of Islam and international legal standards. The National Coordinating

Committee to Prevent and Combat Human Trafficking in Egypt is implementing a comprehensive action plan that focuses on the rights of the victims of trafficking.

Many Arab States are creating specific human trafficking units within their national police or organizing human rights commissions that tackle human trafficking through a multi-faceted approach. In the United Arab Emirates, the government's inter-ministerial National Committee to Combat Human Trafficking trains judges, law enforcement officials, and staff of the government's social services agency on human trafficking issues.

In Saudi Arabia, the Ministry of Labour has established an Expatriate Workers' Welfare Department, a decision by the Council of Ministers to restructure the relationship between workers and employers by prohibiting sequestration of a worker's passport and removing the term "sponsor" from the Residence Regulation. In addition to the Human Rights Commission, the National Anti-Corruption Commission was established to combat crimes of corruption, including crimes committed by public officials and involving trafficking in persons.

Despite the many steps forward, the challenges remain great as the result of conflicts which aggravate political instability and perpetuate infrastructure that is conducive to human trafficking. The War in Iraq, the conflict in Syria and regional instability following the Arab Spring in Egypt, Tunisia, Libya, Syria, and Yemen have exacerbated human rights challenges as both a result of the conflict itself and lapses in existing domestic legal frameworks.

Of the large numbers of Iraqi refugees, women in particular may be forced into prostitution by their families through so-called temporary marriages. Family members have coerced girls and women into prostitution to escape desperate economic circumstances, to pay debts, or to resolve disputes between families. Traffickers are increasingly targeting the Iraqi refugee population, with some Iraqi women and girls exploited by their families.

Increased instability and a void of effective control in Syria deepen Iraqi women's and girls' vulnerability to trafficking. As the conflict in Syria continues, I am concerned by increasing reports of Syrian children being used as child soldiers and the growing exploitation of children in organized street begging rings. I am also concerned that with the political unrest in Egypt, less attention will be devoted to the problem of human trafficking. This is particularly relevant in the Sinai. Since the revolution, police have largely been unable to control the Sinai, leaving refugees and migrants vulnerable to exploitation and trafficking by Bedouin gangs. The new Egyptian government must understand that an uncontrolled Sinai undermines Egyptian stability, is at odds with international legal obligations, and violates protected international human rights.

Existing domestic frameworks exhibit many gaps in adequately preventing trafficking, protecting victims, and prosecuting offenders. Many Arab governments have not developed a systematic approach to identifying victims or those who may be vulnerable, including those arrested for prostitution or foreign workers. Victims who are arrested for prostitution are not often recognized as victims of trafficking. In some Arab states, foreign trafficking victims are not offered legal alternatives to removal to countries in which they face hardship or retribution nor are victims actively encouraged to assist law enforcement in investigations against traffickers.

Improved data collection by the government agencies or nongovernmental organizations within Arab states can significantly improve the response to violations of human trafficking in the region. At present, few countries provide accurate data on migrants flows, most available data is outdated, and cases of human trafficking and smuggling are resoundingly conflated, delivering misleading representations of each issue in the country.

Consequently, the path is difficult.

I am proposing ten recommendations that I believe will contribute to the existing mechanisms that have already been created to ensure their effective implementation and to mobilize the various stakeholders who are engaged in combating human trafficking in the region.

First, expand the role of civil society in combating human trafficking in the Arab region, including academic institutions, corporations, media, nongovernmental organizations, and religious institutions, which must function freely and properly without restrictions or limitations. Following the approval of a new constitution in 2011, Morocco's legal environment enables civil society organizations and provides no outright restrictions on operations, while still maintaining the religious integrity of the State. However, NGOs in other parts of the Arab world may be restricted in obtaining a license to engage in advocacy for human rights including the rights of victims of trafficking. They may also be subject to termination without any judicial oversight. Many NGOs operating in the Arab world are not allowed to receive foreign funding, which further restricts their capability to carry out any programs or initiatives to enhance human rights in the region. Using the Moroccan model, we should encourage Arab states to recognize the potential for partnerships with civil society and the necessity of a supportive domestic framework that will allow them to flourish.

Second, utilize the good principles of Islam, Judaism and Christianity that play an important role in the lives of all Arabs. Islamic scholarly opinions, or *Fatwas*, have been issued on topics related to trafficking and forced labor, and have had important implications for cultural attitude and social response. In a *Fatwa* issued on September 3, 2001, by the Saudi Arabian Grand Mufti regarding the Abuse of Foreign Labor by Saudi employers: it was stated that, "Blackmailing and threatening [foreign] laborers with deportation if they refuse the employers' terms, which breach the contract, is not allowed." In a *Fatwa* issued by Sheik Youssef el Qaradawi, in March 2008 on the sponsorship rule: "The [s]ponsorship system nowadays produced visas market[s], leaving tens [sic] of workers living in subhuman conditions, as a large number of labourers are accommodated in small areas. It is really a shame and also it is against the Islamic principles which call for respecting human rights." Most recently, in a *Fatwa* issued on July 5, 2011, by Abdul Nasser Abu Basal, President of the World Islamic Sciences and Education University: "When trafficking occurs in an organized manner and on a large scale, the punishment should be the same as the punishment for highway robbery." Similar *Fatwas* should be encouraged to influence human behavior and emphasize the call of religion to condemn human exploitation.

Third, move beyond specific anti-trafficking legislation to trafficking-related laws including child protection laws, laws on violence against women, laws that enhance access to justice, laws that guarantee access to information, and labor laws that do not discriminate against foreign labor and provide protection to all forms of labor, including domestic work. As I always argue, only when human rights are enhanced and fully guaranteed for the people of the Middle East will human trafficking be successfully confronted and eliminated.

Fourth, fill the gaps in the domestic legislative framework. Currently, the following Arab states have human trafficking legislation: Syria, United Arab Emirates, Algeria, Bahrain, Djibouti, Egypt, Jordan, Mauritania, Oman, Saudi Arabia, Qatar, Iraq, and Lebanon. We should provide technical assistance to Tunisia, Yemen, Sudan, Palestine, Morocco, Libya and Kuwait, who are currently drafting anti-trafficking legislation. States should also consider enhancing the penalty in cases of aggravated circumstances, such as when the perpetrator of the crime is taking advantage of a vulnerable victim who has no alternative but to submit to exploitation.

Fifth, ratify International Labour Convention No. 189 on Decent Work for Domestic Workers, which has entered into force after Uruguay and the Philippines deposited the two needed instruments for ratification. We should also advise Arab states to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. In addition, we should urge countries that still did not ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to ratify these international conventions.

Sixth, cooperate with the League of Arab States, which provides the collective platform of human rights for all Arab states. Recently, the Arab League adopted the Strategy to Combat Human Trafficking, a model law on combating human trafficking, and established a specific unit that will receive reports from the Arab countries on the status of human trafficking. We should work with the Arab League to enhance these enforcement mechanisms.

Seventh, implement the Arab Charter on Human Rights.

a) Article 9 of the Arab Charter states:

No one shall be subjected to medical or scientific experimentation or to the use of his organs without his free consent and full awareness of the consequences and provided that ethical, humanitarian and professional rules are followed and medical procedures are observed to ensure his personal safety pursuant to the relevant domestic laws in force in each state party. Trafficking in human organs is prohibited in all circumstances.

b) Article 10 of the Arab Charter states:

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

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

c) These articles must be read in accordance with Article 43 of the Arab Charter, which provides that:

Nothing in this Charter may be construed or interpreted as impairing the rights and freedoms protected by the domestic laws of the States parties or those set forth in the international and regional human rights instruments which the States parties have adopted or

ratified, including the rights of women, the rights of the child and the rights of persons belonging to minorities.

Consequently, Articles 9 and 10 of the Arab Charter should be interpreted in accordance with the United Nations Protocol on Trafficking.

Eighth, work with human rights institutions to maintain combating human trafficking as a priority. We should be providing the necessary training to the Saudi Arabian Human Rights Commission, the Qatar National Human Rights Commission, and similar human rights organizations in the various Arab states. This is imperative in light of the recent developments in the region that may otherwise challenge government resources. I am encouraged by the new draft of the Egyptian Constitution. In Article 71, human trafficking is explicitly prohibited, especially forced labor and sexual exploitation. We should encourage other Arab countries that are in the process of drafting a new constitution to incorporate anti-trafficking provisions in new legislative frameworks.

Ninth, enhance the capacity of anti-trafficking units that have been established by the government to combat human trafficking. These units must receive training especially on investigating and prosecuting cases of human trafficking. This training should include judges, police, lawyers, and law enforcement officials. It is noted that few prosecutions have been reported. Our prosecutors in the United States can serve as a valuable asset in providing technical support for such training in the Arab region.

And finally, educate law enforcement and service providers on the rights of victims to ensure that they are not penalized for unlawful acts committed as a direct result of being trafficked. Victims' rights can be protected further by increasing efforts to consistently and correctly identify victims of trafficking. The ultimate goal of any strategy to combat human trafficking is to protect our victims and to ensure that they are receiving the proper assistance and care. Only when we rescue victims of human trafficking and provide them with full and adequate protection, can we make the claim that we are succeeding in combating human trafficking.

The United States, through the Office to Monitor and Combat Trafficking in Persons, and through the mechanisms embodied in the Trafficking in Persons Report, has been instrumental in engaging the Arab governments in their efforts to combat human trafficking. This US engagement should continue, especially in light of the recent political developments in the region.