

The American University in Cairo  
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**The Governance of Human Trafficking in Egypt:  
The Legal, Policy, and Institutional Frameworks**

A Thesis Submitted to  
The Center for Migration and Refugee Studies

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## **ABSTRACT**

Human trafficking is the third largest and fastest growing organized crime in the world after drug trafficking and illicit arms dealing. According to the International Labor Organization, there is an estimated 2.4 million trafficked individuals at any given moment in time. As many as 1.2 million of the 2.4 million are minors. Out of the 2.4 million trafficked individuals, UNODC points out that 230,000 are in the Middle East and North Africa region. Egypt is a country of origin, transit, and destination for trafficking. Yet, the literature available regarding Egypt's response to the growing phenomenon of human trafficking is minimal. As a result, this study explores Egypt's governance of trafficking in persons in order to reflect on the effectiveness of its response to the crime. This dissertation provides a comprehensive analysis of the legal, policy, and implementation frameworks of human trafficking in Egypt. It is divided into eight chapters. The first chapter serves as an introduction and provides background information on trafficking in persons. Chapter II outlines the methodology for this thesis. Chapter III discusses the flows, magnitude, and directions of trafficking in Egypt. Chapter IV explores the theoretical framework that dominates the study of human trafficking. It points out its limitations and argues that it influenced the development of the legal system of trafficking. The following chapter analyzes the emergence of the current legal framework of trafficking on an international level and showcases how the theoretical framework has influenced it. Its analysis is important to understand how its limitations has been translated down to the national level in the case of Egypt. Chapter VI explains Egypt's policy on human trafficking in terms of actors, drivers, and strategies. It also provides a comprehensive critique of the policy development process and its design. Chapter VII analyses the implementation mechanisms of anti-trafficking policies in Egypt. Lastly, Chapter VIII provides the general conclusions of the study.

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## *List of Abbreviations and Acronyms*

CCCPA	Cairo Center for Conflict Resolution and Peace Keeping in Africa
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organizations
ESCWA	Economic and Social Commission of West Africa
EU	European Union
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant of Economic, Social, and Cultural Rights
ILO	International Labour Organization
IOs	International Organizations
IOM	International Organization for Migration
NAP	National Action Plan
NCCs	National Coordinating Committees
NCCM	National Council for Childhood and Motherhood
NCCPIM	National Coordinating Committee for Combating and Preventing Illegal Migration
NCCTIP	National Coordinating Committee for Combating and Preventing Trafficking in Persons
NGO	Non-Governmental Organizations
NRM	National Referral Mechanism
PISTIC	Psycho-Social Services and Training Institute
TIP	Trafficking in Persons

TIP Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children
TVPA	Trafficking Victims Protection Act
UN	United Nations
UNDP	United Nations Development Program
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office for Drugs and Crime
US	United States of America
VOTs	Victims of Trafficking

# **I. Introduction**

## **A. Background**

Human trafficking is often understood as the process through which an individual is placed in an exploitative situation for economic gain. It can occur within a country or across borders. Men, women, and children can fall victim to trafficking for a wide range of purposes, which include but are not limited to, extreme forms of forced and exploitative labor, sexual exploitation, and forced marriage. Despite the attention placed on trafficking in developing countries, the phenomenon affects all regions and most countries.

The growing attention to human trafficking in news headlines creates an impression that it is a recent phenomenon. However, many of the practices leading to trafficking have been taking place for centuries.<sup>1</sup> In fact, the exploitation of individuals for profit has a long history and numerous international efforts have been undertaken to address such practices even before the birth of the modern human rights system.

Trafficking has evolved as a major concern over recent decades due to the increasing number of trafficking cases being detected by law enforcement and civil society organizations.<sup>2</sup> As a result, a comprehensive legal framework was developed to respond to the need for addressing contemporary forms of trafficking in an attempt to undergo a fundamental shift in the way the international system thinks about human

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<sup>1</sup> United Nations Office on Drugs and Crime. (2012). Human trafficking

<sup>2</sup> Ibid.

exploitation. This legal framework confirms a change in expectations of what governments and other relevant actors should be doing to tackle trafficking and to prevent it. The term ‘human trafficking’ was rarely addressed within the realm of migration policy.<sup>3</sup> However, today, it is one of the major concerns of governments, international organizations, and civil society in the migration field, and has become a priority for those working in human rights, health, gender, law enforcement, and social services.

There is an increasing number of migration flows worldwide, and particularly in the Middle East and North Africa (MENA) region, which reflects the number of individuals and families trying to find opportunities for better life styles and conditions. Migration is not always an easy, voluntary process. A number of those who migrate find themselves coerced into working in very difficult environments and trafficked into situations from which they find it difficult, and sometimes impossible, to escape. Some are kidnapped and others are deceived with false expectations of the nature of jobs awaiting them in their country of destination. These individuals fall under the category of victims of trafficking.<sup>4</sup>

Global human trafficking has taken different forms and has been taking place for various reasons of exploitation. The most common form of human trafficking is that in which women and girls are trafficked for the purpose of prostitution in countries where

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<sup>3</sup> Ibid.

<sup>4</sup> International Labour Organization (2008). ILO Action Against Human Trafficking.

there is a high demand for workers in the sex industry.<sup>5</sup> However, only recently, more focus has been given to the trafficking and the exploitation of persons in mainstream economic activities. It is argued that human trafficking is not a new phenomenon and that it is in fact a continuation of the historic practice of slavery.<sup>6</sup>

Since it is difficult to find reliable data about trafficking patterns and numbers, our understanding regarding the causes of trafficking remains underdeveloped. However, from what we know, the most common root causes to the problem are poverty, unemployment, and restrictive labor migration policies which make migrants and refugees more willing to resort to the services of smuggling networks to migrant.<sup>7</sup> Traffickers have developed sophisticated criminal networks through which they manage to “respond to the bottleneck of cheap and easily disposable labor in many countries around the world.”<sup>8</sup> They take advantage of migrant workers who are highly susceptible to deception in order to exploit them in temporary work such as agriculture, domestic work, and construction.

According to the International Labor Organization’s (ILO) “Action against Trafficking in Human Beings”, it is estimated that there are around 2.4 million trafficked

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<sup>5</sup> United Nations Office on Drugs and Crime (UNODC). 2006. *Trafficking in Persons: Global Patterns*. Vienna, Austria: UNODC.

<sup>6</sup> Belser, P. and Gergana Danailova-Trainor (2006). *Globalization and the Illicit Market for Human Trafficking: An Empirical Analysis of Supply and Demand*, International Labour Organization

<sup>7</sup> Morehouse, C. (2009), *Combating Human Trafficking: Policy Gaps and Hidden Political Agendas in the USA and Germany*, VS Verlag für Sozialwissenschaften | Springer Fachmedien Wiesbaden GmbH, Wiesbaden.

<sup>8</sup> ILO, 2008



persons at any point in time.<sup>9</sup> This figure represents an estimate of actual victims at any given point in time over a period of 10 years. The ILO has broken down their global estimates on the number of persons who are held in forced labor to include those who have been trafficked into labor as well as commercial sexual exploitation. As a result, they estimate that out of the 12.3 million forced labor victims worldwide, around 2.4 million are trafficked. As many as 1.2 million of the 2.4 million are minors (under 18). Even though it is often assumed that people are mainly trafficked for the purpose of commercial sexual exploration, the ILO estimates that 32% of all victims of trafficked are trafficked into labor exploitation, 43% for sexual exploitation, and 25% for a mixture of both. Out of the 2.4 million trafficked individuals, UNODC points out that 230,000 are in the Middle East and North Africa region.<sup>10</sup>

However, only a few cases are brought against traffickers compared to the number of trafficked victims. This is mostly due to the fact that most of the victims are unidentified and thus they go unheard with no possibility of receiving justice. International migrants and refugees represent a number of identified victims of trafficking. Despite the growing awareness of the crime, human trafficking remains a low-risk enterprise generating very high profits. According to the study of 2008, the ILO estimates that the profits of trafficking in persons amounts to \$32 billion annually.<sup>11</sup> With the increase in the number of people moving around the world and the easier

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<sup>9</sup> Ibid.

<sup>10</sup> UNODC, Human trafficking: An Overview (2008), available from [http://www.ungift.org/doc/knowledgehub/resourcecentre/GIFT\\_Human\\_Trafficking\\_An\\_Overview\\_2008.pdf](http://www.ungift.org/doc/knowledgehub/resourcecentre/GIFT_Human_Trafficking_An_Overview_2008.pdf) p. 6

<sup>11</sup> ILO, 2008

transportation and communication mechanisms facilitated by the process of globalization as well as the fact that human trafficking is a market-driven crime, it is very likely that human trafficking will persist and even grow in the coming years. As a result of this, it is important to study this phenomenon.

## **B. Problem Statement**

Human trafficking is the third largest and fastest growing organized crime in the world after drug trafficking and illicit arms dealing.<sup>12</sup> The available scholarship in this understudied area has mainly focused on the exploitation of women and girls for sexual servitude. Less interest is given to the labor dimension of human trafficking in order to have an understanding regarding those who are trafficked for the purpose of other types of labor exploitation. United Nations reports, such as the Global Report on Trafficking in Persons published by the United Nations Office on Drugs and Crimes in 2012, assert, “the Middle East is the region reporting the greatest proportion of victims trafficked from other regions (70%)”.<sup>13</sup> The report also states that almost all human trafficking flows originating from Africa are interregional for the aim of going to North Africa and the Middle East or directed towards Europe. Consequently, Egypt is an essential and integral part of the trafficking process due to the fact that it is a transit country for nationals of

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<sup>12</sup> UNODC, The Globalization of Crime: A Transnational Organized Crime Threat Assessment (2010), available at [https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA\\_Report\\_2010\\_low\\_res.pdf](https://www.unodc.org/documents/data-and-analysis/tocta/TOCTA_Report_2010_low_res.pdf)

<sup>13</sup> UNODC, Global Trafficking in Persons Report (2012), available at [https://www.unodc.org/documents/data-and-analysis/glotip/Trafficking\\_in\\_Persons\\_2012\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf)

African countries who want to go to Israel or Europe.<sup>14</sup> Yet, the literature available regarding Egypt's response to the growing phenomenon of human trafficking is minimal. As a result, it is necessary to conduct a study that explores Egypt's governance of trafficking in persons as well as its institutional setup and framework in order to reflect on the effectiveness of Egypt's response to the crime.

The reason why it is significant to address the trafficking in persons in Egypt specifically is not only because of Egypt's unique geographic location as mentioned above but also because of the growing number of cases gaining international attention. The cases and stories of those trafficked in the Sinai Peninsula in particular have led the European Union to issue official statements in which they call on Egypt to take action against these crimes. This dissertation examines, among other things, the perceptions of different government officials.

### **C. Organization of the Study**

This dissertation provides a comprehensive analysis of the legal, policy, and implementation frameworks of human trafficking in Egypt. It is divided into eight chapters including the present one. Chapter II outlines the methodology for this thesis. Chapter III discusses the flows, magnitude, and directions of trafficking in Egypt. Chapter IV explores the theoretical framework that dominates the study of human trafficking. It points out its limitations and argues that it influenced the development of

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<sup>14</sup> Ibid.

the legal system of trafficking. The following chapter analyzes the emergence of the current legal framework of trafficking on an international and showcases how the theoretical framework has influenced it. Its analysis is important to understand how its limitations has been translated down to the national level in the case of Egypt. Chapter VI explains Egypt's policy on human trafficking in terms of actors, drivers, and strategies. It also provides a comprehensive critique of the policy development process and its design. Chapter VII analyses the implementation mechanisms of anti-trafficking policies in Egypt . Lastly, Chapter VI provides the general conclusions of the study.

#### **D. Objectives of the Study**

The central research question that this study aims to answer is, how effective is Egypt's governance model in formulating and implementing policies regarding the prevention, suppression, and punishment of transnational trafficking in persons. The study will also address the following issues in relations to the objectives outlined below:

##### **1. Analyze the human trafficking phenomenon in Egypt**

- a. What are the types, forms, and directions of human trafficking in Egypt?
- b. What is the magnitude of the phenomenon?

##### **2. Identify the processes through which policies, regarding human trafficking, are developed and implemented**

- a. Who are the actors involved and what are their scope, duties, and responsibilities?
- b. What is the role played by institutions in Egypt?
- c. What channels and tools are used to develop policies?
- d. What are Egypt's national and international obligations and commitments?  
What is the national and international legal framework?
- e. Has Egypt received international assistance to live up to its obligations?
- f. What are the global and national determinants of policy?
- g. What policies are in place and how are they being implemented?
- h. What are the resources available to the government? How are the resources being allocated?
- i. What is the relationship between state and non-state actors?
- j. What is the government's perceptions regarding the legal framework of human trafficking?
- k. What is the role of law enforcement and regulations (Sinai) in the implementation of national strategies for combating trafficking?
- l. What mechanisms are developed between Egypt and countries of origin for victims of trafficking to prevent, suppress, and/or punish trafficking?

### **3. Analyze the effectiveness of Egypt's governance model**

- a. Are the policies relevant to all forms of trafficking?
- b. Is Egypt utilizing all the implementing mechanisms to effectively combat human trafficking?

- c. Is there a knowledge gap between state and non-state actors that is hindering the generation and implementation of successful measures of prevention, suppression, and punishment?

**4. Identify the potential areas of intervention in the policy model in order to improve the policy development and implementation processes**

- a. What conclusions can be drawn in order to make Egypt more effective in combating human trafficking and making migration safer?

## **II. Methodology**

### **A. Research Method**

This dissertation is based on a qualitative methodological approach. Qualitative research is associated with the exploration of meanings in natural settings in an attempt to make sense of and/ or interpret a phenomenon through the meanings developed by involved actors. This approach appropriately fits the overall research design due to the fact that policy analysis papers are highly strengthened by qualitative methods of research. This method is commonly used for process studies in which qualitative measures are taken to understand the internal dynamics of policy operations by looking at how the policy is produced.<sup>15</sup> Secondly, qualitative methods are also significant in implementation studies where a researcher can learn how and to what extent a policy was implemented. Both these characteristics of qualitative research are significant to the fulfillment of the objectives of this thesis.

Qualitative methods have various advantages. For the purpose of this dissertation, qualitative research provides greater awareness of the perspectives of policy actors. It also provides the researcher with the capacity to understand the dynamic development and the evolutionary character of policy. Because this thesis is concerned with a highly dynamic issue, qualitative research will be very beneficial in outlining the evolutions of the policy making and policy implementation processes. Lastly, because human

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<sup>15</sup> Miller, G. and Frank Fischer (2006), *Handbook of Public Policy Analysis: Theory, Politics, and Methods*, CRC Press; 1 edition.

trafficking is an understudied phenomenon, qualitative research will be significant since it allows the researcher to discover unanticipated and unplanned responses.

However, there are also disadvantages to qualitative research. The first and most apparent disadvantage is the fact that it is time consuming. This research was able to overcome such weakness through the development of a comprehensive work plan to make sure that the timeline of the research project is realistic taking into consideration the strategies of data collection and data analysis. Secondly, qualitative research is not practical if there are a large number of respondents. As a result, the research set a realistic target for the amount of interviews taking into consideration the time allocated for the generation of the research output. Qualitative research requires a lot of skill; however, this disadvantage was overcome through the fact that the researcher invested time and effort in learning the basics in order to have a foundation on which she can build on seeing that the master program is a learning process.

## **B. Data Collection Tools**

Two data collection tools were utilized in order to perform the qualitative research. The fundamental research tools used are as follows:

Semi-structured and in-depth interviews were used in order to approach the most important and influential stakeholders who have a direct influence on the policy formation and policy implementation regarding human trafficking. Interviews were



carried out with government policy makers and implementers, international organizations, researchers, and civil society organizations. It was difficult to have access to these individuals; however, I was able to interact with many of these actors during training and seminars on human trafficking organized by international organizations.

Policy documents as well as policy review documents are among the literature reviewed for this dissertation. Related academic papers as well as policy papers were also significant. The media and newspaper articles were also significant in understanding the manifestations of the policies involved. The study also analyzed UN publications by UNODC, ILO, WHO, as well as intergovernmental agencies such as IOM. Regional sources, in particular the 2013 study published by ESCWA on the trafficking of women and children in the MENA region, were included. Available national reports and briefs on trafficking were also examined.

### **C. Data Processing and Analysis**

Policy process analysis “works towards a systematic understanding of how the policy process functions in practice”.<sup>16</sup> There are various purposes for conducting a policy process analysis. In the case of this research, the major purposes of such analysis can be summarized as follows: a) understanding the purpose through which anti-human

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<sup>16</sup> Springate-Baginski, O. and John Soussan (2014) A Methodology for Policy Process Analysis, Department for International Development, Available at: [https://www.researchgate.net/publication/250662882\\_A\\_Methodology\\_for\\_Policy\\_Process\\_Analysis](https://www.researchgate.net/publication/250662882_A_Methodology_for_Policy_Process_Analysis)

trafficking policies are developed and implemented in Egypt; b) understanding aims and motives behind certain policies, and the extent to which they incorporate a human rights based approach; c) understanding the extent to which policies actually achieve the goal of reducing human trafficking in Egypt; and d) understanding the possible areas of intervention in the policy process in order to improve policy development and implementation.

This thesis uses a policy process model in order to process and analyze the data gathered. An adequate model for this project is one that is developed by Oliver Springate-Baginski and John Soussan initially to assess livelihood policy relationships in South Asia. This model is primarily concerned with state policies and their implementation but also addresses the role of non-state actors in terms of their relationship and interaction with State agents and institutions. Springate-Baginski and Soussan's model is composed of six steps. These steps are necessary in order to build a policy process analysis. This model highly included the steps that were undertaken to process and analyze the data gathered. Below is a summary of the steps used:

### ***1. Policy Formulation and Development***

#### **The Environment**

The first step undertaken for this part of the research was to identify and analyze the environment in which the trafficking policy is formulated. As such, the analysis aimed at identifying the historical context leading to the policy formulation phase by recognizing the key factors and past events that have influenced the formation of the policy process. These key policy milestones are both internal and external. It was also

essential to discuss the wider social, political, and economic framework and trends in Egypt in order to recognize changes in policies and factors influencing their formation. It was also important to focus on identifying the policy inputs, or in other words, the challenges that existed, which produced the demand for a policy response.

### **The Actors**

Because the bureaucratic styles and capacity of government agencies are significant in understanding the policy development and policy implementation process, an in-depth analysis of the key actors was undertaken. The policy development process focused on what happened in terms of interactions and responses between actors regarding the policy formation stage. It also addresses the outputs of these interactions. In order to do so, the study considered five indicators:

- A. The institutional/ organizational structures relating to the policy formation and policy implementation processes
- B. The power and role of the main actors and how they have been exercised during the formation and implementation processes
- C. The strategies used by those actors in order to represent their point of view and fulfill their objectives
- D. The main actors' impact
- E. The degree of "collective action" among the main state actors as well as the relation between State and non-State actors in the process

## ***2. Policy Implementation Mechanisms***

For this part, the study focused on analyzing the two major policy documents in order to access the implementation mechanisms for combating and preventing trafficking. Firstly, the national action plan was analyzed followed by the national referral mechanism. These two documents outline the role, goals, strategies, and actions of the stakeholders involved in implementing the trafficking policy. By analyzing these documents, the research was able to reflect on the coordination, cooperation, and participation of different actors.

### **III. Human Trafficking in Egypt: Forms, Flows, and Magnitude**

Up until 2006, very little attention was given to human trafficking in Egypt.<sup>17</sup> According to the UNODC's Trafficking in Persons Global Patterns report for 2006 Egypt was considered one of the countries with the lowest incidents of trafficking. In this report, Egypt was categorized in the "very low" category for incidence of reporting of origin countries. It was in the "medium" category for incidence of reporting of transit countries. As a destination country, it was categorized as "low". This was due to the information reported at the time and since Egypt was not active in reporting human trafficking cases, little information was available. This is still the case today; the government of Egypt does not publish updated information neither does it seeks to count the number of trafficked victims in Egypt. However, NGOs, IGOs, and UN agencies that provide support to victims of trafficking are currently investing in documenting trafficking cases and the number of victims. Even though the information is not comprehensive and cannot accurately describe the magnitude of the situation in Egypt, such documentation is helpful in providing insight on how the process of trafficking takes place.

Today, Egypt is classified as a country of origin, transit, and destination for trafficked victims.<sup>18</sup> Its unique geographic location on the Mediterranean and the fact that

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<sup>17</sup> United Nations Office on Drugs and Crime (UNODC). 2006. Trafficking in Persons: Global Patterns. Vienna, Austria: UNODC

<sup>18</sup> US Department of State (2013), Trafficking in Persons Report, Available at: <http://www.state.gov/documents/organization/210737.pdf>

it links the African continent with Asia makes it an integral part of the trafficking process that takes place through both regions.<sup>19</sup> Trafficking in persons in Egypt takes different forms. Statistics regarding the human trafficking phenomenon in Egypt were minimal; as a result, UN agencies, the International Organization for Migration (IOM), and the Egyptian Government funded a national study that was conducted by the National Centre for Social and Criminological Studies in 2010. Based on surveys, interviews, and case studies, the study concluded that the most prevalent manifestations of human trafficking in Egypt are: underage marriage of girls, forced marriage of women, exploitation of children as labor, utilizing street children, sexual exploitation and prostitution, trafficking in human organs, and domestic work.<sup>20</sup>

Available statistics do not differentiate between national and international trafficking. However, even though the statistics are not available, “since around 2006, the Sinai Peninsula in eastern Egypt, bordering Israel, has been the site of what the UN has referred to as one of the most unreported humanitarian crises in the world.”<sup>21</sup> Many of the victims of the criminal gangs operating in the Sinai Peninsula are refugees from Eritrea, Ethiopia, Sudan, and Somalia. The process usually begins as human smuggling where the refugees pay smugglers to get to Egypt but as soon as they arrive to Sudan the process transforms into human trafficking because they are sold to Bedouins in Sinai.<sup>22</sup> In other

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<sup>19</sup> UNODC, 2006

<sup>20</sup> Center for Social and Criminological Studies (2010), Human Trafficking in Egypt: Assessment Study, Available at: [www.mfa.gov.eg/Arabic/Ministry/TraffickinginPersons/summary/](http://www.mfa.gov.eg/Arabic/Ministry/TraffickinginPersons/summary/)

<sup>21</sup> AfricanThinkTank, 2013

<sup>22</sup> Humphris, R. (2013) Refugees and the Rashaida: Human Smuggling and Trafficking from Eritrea to Sudan and Egypt, United Nations High Commissioner for Refugees. Available at: <http://www.unhcr.org/51407fc69.pdf>

instances, refugees are kidnapped from refugee camps in Sudan and are transported by Sudanese families to Sinai where they are sold and then extorted for ransoms. These refugees are often kidnapped, tortured, raped, and held captive until they or their families are able to pay the ransom demanded by the traffickers.<sup>23</sup> There were also many reported cases of death and deliberate murder of victims of trafficking.

The United Nations High Commissioner for Refugees (UNHCR), IOM, as well as human rights organizations such as Human Rights Watch and Amnesty International have contributed greatly to the available literature on human trafficking in the Sinai Peninsula. Most of the reports outline the trafficking route taken by victims of trafficking from Sudan to Egypt.<sup>24</sup> They also portray the conditions that refugees find themselves part of which mostly constitute human rights violations.

However, the Sinai Peninsula is not the only hub for trafficking in Egypt and victims are not always refugees or African nationals. Recently, there has been an increase in the number of South Asians and South East Asians being trafficked into Egypt for the purpose of working as domestic workers. The process of trafficking for these domestic workers is different from that of refugees and migrants of African countries. Most domestic workers from Asia are deceived by false expectations regarding the nature of their work, their pay, and the conditions of their stay.

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<sup>23</sup> Ibid.

<sup>24</sup> United Nations High Commissioner for Refugees. (2012). 2011 trafficking in persons Report – Egypt. Available at: <http://www.unhcr.org/refworld/country,,USDOS,,EGY,,4e12ee8133,0.html>

There is a debate between the Egyptian government and agencies concerned with human trafficking regarding the characterization of Egypt as a country of origin, transit, or destination of victims of trafficking (VOTs). The Egyptian government argues that Egypt is a transit country while Trafficking in Persons Reports published yearly by the United States Department of State argue that Egypt is a source, transit, and destination. Due to the rise of “temporary” marriages of underage girls as well as the increase in the number of street children who are forced into sexual servitude and begging, Egypt has become a country of origin for victims of trafficking.<sup>25</sup> There is little debate regarding the transit status of Egypt. UNHCR, IOM, and other agencies who deal with VOTs in Egypt have reported the trafficking of African nationals from their country of origin to Egypt in an attempt to go to Israel and to cross the Mediterranean. The increasing number of trafficked Asian and African domestic workers who come to Egypt in search for employment has also established Egypt as a country of destination.

The three major root causes for trafficking in Egypt are poverty, unemployment, and restrictive migration policies.<sup>26</sup> The major manifestations of trafficking in Egypt, according to the survey conducted by the National Center for Social and Criminological Studies, can easily establish the link between trafficking and poverty. Parents who consent for their daughters to engage in “temporary/ summer” marriages for money and those who exploit their children in forced labor find these ways as the most profit

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<sup>25</sup> Ibid.

<sup>26</sup> International Organization for Migration (2011). Combating Human Trafficking in Egypt. Retrieved 11/6/2012 from <http://www.egypt.iom.int/Doc/CT%20Fact%20Sheet%20Egypt%20June%202011.pdf>



generating activities that can increase their income. The socioeconomic status of the victims and their families is low. Families with low socioeconomic status often lack the financial, social, and educational level necessary to prevent them from engaging their children in underage forced marriages, begging, and other related exploitations.

Unemployment in countries of the Horn of Africa results in migrants engaging in smuggling activities which increases their vulnerability and the possibility of being trafficked. Likewise, unemployment in other African countries and Asian countries result in female migrant workers coming to Egypt in search for better work opportunities as domestic labor but end up getting exploited by recruitment agencies and/or their employers.<sup>27</sup> Lastly, the restrictive migration policies of the European Union and Israel force migrants and refugees to engage in illicit activities that often result in their exploitation on the hands of criminal gangs. The closure of borders policy of the European Union, aiming at preventing the entry of migrants and refugees from Africa, has not prevented migrants and refugees from seeking to migrate to Europe for better living conditions and work opportunities. As a result, they resort to smuggling in order to get through Egypt and ultimately reach Israel or European Mediterranean countries. This puts them in highly vulnerable situations because they can be exploited by smuggling rings and become victims of trafficking. This can easily be experienced due to the fact that smugglers, in most cases, are also traffickers due to the fact that they have well-

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<sup>27</sup> Ibid.

established transnational networks that help facilitate the entry and exit of migrants and refugees.<sup>28</sup>

It is significant to point out that the national study focuses on Egyptian trafficked victims and thus does not include any information on foreign victims in Egypt. However, information regarding the form and scope of trafficking of African and Asian victims in Egypt are available through human rights agencies and humanitarian agencies such as UNHCR and IOM. The cases vary but the processes are similar.

Asian domestic workers usually come to Egypt on tourist visas.<sup>29</sup> A local who works in coordination with recruitment agencies in Egypt approaches them in their country of origin. The local agent takes advantage of the high level of poverty in villages and towns to influence families into agreeing to let their daughters and wives become domestic workers in foreign countries. They are promised a good pay, good living conditions, and constant communication with their family members. Once they arrive to Egypt they are allocated to a family. Trafficking is established once the recruitment agency or their employers confiscate their passport and restricts their freedom of movement. In many instances the employers refuse to pay the domestic workers and they find themselves subjected to physical and psychological abuse. Due to the language barrier and the fact that they do not have their passport, victims find it difficult to escape and are unable to identify methods of communication with organizations and institutions

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<sup>28</sup> Siegfried, Kristy (2014), Sudan and Egypt Implicated in Human Trafficking Available at <http://www.irinnews.org/analysis/2014/02/12/sudan-and-egypt-implicated-human-trafficking>

<sup>29</sup> Ibid.

that can offer support. In Egypt, employers sometimes go report their domestic workers at police stations and accuse them of crimes in order to protect themselves against any allegations brought forth by the victims if they manage to escape.

Amnesty International and Human Rights Watch have provided in-depth explanation of the process by which criminal groups traffic Eritrean, Ethiopian, and Sudanese refugees and asylum seekers. Since 2011, the kidnapping of refugees and asylum seekers have been reported. In Egypt, UNHCR has verified 396 cases of kidnapping in 2011-2012.<sup>30</sup> However, according to another study, “as many as 30,000 people were victims of trafficking and torture in the Sinai Peninsula, and that between 5,000 and 10,000 of them did not survive their ordeal.”<sup>31</sup>

A study published in 2013, *The Human Trafficking Cycle: Sinai and Beyond*, authored by Mirjam van Reisen, Meron Estefanos, and Canny Rijken, focuses on the kidnapping of refugees in East Sudan and in particular from the Shagarab refugee camp by the Rashaida and Hidarib Tribes who are primarily responsible for kidnapping/abducting and transporting the refugees to Egypt where they are sold as commodities to Bedouins in Sinai who manage and operate the torture houses. While held hostage in Sinai, the victims are violated until their relatives pay the ransom. The kidnapers force the refugees to speak to their family, relatives, and friends on the phone while they torture them. This technique is used to force the families and relatives of kidnapped

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<sup>30</sup> United Nations High Commissioner on Refugees (2010). UNHCR Urging Egypt to Intervene to Secure Release of Eritreans Held Hostage.

<sup>31</sup> Siegfried.

migrants and refugees to collect the ransom and pay it for their release. The ransom is often paid through transfer facilities, such as Western Union and MoneyGram.<sup>32</sup> It is also paid through individuals who act as intermediaries. Studies that research the experiences of those kidnapped in Sinai have provided information on the involvement of Eritrean migrants in the collection of ransoms in Saudi Arabia, Israel, the United States, and several European countries.<sup>33</sup>

The majority of victims are Eritrean refugees and asylum seekers. Less are from Ethiopia and Sudan. It is believed that Eritreans are targeted due to the fact that the conflict in Eritrea is the oldest in the Horn of Africa and thus the chances for victims to have resettled family and relatives in North America, Europe, and Australia are higher.<sup>34</sup> By establishing links to these families and relatives, the traffickers are able to guarantee that they will receive the full ransom or at least a significant amount. According to the same study, during the early years of trafficking, the ransom was set equally for all refugees; however, as the criminal networks developed their operations they realized that Eritreans are more able to collect ransom and thus the price for freeing Eritrean refugees increased. The research attributes the emphasis of Eritrean refugees on the following factors:

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<sup>32</sup>. van Reisen, M; Estefanos, M; & Rijken, C (2013) *The Human Trafficking Cycle: Sinai and Beyond* [Draft], Wolf Legal Publishers, Oisterwijk

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

1. A significantly large Eritrean diaspora with close family ties and community structures that facilitate the collection of ransom
2. A relatively large number of Eritrean refugees in refugee camps in Sudan
3. The inclusion of Eritrean migrants in the trafficking networks as translators and ransom collectors
4. The involvement of Eritrean government officials and military personnel in the criminal organizations



Figure 1 Map of the Trafficking Routes<sup>35</sup>

It is evident that there is extremely limited knowledge on human trafficking in Egypt even though the trafficking in Sinai has gained international attention since 2011. However, this is the case with the study of human trafficking worldwide. According to Gozdzik and Bump’s paper entitled Data and Research on Human Trafficking:

<sup>35</sup> Human Rights Watch (2014), “I want to Lie Down and Die”: Trafficking and Torture of Eritreans in Sudan and Egypt, available at [https://www.hrw.org/sites/default/files/reports/egypt0214\\_ForUpload\\_1\\_0.pdf](https://www.hrw.org/sites/default/files/reports/egypt0214_ForUpload_1_0.pdf) p. IV

Bibliography on Research-Based Literature, “the field has not moved beyond estimating the scale of the problem; mapping routes and relationships between countries or origin, transit, and destination; and reviewing legal frameworks and policy responses.”<sup>36</sup> As this 2005 analysis of trafficking research indicated, there is partial research interest and lack of empirical evidence that can be used to enhance research on trafficking. A major limitation is the limited availability of quantitative data. Research on Egypt in particular is highly limited by the absence of reliable data. Such can be noticed by researching cases of trafficking in Egypt. UNODC, which actively seeks to disseminate information regarding trafficking cases in every country, only lists four cases related to human trafficking. The number does not reflect the number of trafficking cases in Egypt. The gap can be attributed to the absence of an information management system that records cases based on charges. As a result, there is no way to find out how many cases of trafficking were tried in Egypt. Even though Egypt has an official registry of court cases, the registry is difficult to access and once granted access there is no way to find cases that are tried under certain laws.

There is an ongoing debate on the effectiveness of the government of Egypt’s response to trafficking and concern over the lack of information provided on transnational trafficking in particular. Some reports have accused Egyptian security forces in turning a blind eye to the trafficking of African migrants and refugees into Egypt.<sup>37</sup> The only evidence provided to support such claim is the testimonies of victims

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<sup>36</sup> Gozdzia, E. and Michan Bump (2008) *Data and Research on Human Trafficking: Bibliography of Research-Based Literature*, Institute for the Study of International Migration, Walsh School of Foreign Service, Georgetown University

<sup>37</sup> Human Rights Watch (2014), p. 10

of trafficking. As a result, it is considered a highly sensitive issue. In the 2012 report of the Monitoring Group on Somalia and Eritrea, it was documented that Eritrean government officials were involved in trafficking refugees from Eritrea to Sudan and into Egypt.<sup>38</sup> The Eritrean government officials included senior military figures.

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<sup>38</sup> 2012 report of the Monitoring Group on Somalia and Eritrea



## **IV. The Theoretical Framework**

Recent literature regarding human trafficking has outlined the deficits in the existing theoretical concepts used to describe the phenomenon. Christal Morehouse, author of *Combating Human Trafficking: Policy Gaps and Hidden Political Agendas in the USA and Germany*, argues that most approaches focus on prevention, prosecution, and protection while other approaches are more concerned with the causes of human trafficking. However, as Morehouse points out, “these descriptions are too narrow and would be insufficient theoretical frameworks.” (Morehouse 2009) There are three main typologies that dominate the theoretical framework of human trafficking. These typologies describe human trafficking as either a consequence of forced labor, a byproduct of migration facilitated by organized crime, or an outcome of prostitution. The following section explains the relationships between human trafficking and these three typologies.

### ***A. Human Trafficking and Forced Labor***

Primarily, the International Labor Organization (ILO) develops the forced labor framework. The ILO explicitly states in its report entitled “ILO Action Against Trafficking in Human Beings” in 2008 that it addresses the issue through a labor market perspective.<sup>39</sup> As a result, it focuses on resolving poverty and improving the terms and conditions of employment in order to respond to the phenomenon of human trafficking.

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<sup>39</sup> ILO, 2008

Another result of this approach is the fact that it heavily emphasizes the relationship between trafficking and forced labor. According to “A Global Alliance against Forced Labor” of 2005, the ILO outlines three major differences between human trafficking and forced labor. These differences are as follows:

1. “In short, human trafficking represents an opportunistic response to the tensions between the economic necessity of migration, and the politically motivated restrictions on doing so.”<sup>40</sup>
2. “Forced labor can sometimes be an indirect outcome of the smuggling process, rather than a direct result of abusive or deceptive recruitment in the origin country. In fact, it is often difficult to distinguish in practice between workers who have entered forced labor as a result of trafficking and those who have been smuggled.”<sup>41</sup>
3. “Not all forced commercial sexual exploitation is the result of trafficking. In some cases, women and girls are forced into prostitution in their places of origins.”<sup>42</sup>

This economic approach to trafficking is also significantly influenced by the globalization-human trafficking nexus. As the world evolves toward becoming a “global community”, the movement of people both voluntary and coercively is becoming more prevalent.<sup>43</sup> This evolution can be attributed to the process of globalization. According to

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<sup>40</sup> ILO, 2005

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Brewer, D. Globalization and Human Trafficking, Topical Research Digest: Human Rights and Human Trafficking.

this view, “it is in large part due to globalization that human trafficking has become such a lucrative and thus, fast-growing criminal activity”.<sup>44</sup> The globalization-human trafficking nexus does not regard trafficking as an outcome of globalization but rather sees it as an integral part of the globalization process itself.

It is undeniable that the process of globalization has become a pronounced and entrenched feature of the current world economy. An increasingly integrated world economy enables human trafficking to flourish. This view argues that the results of globalization have rewarded traffickers and contributed to making trafficking a very lucrative business that is it is a matter of supply and demand. To verify this stark and unfortunate economic reality, the ILO estimates that annual global profits generated from trafficking amounted to around U.S. \$32 billion in 2008.<sup>45</sup> Accordingly, globalization has not only facilitated human trafficking but has also impeded state-led counter-trafficking efforts. State-centered approaches to combat trafficking are proving obsolete and futile since human trafficking knows no state boundaries. It is for this reason that international cooperation is considered of utmost importance. As a result, ILO conventions such as the Convention concerning Migration in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No.143) calls on states to cooperate in order to implement national and international initiatives.

Morehouse critiques this approach by pointing out that the ILO’s framework dictates that human trafficking only occurs when migration takes place. In the first and the third

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<sup>44</sup> Ibid.

<sup>45</sup> ILO, 2008

quotations, the ILO's wording suggests that in the absence of migration, the victim is considered a victim of forced labor and not human trafficking. Morehouse states that "human trafficking can occur independent of migration."<sup>46</sup> She also argues that the argument of the second statement does not demonstrate the difference between human trafficking and forced labor simply because the method through which the victim obtained a highly exploitative job is irrelevant.

There are advantages and disadvantages to the forced labor approach of the ILO. A prominent advantage is the fact that it contradicts the gendered view of human trafficking and thus overcomes the misconception that all victims of trafficking are females. This approach also addresses the trafficking in mainstream economic activities rather than focus on sex services. It reflects that "human trafficking is a severe form of labor exploitation and differs from other forms of low-wage labor exploitation, or 'milder' forms of psychological threats such as exclusion from future employment."<sup>47</sup>

### ***B. Human Trafficking and Irregular Migration and Smuggling***

The second dominant framework among the literature on human trafficking is that which looks at trafficking as a byproduct of irregular migration that is facilitated by organized criminal networks. This approach is highly prevalent in literature produced by Europol as well as the United States. In fact, in its 2001 report entitled "Crime Assessment: Trafficking in human beings into the European Union," Europol categorizes

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<sup>46</sup> Morehouse, 2009

<sup>47</sup> Ibid.

human trafficking within the irregular/ undocumented arrivals.<sup>48</sup> The United States shares the same view and thus produces the estimates of the VOTs who are irregular immigrants.

The major advantage of this approach is its capacity to emphasize the ability of criminal networks to exploit migrants. However, there are two major disadvantages of this approach. First, VOTs are not always irregular migrants; there are cases when they enter legally. Second, VOTs are not always migrants; victims can be trafficked in their own country. Third, the protocol does not intend to criminalize migration, it criminalizes trafficking. So the focus of any trafficking legal framework should be on the alleged criminality of the traffickers. The legal status of the victims is irrelevant.

The United Nations Office for Drugs and Crimes (UNODC) has been a major producer of literature that emphasizes the difference between human trafficking and smuggling. UNODC, with the support of the Institute of International Research on Criminal Policy (IRCP) of Ghent University in Belgium, produced a study that investigates the link between organized crime, trafficking in persons, and smuggling of migrants. In this study, they outline the major differences between trafficking and smuggling based on three distinct characteristics: consent, exploitation, and transnationality.

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<sup>48</sup> UNODC (2001), *Crime Assessment: Trafficking in human beings into the European Union*

	<b>Trafficking in Persons</b>	<b>Smuggling of Migrants</b>
<b>Consent</b>	Becomes Irrelevant	Required
<b>Exploitation</b>	Required	Not Required
<b>Transnationality</b>	Not Required	Required

**Table 1 Comparison of Trafficking in Persons and Migrant Smuggling**

Consent is essential in differentiating between trafficking and smuggling of persons. In the case of smuggling, consent must be present. The individual consents to being smuggled and is usually the one in search of and approaching smugglers. The relationship between the smuggler and the migrant is best characterized as a business deal in which the smuggler offers the service of smuggling and the migrant agrees and pays for this service. This is not the case in trafficking. While there are instances when victims have consented to certain conditions, the consent is either obtained through coercion, deception, threat, or use of force or the conditions to which the consent was granted are different than the conditions experienced.

Exploitation is also a significant factor that differentiates between smuggling and trafficking. For trafficking to be established, there must be any form of exploitation. The most dominant forms of exploitation include: prostitution, sexual servitude, forced labor, removal of organs, slavery, and similar practices. On the other hand, exploitation is not required to establish smuggling.

The third and final factor that is significant in this framework is transnationality. By definition, smuggling takes place through borders. As a result, the transnationality criterion must be established. In fact, smuggling is considered a crime against the State because it requires the illegal entry and crossing of borders and thus violating States' laws and sovereignty. On the other hand, the transnationality criterion is not a determining factor in establishing trafficking. Victims can be trafficked within their country of origin and can be trafficked across borders as well.

Smuggling and trafficking share many similarities and sometimes overlap. In many cases, those that involve African migrants, refugees, and asylum seekers from the Horn of Africa in particular, the process begins as smuggling but transforms to trafficking towards the end of the journey. In fact, the initial detection of African migrants, refugees, and asylum seekers entering Egypt to go to Israel in 2006 were mostly characterized as smuggling. The available literature suggests that in certain cases those who were smuggled into Egypt were not able to pay the smugglers and thus the smugglers had to develop strategies to coerce the smuggled individuals into paying for their service. Once the success of this strategy has been realized, the criminal groups began to focus on trafficking since it proved to be more profitable. Smugglers receive 1,000-5,000 USD per individual; however, the ransom received for trafficked victims can go up to 50,000 USD.<sup>49</sup>

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<sup>49</sup> Human Rights Watch. (2010). Egypt: End traffickers' abuse of migrants.

It is due to these interlinked processes that governments associate smuggling with trafficking. Victims are usually portrayed as criminals and violators of State laws and are thus detained, imprisoned, and in some cases involuntarily repatriated to their country of origin. Even though smuggling is a clear case of a crime against the State, it is significant to highlight that trafficking is a crime against the individuals. This major difference is usually overlooked by States.

### *C. Human Trafficking and Prostitution*

The third prevailing approach to human trafficking is that which looks at human trafficking as the result of prostitution. The US Department of State published ‘The Link between Prostitution and Sex Trafficking’ in which it states “where prostitution is legalized or tolerated, there is a greater demand for human trafficking victims and nearly always an increase in the number of women and children trafficked into commercial sex slavery.”<sup>50</sup>

This approach is significant insofar as it sheds the light on the most prevalent form of labor in which VOTs are exploited. However, there is literature that critiques the correlation established by the USA. In 2007, Germany published a report regarding its legalization of prostitution in which it is explicitly stated that legalizing prostitution has “disproved unsubstantial claims that organized crime and human trafficking increase when prostitution is legalized.”<sup>51</sup>

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<sup>50</sup> US Department of State (2007) Trafficking in Persons Report

<sup>51</sup> Morehouse, 2009



## **V. The Legal Framework of Human Trafficking**

The purpose of this chapter is to analyze the legal framework of trafficking in persons on an international level and on a national level as well. It first outlines the international definition of trafficking and its core elements. This is significant in distinguishing between human trafficking and similar practices. The second section explore the evolution of international law in relation to trafficking in persons prior to the adoption of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children*. The third section addresses the national legal framework. Since this dissertation is focused on Egypt, the obligations deriving from Egypt's anti-trafficking law will be analyzed in this section. Lastly, this chapter will conclude with general misconceptions that are common when addressing human trafficking.

### **A. International Definition and Core Elements**

Various legal instruments such as the United Nations Charter, the Universal Declaration of Human Rights, Convention on the Elimination of all Forms of Discrimination Against Women, Convention on the Rights of the Child, and ILO Conventions have addressed human trafficking. However, in 2000, the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children were adopted. This instrument provides a consolidated approach to trafficking. The convention and the supplementary protocol were adopted in 2000 and entered into force three years later.

Egypt signed the Convention in December 2000 and the Protocol in May 2002; and ratified both in March 2004. The purpose of the convention is to “promote cooperation to prevent and combat transnational organized crime more effectively.”<sup>52</sup> It is also significant because it offers definitions for contested terms that are essential in understanding the types of crimes that this Convention targets and in identifying the type of criminals that this Convention seeks to combat.

The Convention defines an offence as transnational in nature if:

“(a) It is committed in more than one State; (b) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or (d) It is committed in one State but has substantial effects in another State.” The Convention also lays down the definition for an organized criminal group and states that it is a group which “shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.”<sup>53</sup>

The Protocol goes in-depth regarding human trafficking as a transnational crime. The protocol identifies trafficking in persons as

“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.”<sup>54</sup>

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<sup>52</sup> United Nations Convention against Transnational Organized Crime 2000

<sup>53</sup> Ibid.

<sup>54</sup> Ibid.

The protocol also outlines the categories required to establish if a crime can fall under trafficking in persons. According to the protocol, for trafficking to be established, the crime must be composed of an action by a particular set of means, outlined in the convention, for the purpose of exploitation if the victim is an adult. As for the case of minors, or those who are under the age of 18, the crime is established if there is an action taken for the purpose of exploitation. Action includes recruitment, transportation, transfer, harbor, or receipt. Means include threat or use of force, coercion, fraud, abduction, and abuse of power, deception, abuse of vulnerability, or giving or receiving payment and benefits to achieve consent of a person having control over another person. Forms of exploitation vary and may include the following: forced labor or service, slavery and similar forms, servitude, removal of organs, and prostitution or other forms of sexual exploitation.

The Protocol sets out a framework for protecting and assisting victims of trafficking and requires the cooperation within and among States. The protocol dedicates a chapter to the protection of victims of trafficking. In this chapter, the protocol outlines the duties and responsibilities of signatory States in providing assistance and protection to victims of trafficking on their territory. To fulfill this objective, it explicitly defines the duties of States with regards to the status of victims in the receiving countries as well as their repatriation.

The protocol places emphasis on prevention, prosecution, and cooperation as significant pillars to the strategy for combating and preventing trafficking in persons. It

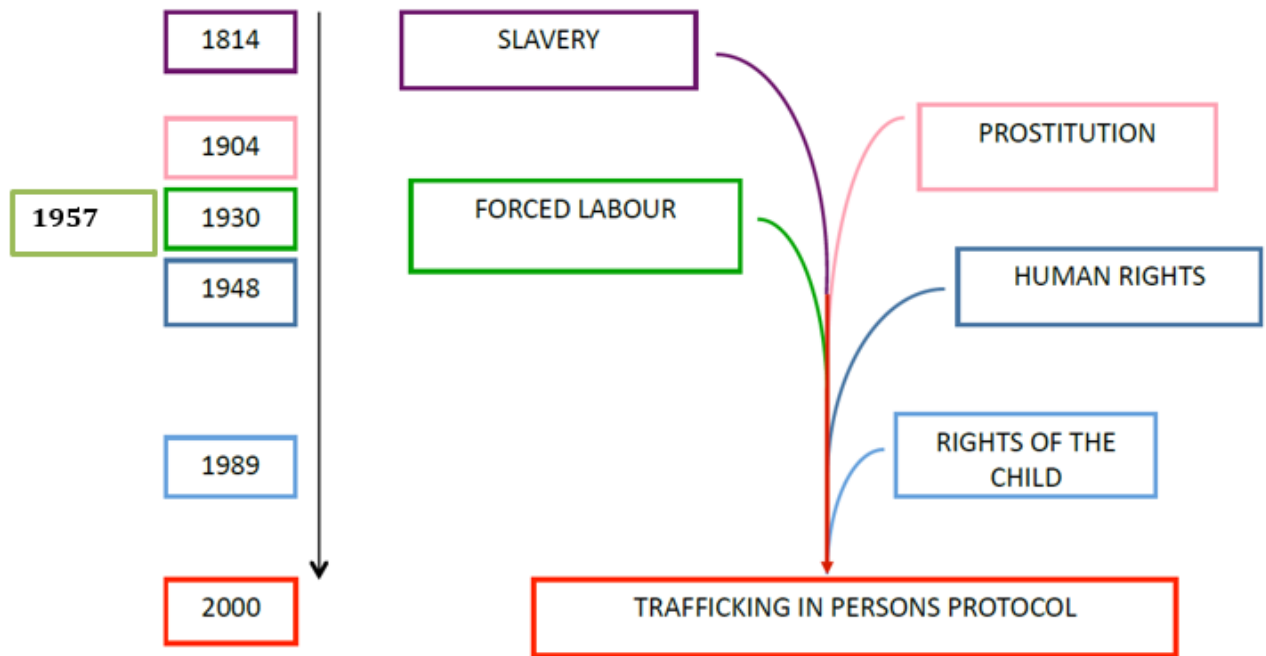
outlines provisions for information exchange and training, border measures, security and control documents, and the legitimacy and validity of documents. Such articles are present to emphasize the need for cooperation within and among States to effectively combat trafficking. Since the convention is concerned with transnational organized crimes, the protocol targets trafficking that is transnational and thus includes border and documentation measures.

It was not until the late 1990s that States began the tasks of separating trafficking from other practices from which it was commonly associated. It is important; however, that in many cases the distinction remains difficult to be made. Despite the fact that the international agreement on what constitutes ‘trafficking in persons’ is recent, there are several articles in treaties older than the 2000 Protocol that include practices which are now labeled as trafficking. As a result, the following section explores the legal heritage that has influenced the formulation of the current legal framework on trafficking.

## **B. Legal Evolution and Influence**

A significant component to the study of human trafficking is its international legal framework. Various research has been undertaken to explore the contribution of different branches of international law on criminal international law under-which the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children* falls. Corin Morcom & Andreas Schloenhardt critically examine various international legal instruments relating to slavery, prostitution, labor, and human rights, which have influenced and informed this Protocol. They examine these branches of international law

to draw general observations to critique the current international legal framework and its conceptualization of trafficking in persons.



**Figure 2 Contributions to the Trafficking in Persons Protocol from diverse branches of international law<sup>55</sup>**

Their historical analysis reveals that international law has predominantly focused on the trafficking of women and children for the purpose of sexual exploitation and has regarded trafficking as an issue related to immigration control.

<sup>55</sup> This figure is cited from the work of Corin Morcom & Andreas Schloenhardt

## 1. Influences of International Anti-Slavery Conventions

Since the beginning of the 19<sup>th</sup> century there has been an increasing development of international agreements that condemned the practices of slavery. These conventions, in turn, have greatly influenced the development of the international anti-trafficking framework primarily through the recognition of the immorality of the exploitation of another human being. These conventions have also influenced the enforcement mechanisms and, most importantly, the definition of the current anti-trafficking protocol.

The understanding of exploitation, as set out in the international anti-slavery framework, has been transferred, to a large extent, to the trafficking framework. Even though the Slavery Convention, the first instrument to define the institution of slavery and the slave trade, was limited in its definition of slavery, the 1956 United Nations *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* prohibited all slavery-like practices including debt bondage, sham adoption, childhood marriage, serfdom, trafficking of women, and exploitation of children.<sup>56</sup>

Various international human rights instruments have addressed slavery. According to Morcom & Schloenhardt, such provisions serve as a “formal recognition

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<sup>56</sup> 1956 United Nations *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*

that slavery still existed; even if it had assumed different and new forms”.<sup>57</sup> The Universal Declaration of Human Rights which was adopted by the United Nations in 1948 serves as the foundation of all human rights treaties that followed. In article 3, the declaration guarantees the right to life, liberty, and security of every person.<sup>58</sup> Article 4 specifically prohibits slavery and servitude. The declaration also guarantees the right to work, to free choice of employment, as well as the just and favorable conditions of work.<sup>59</sup> The right to freely chosen employment is also stated in the Declaration concerning the aims and purposes of the International Labor Organization, also known as the Philadelphia Declaration. Torture, cruel, inhuman, and degrading treatments are explicitly prohibited in the declaration. Scholars have thus argued that “since human trafficking is primarily the severe violation of a person’s human rights, the universal declaration of human rights is an important instrument through which anti- human trafficking policies can be anchored.”<sup>60</sup>

Human rights treaties follow the footsteps of the declaration to make certain articles legally binding. The International Convention on the Elimination of All Forms of Racial Discrimination of 1965 (ICERD) guarantees the right to enjoy one’s basic human rights without any restrictions. The International Covenant of Economic, Social, and Cultural Rights (ICESCR) repeats the declarations right to just and favorable working conditions. It also calls for the right to health. The Convention on the Rights of the Child (CRC) has an article regarding the prohibition of the trafficking of children; who, after

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<sup>57</sup> Morcom & Schloenhardt, 2011

<sup>58</sup> UDHR 1948

<sup>59</sup> Ibid.

<sup>60</sup> Morehouse, 2009

women, are considered the second most vulnerable group for trafficking. This is outlined in article 35 which protects the child from abduction and trafficking. The convention also prohibits the economic exploitation and abuse of children.

In summary, “international instruments relating to slavery reflect the initial conceptualization that the exploitation of human beings is morally reprehensible, and should be criminalized”.<sup>61</sup> The perception and condemnation of slavery and practices similar to slavery have greatly influenced both the international human rights movement and the international anti-trafficking framework. The criminalization approach, which serves as one of the four pillars of the anti-trafficking framework, can be traced back to the anti-slavery instruments. The principles which founded and governed the adoption of international anti-slavery laws were thus transferred into the anti-trafficking framework to manage an evolved/ contemporary form of slavery, the trafficking in humans.

## **2. Influences of International Anti-Prostitution Conventions**

International anti-prostitution conventions have also greatly contributed to current conceptualizations of trafficking in persons. These instruments emphasized on women and children and such influence can be noticed in the title of the current international framework to combat trafficking in persons which places particular emphasis on women and children whom are most commonly trafficked for the purpose of commercial sexual exploitation.

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<sup>61</sup> Morcom & Schloenhardt 2011



The abduction of European women and girls who were moved to other states and forced into prostitution in the early 20<sup>th</sup> Century was labeled as the ‘white slave traffic’. Such label managed to associate trafficking with the ‘immoral’ purpose of prostitution. It also influenced the way in which anti-prostitution became focused on addressing the ‘white slave traffic’ from an immigration control perspective. Such approach is similarly evident in the contemporary anti-trafficking framework.

Like the anti-slavery conventions, anti-prostitution conventions have greatly influenced human rights treaties. The Convention of the Elimination of Discrimination against Women (CEDAW) is of particular importance due to the fact that 80 percent of the VOTs globally are females. The CEDAW builds on the rights of women. Article 6 addresses human trafficking and calls on states to “take all appropriate measures, including policy frameworks, to suppress, all forms of traffic in women and exploitation of prostitution of women.”<sup>62</sup> Article 6 was drafted with the well-established link between trafficking in women and forced prostitution in mind. As a result, *CEDAW* reiterated and reinforced the traditional conceptualizations of women as the primary victims of trafficking for the purpose of commercial sexual exploitation. According to Morcom & Schloenhardt, such stereotypes continue to remain predominant in contemporary conceptualizations of, and responses to, trafficking in persons.<sup>63</sup>

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<sup>62</sup> CEDAW 1979

<sup>63</sup> Morcom & Schloenhardt 2011

An analysis of international prostitution conventions demonstrates a continued criminalization approach and the interrelation of trafficking with prostitution and sexual exploitation. This narrow understanding of trafficking in persons has been reiterated in subsequent international instruments. These early international legal instruments “established a distinctly gendered perception of trafficking in persons, whereby women and children have been consistently positioned as the principal victims of trafficking”.<sup>64</sup> This focus on the trafficking of women and children into the sex industry continues to dominate contemporary conceptualizations of trafficking in persons.

These international instruments fundamentally influenced the contemporary international framework in relation to trafficking in persons and have formed the basis of public perceptions of this phenomenon. The attention of policymakers, academics, and the general public remains focused on the sex industry and the victimization of women and children who are forced into sex work due to its lurid nature. Consequently, “contemporary attempts to analyze and combat the traffic in persons have failed to overcome the restrictive notions of the ‘iconic victim’ seen in early anti-prostitution conventions.”<sup>65</sup>

### **3. Influence of International Labor law**

The major contribution of International labor law is that it has expanded the scope of trafficking in persons to encompass the exploitation of labor. In this regard the ILO

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<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

initially built upon the 1926 *Slavery Convention*, with various conventions which oblige State Parties to suppress and abolish forced or compulsory labor. According to the ILO, forced labor refers to situations in which “persons are coerced to work through the use of violence or intimidation or by more subtle means such as accumulated debt, retention of identity papers or threats of denunciation to immigration authorities”. (ILO Website) As a result of this definition, one can see a significant overlap between the conceptualization of forced labor and trafficking in persons for the purpose of labor exploitation.

For example, the ILO Forced Labor convention (No. 29) of 1930 includes article 25 which states “the illegal exaction of forced or compulsory labor shall be punishable as a penal offense, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.”<sup>66</sup> The convention defines forced labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself (herself) voluntarily.”<sup>67</sup> Similarly, the ILO’s Abolition of Forced Labor Convention (no. 105) of 1957 includes articles condemning forced labor. Article 1 of the convention stipulates “each member of the International Labor Organization which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labor.”<sup>68</sup> In 2014, a Protocol to the forced Labor convention, 1930, was adopted. It serves as a new legally-binding instrument that requires signatory states to take measures regarding prevention, protection, and remedy to give effect to the

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<sup>66</sup> ILO Forced Labor convention (No. 29) of 1930

<sup>67</sup> Ibid.

<sup>68</sup> ILO Convention 105

Convention's obligation to suppress forced labor. In particular, Recommendation No. 203, supplementing the protocol, calls on states to collect reliable statistics on forced labor, including trafficking for the purpose of forced labor.

The framework of international labor law has also contributed to the fight against trafficking in persons in situations of trafficking of children for the exploitation of labor and in cases where the trafficked person falls in the category of 'migrant worker'. In such situations, ILO conventions supplement international human rights law and provide protection measures for victims of trafficking. For example, the 1973 *Convention concerning Minimum Age for Admission to Employment* established a minimum age for admission to employment and thus introduced a generalized abolition of child labor.<sup>69</sup> The 1999 *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor* deals specifically with the abolition of the worst forms of child labor, and calls on State Parties to abolish such practices 'as a matter of urgency'.<sup>70</sup>

The ILO instruments in relation to the exploitation of migrant workers have also influence the international anti-trafficking framework even though exploitation does not always mean trafficking. It is the use of a particular set of means for the purpose of exploitation that results in a trafficking situation. The 1949 *Convention concerning Migration for Employment*, which is supplemented by two annexes, deals with the

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<sup>69</sup> 1973 *Convention concerning Minimum Age for Admission to Employment*

<sup>70</sup> The 1999 *Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*

recruitment, placing, as well as the conditions of labor for migrant workers. Article 5 in Annex I and article 6 in Annex II states that “each Member for which this Annex is in force which maintains a system of supervision of contracts of employment between an employer, or a person acting on his behalf, and a migrant for employment undertakes to require... b) that the contract shall contain provisions indicating the conditions of work and particularly the remuneration offered to the migrant.”<sup>71</sup>

The 1973 *Migrant Workers Supplementary Provisions Convention*, Part I Migrations in Abusive Conditions, includes provisions concerning the trafficking of persons. Article 5 states, “One of the purposes of the measures taken under Articles 3 and 4 of this Convention shall be that the authors of manpower trafficking can be prosecuted whatever the country from which they exercise their activities.”<sup>72</sup> Article 3 of the convention obliges states to adopt all necessary and appropriate measures, within its jurisdiction and in collaboration with other states, to combat “organizers of illicit or clandestine movements of migrants for employment departing from, passing through or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions”.<sup>73</sup> Article 4 states that member states shall take all necessary measures, at the national and international level, to ensure systematic contact and exchange of information among states in consultation with employers and workers organizations.<sup>74</sup>

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<sup>71</sup> 1949 *Convention concerning Migration for Employment*

<sup>72</sup> 1973 *Migrant Workers Supplementary Provisions Convention*

<sup>73</sup> Ibid.

<sup>74</sup> Ibid.

The 1990 *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, “although more properly positioned within international human rights law, is relevant as it contributes to the fight against trafficking in persons insofar as trafficked victims may sometimes fall within the category of ‘migrant workers’.”<sup>75</sup> The *Migrant Workers Convention* addresses the elimination of the exploitation of migrant workers throughout the entire process of migration. It attempts to institute measures for the protection of documented and undocumented migrants. Under Article 68, State Parties should sanction those who organize or assist in the illegal or clandestine movements of migrants and those who intimidate or use violence to induce irregular migration. Unfortunately, instruments relating to the rights of migrant workers have received little ratification. There is an evident lack of concern by states in relation to the treatment and possible exploitation of migrant workers, including through trafficking in persons. Instead, states continuously prioritize issues relating immigration control and border security.

#### **4. Influences from the Rights of the Child in International Law**

The 1989 *Convention on the Rights of the Child (CRC)* and its *Protocols* have further contributed to the expansion of the definition of trafficking in persons in the anti-trafficking international legal framework by focusing on the specific problems related to child trafficking. The *CRC* is the first major instrument to consider child trafficking as a separate phenomenon, requiring specific preventative and victim rehabilitation measures.

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<sup>75</sup> Morcom & Schloenhardt 2011

Article 35 *CRC* requires State Parties to take all appropriate measures to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form. Article 35 combats both national and transnational trafficking. Furthermore, the *CRC*'s provisions do not establish a relationship between trafficking and forced prostitution, but rather extends the concept of child trafficking to various exploitative purposes. The *Protocol on the Sale of Children, Child Prostitution and Child Pornography* "strengthens Article 31 of the *CRC* which calls on States Parties to criminalize national and transnational practices relating to child sexual exploitation; removal of organs for profit; forced labor; illegal adoption; child prostitution; and child pornography".<sup>76</sup>

The *CRC* and its *Protocols* were the first international instruments which broadened the scope of trafficking in persons to the extent currently found in the *Trafficking in Persons Protocol*, and perhaps beyond. Although these instruments only apply to children, the restrictions in previous International legal instruments, such as the focus on trafficking for a specific purpose, were removed. As a result, the international law in relation to the rights of the child has greatly influenced contemporary conceptualizations of trafficking in persons; both through the recognition of child trafficking for various exploitative purposes and through the removal of the definitional limitations previously found in international law.

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<sup>76</sup> Morcom & Schloenhardt 2011

### C. National Legal Framework

In 2007, the National Coordinating Committee for Preventing and Combating Trafficking in Persons was established by a Prime Minister's Degree and its first major responsibility was to develop a trafficking law to enact the UN Convention on Transnational Crime and the Palermo Protocol into national legislation. The law on combating trafficking in persons was adopted by Egypt in 2010. There is general agreement that the legislation is very comprehensive. The law includes the basic pillars of the Palermo protocol: protection, prevention, prosecution, and partnership. According to a statement by UNODC, "the current legislation of trafficking in Egypt covers all forms of exploitation indicated in the protocol."<sup>77</sup> Law 64/2010:

"1) recognizes a trafficked person as a victim once he/ she suffers harm, whether material, moral, or economic; 2) define human trafficking very broadly to cover all forms of exploitation, including exploitation of acts of prostitution and all forms of sexual exploitation, including exploitation of children in such acts and in pornography, forced labor or services, slavery or a part thereof; 3) provides for the principle of non-punishment and for the principle of compensation of victims through the establishment of a State Fund, making it a state responsibility to provide protection and assistance to victims of human trafficking; and 5) applies to an extraterritorial basis regardless of where the trafficking act was committed."<sup>78</sup>

According to Article 2 of the law, a person who commits a trafficking crime is:

"...one who deals in any manner in a natural person, including: the sale, offer for sale, purchase, or promise thereof; or the use, transport, delivery, harboring, reception, or receipt, whether within the country or across its national borders; if this occurred through the use of force, violence, or threat thereof; or through abduction, fraud, deception, abuse of power, or exploitation of a position of vulnerability or need; or through a promise to give or receive payments or benefits in exchange for obtaining the consent of a person to traffic another having control over him; or if the purpose of the transaction was exploitation in any of its forms, including: exploitation of acts of prostitution and all forms of sexual exploitation, exploitation of children in such acts and in pornography,

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<sup>77</sup> UNODC, 2012

<sup>78</sup> Peace Project, 2010



forced labor or services, slavery or practices similar to slavery or servitude, or begging or removal of human organs, tissues or a part thereof.”<sup>79</sup>

The law also emphasizes that “the consent of the victim to exploitation in any of the forms of human trafficking shall be irrelevant as long as any of the means stipulated in Article (2) of this law have been used. To establish trafficking in a child or in the incapacitated, use of any of the means referred to is not required, and in all cases his consent or the consent of the person responsible for him or his guardian shall be irrelevant.”<sup>80</sup> The law states the punishment for trafficking crimes to include:

“imprisonment, fines and life imprisonment if the perpetrator established, organized, or managed an organized a criminal group for the purposes of human trafficking or if the act was committed by way of threats of death, serious harm or physical or psychological torture; or if the act was committed by a person carrying a weapon. Life imprisonment is also specified if the crime resulted in the death of the victim or caused him/her to suffer a permanent disability or an incurable disease and if the victim was a child, incapacitated or a person with disabilities.”<sup>81</sup>

Article 18 of law 64/2010 stresses the partnership pillar of the protocol and thus obligates Egypt to cooperate internationally:

“The Egyptian judicial authorities and police shall cooperate with respective foreign authorities to combat and prosecute crimes of human trafficking, including: exchange of information, conducting investigations, judicial assistance and letters rogatory, extradition of perpetrators and objects, asset recovery, transfer of sentenced persons, and other forms of judicial and police cooperation, all under the rules decided by bilateral and multilateral agreements in force in the Arab Republic of Egypt or in accordance with the principle of reciprocity.”<sup>82</sup>

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<sup>79</sup> Anti-Trafficking Law 64/2010

<sup>80</sup> Ibid.

<sup>81</sup> Ibid.

<sup>82</sup> Ibid.

The law also provides protection to victims of trafficking. Under the law, victims of trafficking are guaranteed the following rights:

- a. The right to physical, psychological and mental safety;
- b. The right to protect his inviolability and identity;
- c. The right to inform him of relevant administrative, legal and judicial procedures and access to information related thereto;
- d. The right to be heard and to have his views and interests considered during all stages of criminal proceeding without prejudice to the rights of the defense;
- e. The right to legal assistance.

A fund is also established under Law 64 to assist victims of trafficking.

However, this is not the only legal instrument that is relevant to combating human trafficking. The Egyptian Constitution prohibits the trafficking in persons. The Child Law, which was amended in 2008, includes the protection of children from trafficking, “sexual, commercial, and economic exploitation.”<sup>83</sup> The Egyptian government also passed a law prohibiting organ trafficking and commercial transplantations. The law penalizes all parties involved in the organ trafficking process. These parties include the donor, the recipient, the doctor, and the brokers engaged in the business. The Egyptian government argues that these legislations are simple a continuation of pre-existing initiatives created to combat human trafficking. One of these initiatives was the establishment of the National Coordinating Committee to Combat and Prevent

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<sup>83</sup> Peace Project 2010

Trafficking in Persons in 2007. The committee serves as a consultative reference regarding any issues relating to human trafficking.

Another significant legal issue that is essential in trafficking situation in Egypt, and for refugees in particular, is the principle of *non-refoulement*. This principle is enshrined in many legal conventions including the United Nations Convention Relating to the Status of Refugees of 1951 to which Egypt is a signatory. In fact, this principle is considered customary international law, which makes it illegal to send a refugee to a territory which his/ her “life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”.<sup>84</sup> As a result, all States, regardless of their signatory status to the Refugee Convention, cannot extradite, expel or surrender a refugee from their territory in cases where there are indications that his/her rights will be violated or that s/he will be subjected to ill treatment or torture.

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<sup>84</sup> 1951 International Refugee Convention.

## **VI. Policy Formulation and Development Process**

### **A. Environment: Policy Context, Milestones, and Drivers**

It is rare to have isolated policies that are created without any major influences and drivers.<sup>85</sup> Generally, policies develop through time and with concentrated analysis, we can trace the historical developments of policies to examine the factors that continuously help shape the environment. The environment constitutes both the domestic and external dimensions in which the actors operate. Accordingly, this section is divided into internal and external influences. The purpose is to analyze significant past events, policy and legal heritage, as well as the social, economic, and political context that contributed to the overall existing environment in which the trafficking policy was developed and formulated.

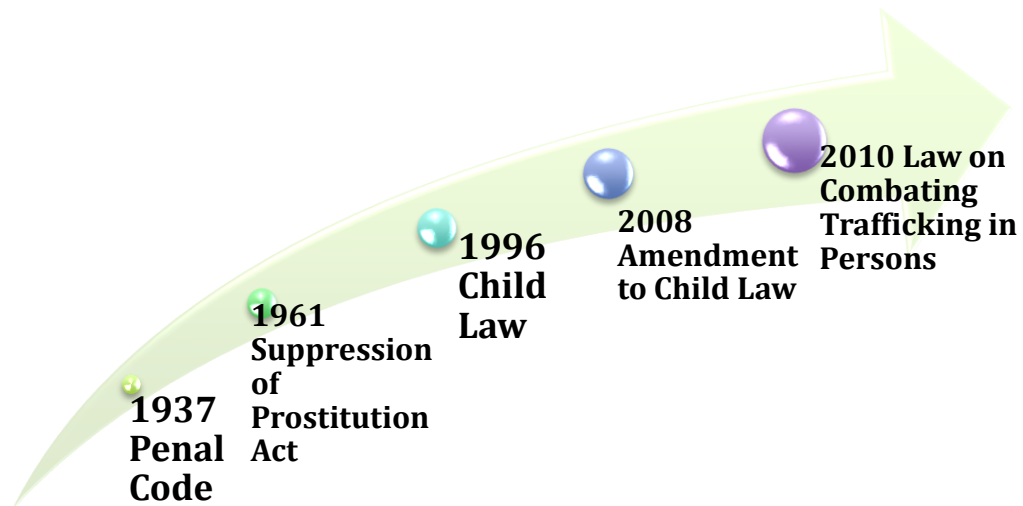
#### **1. Internal Dimension**

There were several policies and national legislations that existed before the current policy on trafficking. As shown in the figure below, trafficking is not an isolated crime that is only punished by the anti-trafficking law. It has legal basis before law 64/2010. The first legislation through which we can attribute the criminalization of trafficking in Egypt is the 1937 Penal Code. Likewise, the 1961 Suppression of Prostitution Act punishes any person who incites, assists, or facilitates another person to practice debauchery or prostitution. This is similarly stated in law 64/2010. In 1996 the Child Law criminalized child pornography. The amendment to the child law in 2008

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<sup>85</sup> Springate- Baginski and Soussan, 2014.

added the protection of children from trafficking, sexual, economic, and commercial exploitation.



**Figure 3 Egyptian Legislations that criminalize specific forms of Trafficking in Persons**

There were significant social trends that led to policy formation. The most obvious social trend that influences policy formation was the underage marriages. The trend was significant enough for the Grand Mufti to issue a *fatwa* condemning underage marriage and similar acts. The *Fatwa* of Aly Gomaa, the Grand Mufti of Egypt, on early marriage is another very significant policy milestone for trafficking in Egypt. The 5-page document details the position of Al-Azhar on the seasonal/temporary marriage phenomenon in which he refers to it as a façade for prostitution. Gomaa emphasized that this issue is a critical social dilemma through which young girls are forced into degrading situations. He affirms that such cases are not considered marriage due to the fact that the process results in the loss of the purpose of marriage according to Islam. He uses

religious evidence to support his *fatwa* and declares it illegitimate. The *fatwa*, which preceded Law 64/2010 is a significant milestone due to the fact that it condemns the most prevalent manifestations of trafficking.

The policy process “proceeds within the contexts of both the specific bureaucratic styles and capacity of government agencies, and also wider social and political framework and trends of change.” As a result, a fundamental investigation that is necessary to understand policy is the examination of the style and structure of government agencies that have the capacity to influence and drive policy. In 2005, the Ministry of Interior established an Office of Organized Crime to serve as the coordinating body for narcotics and trafficking in persons. This body; however, was not sufficient to deal with trafficking in Egypt. As a result there were repeated calls on Egypt to appoint a national coordinating body that would be responsible for overseeing all trafficking related efforts.

Today, the major government institution responsible for trafficking in persons is the National Coordinating Committee for Combating and Preventing Trafficking in Persons (NCCTIP). The committee was first set up by a Prime Ministerial Decree in 2007. Naela Gabr, the first director of the Committee, stated that the committee was “composed of representatives of all competent ministries and authorities, with the aim of coordinating national effort to combat this crime.” Since its establishment, NCCTIP worked closely on drafting an anti-trafficking law and was able to do so. According to article 28 of this law

“A National Committee to Combat Human Trafficking shall be established under the Prime Minister and shall have jurisdiction to coordinate at the national level among policies, plans, and programs set forth to combat human trafficking to protect the victims and provide them with services and to protect the witnesses.”<sup>86</sup>

As a result of this article, the committee was reestablished by a new decree from the Prime Minister (Decree 2353/ 2010). The committee was later reestablished in 2012 and renamed to become the National Coordinating Committee for Combating and Preventing Trafficking in Persons and Illegal Migration. The committee was situated in the Ministry of Foreign Affairs; however, it was reporting directly to the Prime Minister’s Cabinet. At the end of 2013, a Prime Minister’s Decree (Decree 1537/2013) reestablished the committee as the National Coordinating Committee for Combating and Preventing Trafficking in Persons. The headquarters was moved to the Ministry of Justice; however, it was still reporting directly to the Prime Minister’s Cabinet. The chairperson of NCCTIP is always the Deputy Minister of Justice for the Human Rights Sector. In 2014 Decree 380/2014 established the National Coordinating Committee for Combating and Preventing Illegal Migration (NCCPIM). NCCPIM is currently located in the Ministry of Foreign Affairs and is led by Amabassador Naela Gabr. The chairperson of the NCCPIM is appointed by the Minister of Foreign Affairs.

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<sup>86</sup> Anti-Trafficking Law 64/2010

<b>Decree Number</b>	<b>Year</b>	<b>Name of Committee</b>
<b>1584/2007</b>	2007	National Coordinating Committee for Combating and Preventing Trafficking in Persons
<b>2353/2010</b>	2010	National Coordinating Committee for Combating and Preventing Trafficking in Persons
<b>239/2012</b>	2012	National Coordinating Committee for Combating and Preventing Trafficking in Persons and Illegal Migration
<b>1537/2013</b>	2013	National Coordinating Committee for Combating and Preventing Trafficking in Persons
<b>380/2014</b>	2014	National Coordinating Committee for Combating and Preventing Illegal Migration

**Table 2 History of the National Coordinating Committee for Combating and Preventing Trafficking in Persons**

## **2. External Dimension**

International legislation is a significant policy millstone. As a signatory to the UN Convention against Transnational Organized Crimes and its Supplementary Protocol of Preventing, Suppressing, and Punishing Trafficking in Persons, Egypt had the obligation under international law to take measures against trafficking by adopting national



legislation and strategies. As a result, the law adopted reflected the global focus on transnational crimes.

Even though Egypt ratified the Convention and the Protocol in 2004, the first national coordinating committee was formed in 2007 and the law which enacted the Convention and the Protocol was passed in 2010, six years after ratification. It is difficult to conclude why there was a delay in policy formation. The most logical explanation would be lack of importance given to the subject seeing that trafficking was not a major issue for the government at the time. However, there is no doubt that political pressures played a significant role as influences and policy drivers to pressure the government of Egypt to formulate a clear policy for trafficking.

Since 2001, the US Department of State published yearly reports on trafficking in which it classifies countries based on a tier system. There are four major categories in this system. Tier 1 is for “countries whose governments fully comply with the Trafficking Victims Protection Act’s (TVPA) minimum standards.”<sup>87</sup> These are countries that have developed the legal mechanisms to prosecute trafficking as well as measures for prevention and protection. Countries whose governments do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards are classified as tier 2. These are mostly countries who have adopted national legislation to combat trafficking; however, have not been successful in implementing the law or other measures that were taken. Tier 3 is for countries whose governments do not fully comply with the minimum standards and are

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<sup>87</sup> US Department of State Website

not making significant efforts to do so. Countries who fall in this category are mostly State who have not taken any measures to combat or prevent trafficking.

There is a category referred to as tier 2 watch list. This tier is for countries “whose governments do not fully comply with the TVPA’s minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

- The **absolute number of victims** of severe forms of trafficking is very significant or is significantly increasing;
- There is a **failure to provide evidence of increasing efforts** to combat severe forms of trafficking in persons from the previous year; or
- The determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on **commitments by the country to take additional future steps over the next year.**<sup>88</sup>

The reports began to include Egypt in this classification system in 2004 “as the result of new information that depicts a significant trafficking problem”.<sup>89</sup> In the 2004 and 2005 reports, Egypt was classified as a tier 2 State. However, in the 2006, 2007, 2008, and 2009 reports, Egypt was classified in the tier 2 watch list category. If Egypt has not taken a significant effort towards fulfilling its obligations to prevent, suppress, and prosecute trafficking, it would have become a tier 3 State for 2010. Such important factor cannot be overlooked when considering the role of political pressures as policy drivers. As a result, we can draw the link between Egypt’s status in the Trafficking in Persons Reports of the

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<sup>88</sup> Ibid

<sup>89</sup> US Department of State (2004) Trafficking in Persons Report

US Department of State and the passing of the law in May 2010. Indeed the anti-trafficking law of 2010 has a great influence, the year of its ratification, Egypt was upgraded to tier 2 instead of the tier 2 watch list.<sup>90</sup>

Another significant political pressure that can be considered as a policy influence/driver is the country visit that was conducted by the United Nations Special Rapporteur on Trafficking in Persons in Egypt in April 2010. The report discussed the different forms of trafficking in Egypt and emphasized that the number of domestic trafficking exceeds the number of cases of transnational nature. The report acknowledged Egypt's efforts on trafficking but highlighted that such efforts are not sufficient.<sup>91</sup> Such conclusion, which is very similar to the conclusion made by the US TIP reports of the previous years, have played a significant role in fastening the law drafting process. In May 2010, only one month after the visit of the Special Rapporteur, Law 64/2010 was passed unanimously by Parliament.

The European Parliament has passed three resolutions on trafficking in Sinai in 2010, 2012, and 2014. The 2010 resolution focused primarily on Eritrean refugees held hostage in Sinai. (2010/3010(RSP) The resolution was based on UNHCR reports regarding 250 Eritrean refugees held as hostages and thus the EU called on the Egyptian authorities to take all necessary measures to insure their release. Despite the fact that the resolution 'welcomed' Egypt's efforts in combating and preventing trafficking as well as 'appreciated' Egypt's continuous commitment in fulfilling its obligations under

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<sup>90</sup> US Department of State (2010) Trafficking in Persons Report

<sup>91</sup> United Nations Special Rapporteur on Trafficking in Persons in Egypt

international treaties, it takes a conclusive stance on the Sinai trafficking by confirming that the Sinai desert has become a major trafficking route for African migrants and refugees.<sup>92</sup>

The resolution of 2012 was more detailed as the cases of trafficking have increased and more information regarding the traffickers' mode of operations emerged. The resolution was broader in the sense that it discusses human trafficking in Sinai in general. However, it specifically addressed the case of Solomon W.; an Eritrean refugee who was kidnapped along with 27 others from a UN refugee camp in Sudan by the Rashida tribe. Solomon was the only survivor as he managed to escape from his traffickers. The resolution takes a more political rather than a human approach by referring to the number of refugees and migrants entering Israel through the Egyptian border. It notes that an average of 2,000 have entered Israel through Sinai every month, pointing out that many of them have done so with the assistance of smuggling networks. It cites the Israeli government's estimates of 50,000 Africans having reached Israel through Sinai since 2005. Other than calling on Egypt to provide UN agencies and human rights organizations full access to areas in Sinai in which human smuggling and trafficking are concentrated, it also calls on "the High Representative of the Union for Foreign Affairs and Security Policy and the Commission to put this topic as a matter of high priority on the agenda of political dialogue with Egypt."<sup>93</sup>

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<sup>92</sup> European Parliament Resolution (2010/3010(RSP))

<sup>93</sup> European Parliament Resolution (2012/2569(RSP))

The resolution of 2014, on security and trafficking in Sinai makes reference to the assistance provided by the EU to Egypt to supporting in building the capacity of law enforcement to track and prosecute traffickers. It concludes with calling on EU Foreign Ministers, Ministries of Justice, and other EU institutions to take appropriate measures to put pressure on Israel and Egypt to end the trafficking activities in the region. It is clear that the language of these resolutions have intensified overtime. As the situation in Sinai progress, there has been an escalation of condemnation towards Egypt's inability to prevent and combat trafficking in Sinai.

## **B. Actors: Agents of Change or Resistance**

### **1. State Actors**

The two institutions that are central to the analysis of the governance of human trafficking in Egypt are NCCTIP and NCCPIM. The history of their formation was discussed earlier as part of the political and governance context section. As a result, this section rather focuses on their structure, power, strategies and impacts as the key institutions responsible for countering human trafficking. As of 2014 and on a general level, NCCTIP is responsible for coordinating efforts for combating trafficking in persons while the role of NCCPIM is limited to the coordination of efforts with regards to irregular migration. More specifically, the coordinating committees are responsible for drafting national plans that correspond to the relevant international legal instruments that Egypt is party to ensure Egypt's commitment towards its international obligations. They are also responsible for monitoring the implementation of the plan and on reporting on the progress of relevant state institutions in fulfill the tasks of the action plans. As a

result, the actors composing the committees are of extreme importance since their responsiveness plays a crucial role in the overall impact of the committees.

Both committees share a very similar structure. The NCCTIP is composed of the following ministries: interior, defense, foreign affairs, health, justice, manpower, social solidarity, local development, international cooperation, tourism, youth, and education. It also includes representatives of the national councils: the National Council for Human Rights, the National Council for Women, the National Council for Childhood and Motherhood, and the Supreme Council for Journalism. Other members of the committees include a general representative of civil society organizations and representatives from the office of the General Prosecutor and the specialized courts.

Despite the seemingly promising structure of the committees due to the large representation of relevant government actors, several structural challenges are present. The first evident challenge of the current structure of NCCTIP and NCCPIM is the fact that they are situated in two ministries, the ministry of justice and the ministry of foreign affairs respectively. Their presence in such ministries influences their approach to trafficking and irregular migration despite the fact that they report to the prime minister's cabinet and have no obligation towards the ministries in which they are located. This can explain why NCCTIP is currently focusing on early marriage and child labor since the dispute regarding child's rights is what resulted in the move of NCCTIP from the ministry of foreign affairs to the ministry of justice. On the other hand, NCCPIM focuses on the irregular migration of Egyptians from Egypt rather than irregular migration into and

through Egypt.

The fact that irregular migration and trafficking in persons are addressed by two different committees is another major weakness. Because they are two distinct committees, the jurisdiction over the cases of trafficking of migrants is contested. In the most common forms of migrant trafficking in Egypt, whether Asian domestic workers or Sinai refugees and migrants, the majority of victims fall within the jurisdiction of both committees since Asian domestic workers come on tourist visas and break them to stay in Egypt thus become irregular while Sinai migrants and refugees are clear cases of irregular migration. This overlap facilitates the lack of emphasis on transnational trafficking seeing that each committee depends on the other to respond to the challenge.

A third structural challenge is the ineffective representation in the committee. Representation is not effective because rather than having agents in each ministries/ councils focusing on trafficking, the representatives tend to have different roles within their respective ministries and councils. They thus do not focus on trafficking in specific. In many cases, the representatives alternate in attending meetings which thus hinders the consistent application of anti-trafficking measures within their institutions. As a result, representation is based on presence in meetings and deliberations rather than actual participation and involvement in the implementation of anti-trafficking measures to effectively combat and prevent human trafficking in Egypt.

Despite the fact that there are several significant challenges within the existing structure of the national coordinating committees (NCCs), the major restriction to the performance of the NCCs is the fact that they, in themselves, have no power; the power lays within the representative actors composing the committee. The fact that the NCCTIP publicly denies the trafficking of African migrants and refugees in Sinai can be attributed to the power of the ministries of interior and defense within the committee. One of the major consequences of the ‘security problematique’ is that the state is reoccupies with security; this shapes their policies accordingly.<sup>94</sup> In the case of Egypt, this securitization approach translates into reluctance and explicit denial of cross-border trafficking. To acknowledge transnational trafficking is to acknowledge that criminal groups have the capacity to successfully and illegally move individuals across borders without being intercepted by law enforcement. Another argument is that members of the police or armed forced might be complicit in the crime. Both implications negatively impact the image of the ministries of interior and defense. Consequently, we can see that both ministries play a more important role in shaping policy priorities while others are more involved in the implementations of strategies within the framework of these priorities.

## **2. International and Inter-governmental Actors**

International and intergovernmental organizations worldwide play a significant role in providing assistance to victims of trafficking as well as working with government actors on prevention, protection, prosecution, and partnerships. In Egypt, such

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<sup>94</sup> Meehan, E. (2011, January 12). In Egypt, Forum Highlights the Problem of Human Trafficking. *UNICEF*.



organizations play an extreme significant role and their efforts must be discussed as part of the framework governing trafficking in the country. The major actors playing a significant political, economic, and social role to counter-trafficking in Egypt are IOM, UNHCR, and UNODC; however, there are various Egyptian CSOs that work with UN agencies and inter-governmental agencies as local partners. Many of whom serve as gatekeeper to the respective communities through which assisting organizations can have access to victims. Their resources enable them to respond to certain needs that the government is unable or unwilling to address. As a result, they manage to relieve particular pressures off national governments through international assistance and national coordination.

On a theoretical level, International Organizations seek to change the interests, identities, and practices of certain actors. They work to change environments in which these actors operate; as a result, restructuring the powers of actors in certain domains. (Price, 583) It is difficult to conceptualize everything they do; however, there are four major activities that are cross-cutting along them: 1) setting agendas by identifying a problem and producing relevant information 2) developing solutions by generating norms and/or recommending policy changes 3) building networks and 4) implementing solutions through persuasion and pressure to change practices and /or encourage compliance with norms.<sup>95</sup> As will be demonstrated in the case of international organizations working on trafficking in Egypt, there is relative success of such actors in overcoming the shortcomings of the regulatory status quo and it can be affirmed that they

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<sup>95</sup> Global Policy Forum, General Analysis of the Role of NGOs, Available at: <https://www.globalpolicy.org/ngos/introduction/general-analysis-of-the-role-of-ngos.html>

have succeeded in mobilizing sufficient political support to create new regulatory mechanisms to combat and preventing trafficking in persons.

International Organizations contribute and respond to the growing problems associated with trafficking in persons in a number of ways. Their responses can be categorized into the following: protection, prevention, prosecution, and participation. A summary of their roles and activities is present in the following table.

<b>The Role of International Organizations in Combating and Preventing Trafficking in Persons in Egypt</b>	
<b>Type of Role</b>	<b>Activities</b>
<b>Prevention</b>	
<b>Capacity Building</b> <b>Awareness Raising</b> <b>Networking</b>	Conduct trainings for civil society and embassies staff Fund research study on trafficking Produce documentary “The Path” Establish networks with communities of trafficked victims
<b>Protection</b>	
<b>Medical Assistance</b> <b>Resettlement</b> <b>Re-integration and Rehabilitation</b>	Establish the Trafficking of Victims Support Unit (TVSU) at the National Bank Hospital Manage shelter for female victims of trafficking Prioritize victims of trafficking for resettlement programs
<b>Prosecution</b>	

<p><b>Legal Assistance</b></p> <p><b>Capacity Building</b></p>	<p>Provide victims with legal representation</p> <p>Train law enforcement agents on investigating and prosecuting trafficking cases</p> <p>Publish guidelines on “Investigation and Prosecution of Trafficking of Persons and Treatment of Victims During Law Enforcement Proceedings”</p>
<p><b>Partnership</b></p>	
<p><b>Networking</b></p>	<p>Establish networks with embassies of trafficked nationals</p> <p>Establish networks with government institutions</p> <p>Establish National Referral Mechanism</p>

As illustrated in the table above, the work of international organizations working on human trafficking in Egypt revolves around awareness raising within the local/national community, capacity building of national organizations and government officials, trainings for service providers on border management/ victim identification, and research and assessments on trafficking. Major organizations working on trafficking choose to follow the widely accepted framework of the Palermo Protocol by structuring their activities under protection, prevention, prosecution, and partnership categories.

Capacity building, awareness raising, and networking are amongst the most prominent activities conducted under the prevention category. Various organizations such as IOM, UNHCR, the Cairo Center for Conflict Resolution

and Peace Keeping in Africa (CCCPA), UNODC, and others are focused on raising the capacity of local NGOs, embassy staff, migrant and refugee communities, media officers, as well as other government agencies in order to insure effective and efficient response to trafficking cases. Trainings focus primarily of victim identification in order to identify actual victims and potential victims based on the examination of situations through which migrants and refugees might be trafficked.

A coalition of UN agencies as well as IOM participated in funding the only research based project on Trafficking, thus far, in order to map the phenomenon and provide information on the major forms of trafficking in Egypt. As a result of this study, IOM funded the production of a documentary under the name “The Path” to showcase the different forms of trafficking to make it easily accessible and more understandable for the general public. Organizations dealing with victims of trafficking have the potential to be a significant knowledge back for the Egyptian government. The major challenging is with information management. Despite the fact that such organizations keep record of information regarding the profiles and experiences of the victims, the way in which the information is recorded and stored is not sustainable. As a result, there is no information database that clearly and concisely organizes information and statistics regarding the trafficking of migrants and refugees in Egypt.

As for protection, first and for most, the most significant form of assistance to be given to any victim that is identified or referred to any organization is medical assistance.

A joint venture by the Ministry of Health, the National Council for Childhood and Motherhood, and IOM resulted in the establishment of the Trafficking of Victims Support Unit (TVSU) at the National Bank Hospital to which all victims in need of medical assistance would receive medical treatment. Another significant cooperation between state and non-state actors is the establishment and management of a shelter for female victims of trafficking. While the shelter was established by the National Council for Childhood and Motherhood (NCCM), IOM has provided support to the Regional Shelter for Recovery and Integration of Women and Girls. The NCCM has established a national 24 hour hotline to receive calls from any individual wishing to report a case of trafficking or identify her/himself as a trafficked person. The 16021 hotline can put victims in contact with organizations who can provide assistance to the victims.

Another significant protection measure for victims is prioritizing them for resettlement in case they are refugees or are persons of concern to UNHCR. Seeing as UNHCR is the only agency with the authority to undertake resettlement procedures, local NGOs and partners who manage the cases of trafficked victims refer their cases to the organization and flag them for resettlement. In case resettlement is not likely or will take time, victims undergo re-integration and rehabilitation. These initiatives take place in the shelter and aim at empowering the victims with vocational trainings and psychological assistance that would enable them to take part in mainstream societal activities.

There are various challenges with the protection initiatives. Firstly, the shelter is a significant achievement; however, there is only one shelter available for victims of

trafficking which has the capacity to host up to 16 women and girls. Another weakness of the shelter is the fact that it is restricted to female victims only. Male victims have no shelter to take them in. Secondly, due to the limited slots for resettlement, many victims end up staying in Egypt or resorting to other means of migration.

Capacity building and legal assistance are the two major pillars for the prosecution strategies of IOs. Legal assistance is provided by IOs such as IOM and UNHCR; who either have legal departments or have a collaboration with legal firms. Legal assistance is offered to victims who are able to identify their traffickers. As a result, this is utilized by Asian domestic workers who manage to escape from the household in which they were trafficked. However, the success rate of such cases is very low due to the fact that most victims choose to settle before taking the case to the court. They prefer financial compensation and assisted voluntary return to their country of origin.

Capacity building initiatives focus on training law enforcement agents, particularly police officers, border guards, judges, and public prosecutors. The training focuses on investigation techniques for police officers, prosecution techniques for judges and public prosecutors, and victim identification for border guards who come in close contact with traffickers and victims on the borders. All participants also receive awareness sessions on how to treat victims during proceedings particularly those with psychological and medical problems. Last but not least, IOs have also played a

significant role in facilitating the dialogue among states seeing that they are international and inter-governmental agencies.

### **3. Civil Society Organizations Actors**

The role and influence of civil society has gained momentum in the past decade. They currently occupy an active seat on the global level and their work has increased in scope. In fact, many have come as far as being influential and legitimate political actors. Their general interest is on public policies and institutions and they have recently become focused on the practices of firms, markets, and industries. Despite their growing importance, non-state actors in the developed and developing world remain only partially understood. Even basic descriptive information about them, such as their number, size, area of activity, sources of revenue and the policy framework within which they operate, are not available in any systematic way. As such, a comprehensive and representative understanding of the role and significance of such actors continues to be a major gap in the literature. The purpose of this section is to put the civil society sector in perspective in terms of its role in combating and preventing trafficking, advocacy for policy change, and strategies employed within this sector to regulate the relationship between different organizations and the government of Egypt.

Recent years have witnessed a considerable upsurge of interest in Egypt in CSOs working on trafficking, as they are now recognized as a strategically important participant in the development process and an effective but underutilized vehicle of development. This is mainly due to the fact that they channel the assistance provided by

international donors to the national government and society. The rising popularity of CSOs is exasperated by the widespread disappointment with the performance of the government of Egypt in providing protection to victims and employing prevention and prosecution strategies to decrease trafficking. In fact, even the actions of the government itself suggests that it is now increasingly viewing CSOs as an integral part of the institutional structure particularly for addressing the problem of trafficking. This is reflected in the national action plan which outlines the strategy for combating and preventing trafficking in Egypt.

On a general level, the main arguments in favor of CSOs in helping to tackle the problem of trafficking in persons can be summarized below:

- CSOs are perceived as more flexible, participatory and responsive to the needs of victims - all prerequisites for effective protection.
- CSOs can potentially foster and support grassroots organizations to become more numerous, sizable, resourceful, and self-reliant. Also, grassroots contacts enable CSOs to provide critical information on potential crisis and thus contribute to early warning systems.
- Typically, CSOs require less financial inputs than government agencies and therefore are more cost effective, an attribute that is important in financially constrained third world countries.
- CSOs can be more resourceful and innovative as they involve local communities in the identification and resolution of trafficking problems which are more cost effective, more sustainable, and more compatible with targeted community.



- Over and above these direct development roles, CSOs also have a very important advocacy role to play in promoting effective governance.

The major CSOs working on trafficking in Egypt are: Egyptian Initiative for Personal Rights, Egyptian Foundation for Refugee Rights, Refugee Egypt, Hesham Mubarak Law Center, The Psycho-Social Services and Training Institute (PISTIC), Saint Andrews, and CARITAS. The experiences of these CSOs are quite different. For example, the Hesham Mubarak Law Center no longer works on trafficking since they have been denied access to detention centers. The operations were put to halt in 2014. On the other hand, organizations such as PISTIC have been working actively in providing psycho-social trainings to victims and to the communities most effected by trafficking. They also have a shelter that can cater to the needs of VOTs. CARITAS and Refugee Egypt provide medical assistance to VOTs. Refugee Egypt specializes in cases of rape since they have developed an advanced rape kit for victims. On the other hand, CARITAS provides general forms of medical assistance to VOTs.

Civil society has been widely recognized as an essential ‘third’ sector in every State. Their influence is usually associated with positive implications on the state and are thus “seen as an increasing important agent for promoting good governance like transparency, effectiveness, openness, responsiveness and accountability.” In Egypt, and as is the case in many countries, Civil Society should play an important role in improving the governance of trafficking of persons by 1) policy analysis and advocacy; 2) regulating and monitoring state performance and adhesion to the national plan for combating and

preventing trafficking in persons; 3) raising awareness among citizens in order to enable them to identify victims and actions/ practices that constitute the crime of trafficking; 4) mobilizing particular constituencies, particularly the vulnerable and marginalized communities that are particularly affected by the trafficking phenomenon in Egypt; and 5) by development work to improve the factors that result to trafficking. In reality, the role of CSOs is highly restricted.

CSOs play a significant role in establishing networks with the local communities. They target community and religious leaders due to the acknowledgment of the importance of socio-cultural context of every community and the presence of gatekeepers. Some of the most significant networks are found among the Sudanese, Eritrean, Ethiopian, and Nigerian communities. It is for this reason that IOs work closely with CSOs as implementing partners by channeling funds to cover the operations of these organizations. The major weakness however is the fact that CSOs are restricted to performing the tasks needed by IOs. These tasks are determined by the donor who, in many cases, might not be fully equipped with the knowledge to determine the most significant activities to be implemented in order to combat and/or prevent trafficking in persons.

## **VII. Policy Implementation Process**

### **A. The National Action Plan**

The major outcome of the policy development process for anti-trafficking is the National Action Plan (NAP) which serves as the policy document in which the State's macro-policy is enshrined. The first NAP was published in 2011 and it aimed to outline the tasks to be undertaken by NCCTIP, its members, and other partners such as local NGOs, UN agencies, and IOM. These tasks were to be performed throughout 2011 to 2013 and followed by an evaluation based on which an updated NAP would be created for the following three years. The NAP stipulates Egypt's commitment to combat trafficking and to fulfill its obligations as a state party to relevant international legal instruments and stresses the importance of Egypt's strategic location in making Egypt a transit country for victims of trafficking.

The NAP is based on four major principles. The first principle is the rule of law. Through this principle, the NAP seeks to ensure the effective implementation of relevant national legislations, respect internationally legally binding statements, and ensure that all national legislations and international instruments are invoked before courts. The full respect of the human rights of victims is the second principle. The protection of victims is placed as a primary focus for the plan since victims are often confused as criminals in particular occasions. All measures taken towards combating and preventing trafficking should not in any way pose a threat to the victims or violate their human rights. The third

principle is non-discrimination and gender-equality. According to this principle, the plan shall focus on the trafficking on males and females equally despite the emphasis on females in most trafficking-related discourses. The execution of the plan shall ensure no distinction based on race, color, sex, language, religion, political opinion, national or social origin, birth, or any other ground. Lastly, the NAP is built on the cooperation principle in which the enhancement of bilateral, regional, and international cooperation play a significant role in exchanging data of criminal networks, prosecuting traffickers, extraditing traffickers, exchange of best case practices, and benefit from donor initiatives.

The NAP consists of four chapters which correspond to the pillars of the Palermo Protocol: prevention, protection, prosecution, and participation. The first chapter, in prevention, focuses on public awareness initiatives, capacity building of law enforcement and civil society, and addresses the root causes of trafficking. The protection chapter focuses on the protection of victims as well as the re-integration mechanisms that should insure their re-integration back into society. This section thus sets up the national referral mechanism which is a framework through which the relevant State and Non-State actors collaborate once a victim is identified. As a result, this section also includes trainings for law enforcement, medical professionals, social workers, and other profiles who might come in contact with victims to enhance their victim identification skills. The third chapter contains tasks in relation to the criminal prosecution of traffickers and trafficking networks and thus focuses on the capacity building of law enforcement on the implementation of the anti-trafficking legislation. The last chapter lists the tasks on participation. These tasks are aimed at strengthening the cooperation between local,

national, and international actors.

While the action plan serves as a good start for an anti-trafficking policy in Egypt, consistency is critical for any real change to occur. Even though the 2011-2013 plan has been evaluated, there has been no updated plan published for the subsequent three years. To ensure consistency and commitment towards anti-trafficking efforts, the constant updating and evaluation of national efforts must take place periodically.

Despite the fact that the introductory statement of the national action plan of 2011 to 2013 states "enjoying the strategic location that it does- as a meeting point between Africa and Asia, facilitating contact between the two continents and Europe, and at a juncture between the Mediterranean and the Red Sea- Egypt is affected by human trafficking as a transit country," there are limited measures directed towards transnational trafficking. It is evident that there are no tasks tailored towards victims in Sinai. On a similar note, there is only three protection measures that specifically address non-Egyptian victims yet it is not specified if they are for domestic workers or Sinai victims. It is not expected that the plan of 2014 to 2016 will improve the situation of Sinai victims due to the fact that the assessment of the previous plan refers to Sinai victims as "African infiltrators". The use of such language is problematic and suggests a negative approach towards African victims as this language projects accuses and criminal connotations to the victims who are rather positioned as violators of the state rather than victims of the trafficking process.

The national action plans depends heavily on the study conducted by the Center for Social and Criminological Studies in 2010 whose purpose was to study the prevailing forms of trafficking and their magnitude. This is a significant limitation to the action plan for several reasons. Firstly, the study is outdated; it was undertaken in 2010; however, due to the dynamic nature of trafficking, studies need to be updated constantly to ensure the tracking of evolving and emerging forms. Secondly, the study is highly limited. The assessment lists forced and early marriage of women and children, exploitation of children in labor, trafficking in street children, sexual exploitation and prostitution, and trafficking in human organs as the five major manifestations of trafficking in Egypt as a result of interviews conducted with Egyptians. Consequently, the study does not include any information of the trafficking of foreign nationals. The bias of the study is thus translated into the priorities of the plan. Such a weakness must be overcome by a more comprehensive study that aims to situate all forms of trafficking on equal footing.

Despite the assertion that the NAP is based on principles of non-discrimination and gender equality, an obvious observation on the plan is the prevalence of a striking gendered approach in which the primary focus is on women and children. There are several explanations for why this might be the case. The first is the fact that the criminology study points out the vulnerability of women and children as the most dominant in Egypt. The second is the fact that the international convention and trafficking protocol are significantly gendered as well. Third, Egypt is a patriarchal society where men are not associated with being forced into doing anything. Lastly, the active role of the National Council for Childhood and Motherhood, as observed in the

plan, would contribute to a more direct focus on women and children as they are the main target of NCCM's mandate. The major implication of these factors however is the lack of focus on Sinai trafficking in which the majority of victims are males.

Another obvious critique of the plan is the lack of accountability mechanisms presenting as a counter-measure for actors who do not perform their allocated tasks. In fact, the lack of accountability mechanism is a critique for the committee itself seeing that the represented parties are not in any way accountable to the committee. The NCCTIP's role is to simply coordinate the efforts and establish the dialogue amongst representatives and has no authority over participating ministries, councils, or non-state actors. Consequently, the implementation of the plan is left to the good will of the actors. The plan is very ambitious and includes extremely significant tasks that can curb trafficking in Egypt if implemented effectively; however, the published plan lacks the details that allow for a critical evaluation of whether it is feasible or not. The plan is based on the collaboration pillar; as a result, there is strong emphasis on cross-functional work between various ministries, councils, and agencies but no mention on how this can be implemented. There are no action steps that break down the implementation of each task to portray the role of each actor regarding the corresponding tasks neither does it mention the expectations from the actors responsible for performing and reaching the targets.

What seems striking is the minimal role of the most powerful actors, naming the ministries of interior and defense, in the execution of the plan. The ministry of Interior is

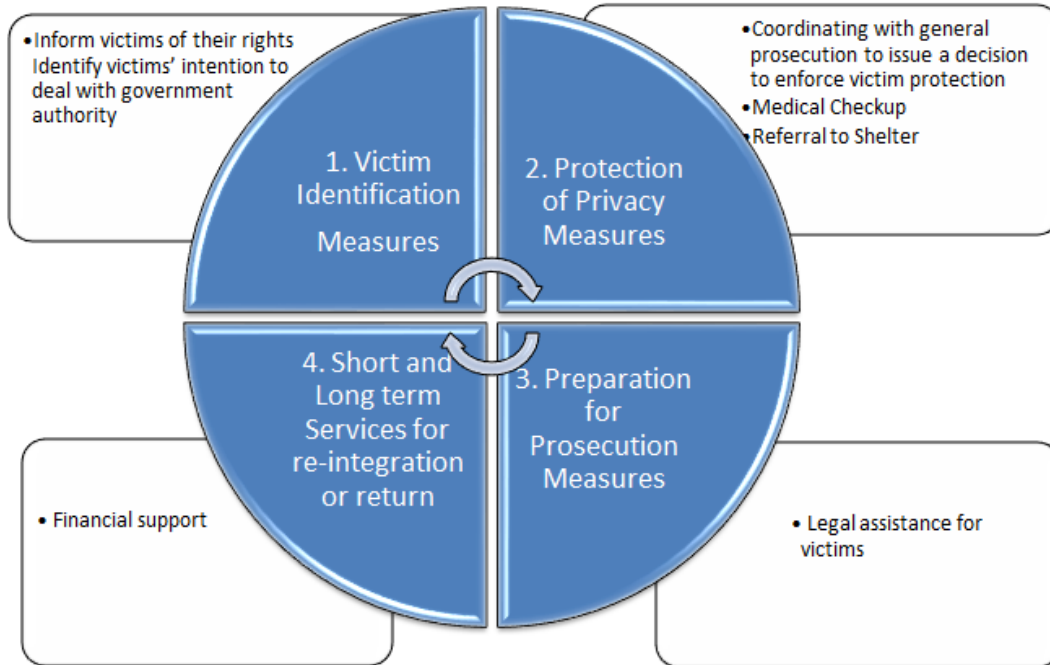
only responsible for 11 tasks while the ministry of defense is allocated to 4 tasks out of 45 tasks. Other actors such as ministries of population, social solidarity, NCCM, etc are responsible for performing the majority tasks. However, this should not be interpreted in a complete negative light. In fact, the minimal role of the ministries of interior and defense might suggest the moving away from the portrayal of trafficking within the security discourse. Such suggestion should be views in a positive manner seeing that this dichotomy is significant and must be well established in order to provide adequate protection to victims of trafficking. On the other hand, the fact that embassies are listed as stakeholders for only 2 tasks is problematic because it suggests lack of focus on transnational trafficking and lack of effective implementation of the partnership pillar of the national action plan and the trafficking protocol.

Lastly, the plan includes outputs rather than outcomes. The difference between outputs and outcomes is important since outputs show what the committee is doing but outcomes show what difference these tasks actually make. The fact that the desired outcomes are not listed makes it difficult for real impact to be evaluated. The tasks can be assess in terms of completion; however, there is no way to know what this accomplishment means to the overall goal of the committee and particularly how such tasks have contributed to combating and preventing trafficking.



## **B. National Referral Mechanism**

The National Referral Mechanism (NRM) is a structure created for the purpose of facilitating the information between all relevant parties in combating trafficking from the point of victim identification to prosecution of traffickers to their rehabilitation, re-integration, or return to their country of origin. The NRM was created as a response to article 6 of the Palermo Protocol that calls on state to establish national mechanisms to provide victims with protection. As a result, the NRM focuses essentially on the primarily principles in dealing with victims, particularly if they are arrested and detained in activities related to trafficking crimes. This is because victims are often caught in the cycle of trafficking from which they cannot escape and are sometimes forced to commit crimes as a consequence of the situation they are in. In this case, NRM focuses on establishing protection measures for these individuals. Below is a chart explaining these measures.



**Figure 4 Measures to Ensure the Protection of Victims of Trafficking in Egypt**

NRM is organized in a way to ensure effective and efficient communication between the first responders to cases of trafficking. The structure includes employees who facilitate the referral of cases to the respective institution based on the initial assessments of the case. It also includes the contact information of relevant state and non-state institutions for victims or their families to seek support. An information database is available for victims to know of the services that can be provided by the institutions of the NRM. Translators are also available in case the victims are non-Arabic speakers. Below is a chart outlining the major players in the NRM.

National Referral Mechanism for Assisting Victims of Trafficking in Egypt					
NCCM	Ministry of Interior	Ministry of Justice	Ministry of Health	International Organizations	NGOS
Anti- trafficking Unit Hot line 16021	National Security Sector Police Stations Anti- trafficking unit in General Police Department for prostitution Anti- trafficking unit in the General Police Department for Juvenile Detention	General Office of the Prosecution Specialized Courts	Trafficking of Victims Support Unit (TVSU) at the National Bank Hospital	IOM Embassies UNHCR Regional Offices for other International Organizations	Local Communities and organizations

**Table 3 Structure of the National Referral Mechanism for Trafficking in Persons in Egypt**

The ministries of foreign affairs, defense, social solidarity, and manpower are also included in the NRM; however, they play a relatively minimal role than the ones listed in the table above.

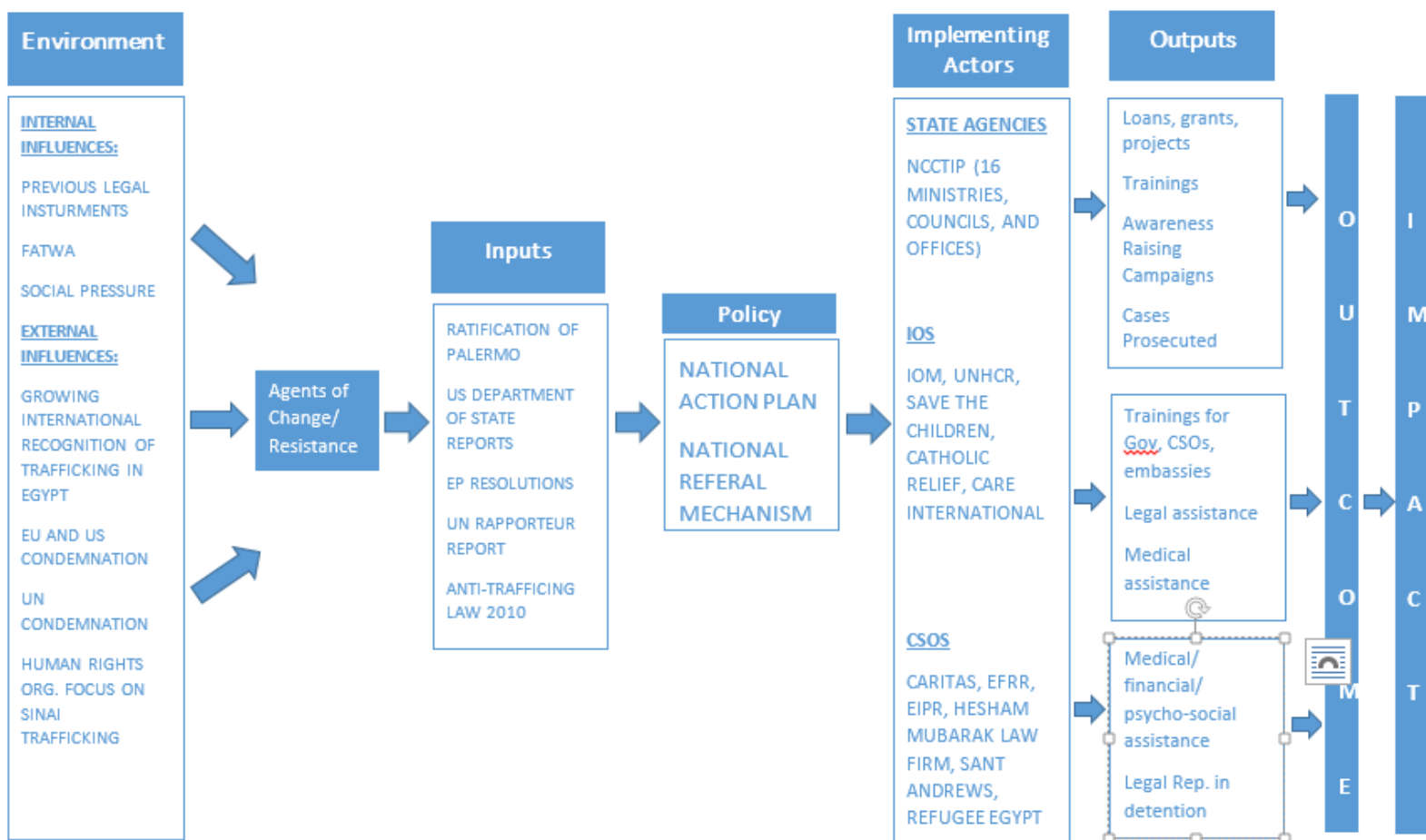
Although the purpose of the NRM is important and its structure can be of extreme effectiveness in supporting victims and ultimately prosecuting traffickers for their crimes, the implementation of the NRM is facing several challenges. Until today, the NRM is not being implemented in a systematic way and the burden of the work is not carried equally among the participating institutions. The majority of cases are reluctant to involve themselves with the Egyptian authority and thus prefer to avail themselves to international organizations and CSOs at large. These is the case of domestic workers

who have originally come with tourist visas or are not in possession of their passports in the first place. It is also the case of African migrants and refugees who fear being accused of smuggling.

To summarize the analysis of the policy development and policy implementation chapters, below is a policy diagram that shows the major elements of the policy process:

**Policy Development/ Formulation**

**Policy Implementation**



## VIII. Conclusion

This dissertation provided an analysis of Egypt's policies towards combating, suppressing, and preventing human trafficking in Egypt by looking at the international and national legal framework governing human trafficking and Egypt's obligations as well as the policy framework. As a result, this dissertation provided a policy process model that combines all the major elements of state and non-state-oriented accounts of anti-trafficking policy development and implementation. In particular, it addresses the environment that has influences the development and implementation of trafficking policies, actors, inputs, processes, and outputs.

As demonstrated above, policy process cannot be simply understood as 'rational'. That is to say, the policy process does not always generate the most rational policy. Problems are not always due to the implementation phase but are sometimes due to imbedded weaknesses in the theoretical and legal frameworks that govern and influence policy formulation. As such, the weakness of Egypt's policy is not an isolated one but rather a product of a larger weakness in the anti-trafficking theoretical perspectives and legal foundations. Policy making, as in the case in Egypt with anti-trafficking, is complex and contested, and involved negotiations and power play between different actors.

One of the most important aspects of policy process, which the above model illustrates, is that it is an ongoing and constantly changing process' continually subjected to changes and reviews. At the simplest level, there is a constant interplay between policy

development and policy implementation. Through the implementation of policy, new situations and issues arise, which demand reflection and adjustments, and in some cases even reformulation of policy. Such is the case today, the NCCTIP has undertaken the task of drafting a five-year action plan that is planned to be published in 2016. The plan should take into consideration the major pitfalls of the previous action plan and addresses structural weaknesses. It is unclear whether the new action plan will be considered as a change in the overall policy of the government of Egypt. However, such conclusion can only be drawn once the updated action plan comes out.

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