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The American University in Cairo

School of Global Affairs & Public Policy (GAPP)

“The Egyptian national anti-trafficking law ‘adoption process and assessment’”

A Thesis Submitted by

Nourhane Awad

Submitted to the Center for Migration and Refugee Studies

Fall 2022

In partial fulfillment of the requirements for

The degree of Master of Arts

in Migration and Refugee Studies

has been approved by

Dr. Ibrahim Awad

Thesis Supervisor

Affiliation:

Date \_\_\_\_\_

Dr. Gerda Heck

Thesis first Reader

Affiliation:

Date \_\_\_\_\_

Dr. Jason Beckett

Thesis Second Reader

Affiliation:

Date \_\_\_\_\_

Dr. Ibrahim Awad \_\_\_\_\_

CMRS Director

Date \_\_\_\_\_

Noha El-Mikawy, Dean \_\_\_\_\_

Dean of GAPP

Date \_\_\_\_\_

**Abstract:**

This thesis is about the impact of Egyptian national laws on the protection of African migrants and refugees. Egypt has been considered a transit country for African migrants and refugees fleeing their countries toward European countries or Israel in the past due to its specific geographic location. For that reason, Egypt is considered one of the essential parts of the trafficking process in the middle east. For that reason, it is essential to study and explore how the Egyptian government is controlling and governing the trafficking of persons. In addition, it is important to understand its institutional setup and framework to adhere to the international frameworks against this crime. Moreover, the role of non-Governmental organizations, Civil Society, and United Nations organizations in implementing and governing the Egyptian national law for the victim of trafficking on its territory.

**List of Abbreviations:**

CAT	Convention Against Torture
CEDAW Women	Convention on the Elimination of All Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
CSO	Civil Society organization
CTM	IOM's Counter-Trafficking Module
EFRR	Egyptian Foundation for Refugee Rights
EIPR	Egyptian Initiative for Personal Rights
ENP	European Neighborhood Policy
EU	European Union
GAMM	Global Approach to Migration and Mobility
GAO	Government Accountability Office
GCC	Gulf Cooperation Council States
GIS	Geographic Information System
ICCPR	Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
ICRMW Workers and Members of Their Families	International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families
ILO	The International Labour Organization
IMF	International Monetary Fund
IOM	The International Organization for migration
LAS	The League of Arab States
MENA	Middle East and North Africa
NCCPIM Migration	National Coordinating Committee for Combating and Preventing Illegal Migration
NCCPIM & TIP	National Coordinating Committee for Combating and Preventing Illegal Migration and Trafficking in Persons

NCCTIP	National Coordinating Committee for Combating and Preventing Trafficking in Persons
NCW	National Council for Women
NGO	Non-Governmental Organizations
NRM	National Referral Mechanism
OHCHR	United Nations Human Rights Office of the High Commissioner
OPG	The Office of the Prosecutor General
Palermo Protocol	Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children
PSTIC	Psycho-Social Services and Training Institute
StARS	Saint Andrews
TIP	Trafficking in Persons Report
TVPA	Trafficking Victims Protection Act
UDHR	The Universal Declaration of Human Rights
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UNODC	United Nations Office on Drugs and Crimes
USA	United States of America

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## Introduction:

Human Trafficking is often referred to as modern-day slavery and it is usually found in every corner of the globe.<sup>1</sup> Different scholars have explained that human trafficking can be understood as the process under which different persons are facing an exploitative situation for mainly economic gain. They further explained that the act of trafficking can happen either in a specific country or across borders of different countries. There are several forms of human trafficking, which might include but are not limited; to forced labor, sexual exploitation, forced marriage, and in some other cases it might be in the form of street begging. It is worth noting that there is an upsurge of attention through the international community given to human trafficking which creates the feeling that it is a recent phenomenon. However, most of the modern forms of trafficking have been taking place for several decades.<sup>2</sup> The exploitation of persons in return for personal profit has a long history and it can be noted that multiple international efforts took place throughout time to address these methods and practices of trafficking even before the creation of the modern human rights system.

Human trafficking is considered as one of the crucial matters with the enormous increase of trafficking cases that have been found by law enforcement agencies and civil society organizations.<sup>3</sup> For that reason, a concrete legal framework was evolved to address the different

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<sup>1</sup> Marburger, K., & Pickover, S. (2020). A Comprehensive Perspective on Treating Victims of Human Trafficking. *The Professional Counselor*, 10(1), 13–24. <https://doi.org/10.15241/km.10.1.13>

<sup>2</sup> UNODC. (2012, July 19). Human trafficking: organized crime and the multibillion dollar sale of people. Retrieved from United Nations : Office on Drugs and Crime website: [https://www.unodc.org/unodc/en/frontpage/2012/July/human-trafficking\\_-organized-crime-and-the-multibillion-dollar-sale-of-people.html](https://www.unodc.org/unodc/en/frontpage/2012/July/human-trafficking_-organized-crime-and-the-multibillion-dollar-sale-of-people.html)

<sup>3</sup> UNODC. (2012, July 19). Human trafficking: organized crime and the multibillion dollar sale of people. Retrieved from United Nations : Office on Drugs and Crime website: [https://www.unodc.org/unodc/en/frontpage/2012/July/human-trafficking\\_-organized-crime-and-the-multibillion-dollar-sale-of-people.html](https://www.unodc.org/unodc/en/frontpage/2012/July/human-trafficking_-organized-crime-and-the-multibillion-dollar-sale-of-people.html)

contemporary forms of trafficking. This legal framework is mainly focusing on how different governments and other relevant actors should tackle the trafficking issue and prevent it. It should be noted that the human trafficking concept was infrequently used and understood in the field of migration policy.<sup>4</sup> Nonetheless, human trafficking concept is one of the main topics that several governments, international organizations, and civil society are facing in the migration field. Additionally, it is considered one of the priorities for individuals and organizations working in human rights, health, gender, and social services. According to a report published by the International Organization for Migration (hereinafter IOM), the size of the migrant population in the Middle East and the Arab countries has increased by 133%, from under 15 million in 1990 to nearly 35 million by 2015.<sup>5</sup> We can understand from this report that the number of persons who decided to flee their countries for different reasons, such as internal conflicts, and economic or social reasons has increased over time in the Middle East. However, the migration process itself is not always voluntary, as a large number of those who decided to migrate and flee their countries find themselves in a difficult situation. For example, they are forced to work against their will in several industries such as agriculture, prostitution, and several forms of petty theft. Some of those persons are kidnaped from their country of origin and some others are deceived concerning the nature of the jobs awaiting them in their countries of destination. According to the International Labour Organization and its reports that were published in 2008, these persons are considered

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<sup>4</sup> UNODC. (2012, July 19). Human trafficking: organized crime and the multibillion dollar sale of people. Retrieved from United Nations : Office on Drugs and Crime website:  
[https://www.unodc.org/unodc/en/frontpage/2012/July/human-trafficking\\_-organized-crime-and-the-multibillion-dollar-sale-of-people.html](https://www.unodc.org/unodc/en/frontpage/2012/July/human-trafficking_-organized-crime-and-the-multibillion-dollar-sale-of-people.html)

<sup>5</sup> IOM, & ESCWA. (2017). 2017 Situation Report on International Migration Migration in the Arab Region and the 2030 Agenda for Sustainable Development. Retrieved from <https://egypt.iom.int/> website:  
<https://egypt.iom.int/sites/default/files/2017-situation-report-international-migration-english.pdf>

victims of trafficking.<sup>6</sup> There are different reasons for exploitation that might lead to trafficking, yet the most known practices are related to women and girls. Generally, women and girls are used for prostitution purposes in countries where there is a high demand in the sex industry.<sup>7</sup> It is worth noting that in recent times, there is more focus on other forms of exploitation, more specifically, forced labor and all other exploitation that targets individuals for economic activities. For that reason, many scholars have declared that human trafficking is not a new phenomenon, however, it can be considered a new form of slavery.<sup>8</sup>

It should be noted that the root causes leading to the phenomenon of human trafficking remain unclear as there is no solid data about trafficking patterns and numbers either in developed or developing countries. However, most scholars agreed that we can classify these root causes as follows: poverty, unemployment, and most importantly the new restrictive labor migration policies. These restrictive migration policies have never led to a diminishing number of migrants or refugees, however, they forced them to resort to the services of smuggling and trafficking networks available to them.<sup>9</sup> Throughout time, traffickers were able to develop complicated criminal networks. According to Morehouse, traffickers' networks were able to "respond to the bottleneck of cheap and easily disposable labor in many countries around the world."<sup>10</sup> In other words, it can be understood that those traffickers are using the most vulnerable group of people

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<sup>6</sup> ILO. (2008, February 12). ILO action against trafficking in human beings. Retrieved January 26, 2021, from [www.ilo.org website: https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_090356/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_090356/lang--en/index.htm)

<sup>7</sup> UNODC. (2006, April). Trafficking in Persons: Global Patterns. Retrieved from <https://www.unodc.org/> website: [https://www.unodc.org/pdf/traffickinginpersons\\_report\\_2006ver2.pdf](https://www.unodc.org/pdf/traffickinginpersons_report_2006ver2.pdf)

<sup>8</sup> Gergana Danailova-Trainor, P. B. (2006, January 12). Globalization and the illicit market for human trafficking: an empirical analysis of supply and demand. Retrieved from [www.ilo.org website: https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_081931/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_081931/lang--en/index.htm)

<sup>9</sup> Morehouse, C., & Springerlink (Online Service. (2009). *Combating Human Trafficking : Policy Gaps and Hidden Political Agendas in the USA and Germany*. Wiesbaden: Vs Verlag Für Sozialwissenschaften.

<sup>10</sup> ILO, 2008.

who are in deep need to flee their countries of origin for different reasons, in exploitative work conditions, for example, agriculture, domestic work, and in other times construction tasks. According to the International Labour Organization's Action against Trafficking in Human Beings – published in 2017 – it was estimated that there are around 40.3 million trafficked persons around the world.<sup>11</sup> More specifically, they estimated that out of them around 24.9 million are forced labor victims, and 15.4 million in forced marriage.<sup>12</sup> The same report indicated that 1 in 4 victims of modern slavery are children (any person who is under 18 years old).<sup>13</sup> While it is still presumed that most of the persons who are trafficked are trafficked for the aim of commercial sexual exploitation, however, ILO differentiated in that report between the different categories of people who are facing several forms and methods of trafficking. For example, the ILO in 2016 estimated that 24.9 million of all victims of trafficking are trafficked into labor exploitation, 16 million people are trapped in the private sector such as domestic work, construction or agriculture; 4.8 million for sexual exploitation, 4 million in forced labor imposed by state authorities.<sup>14</sup> It is worth noting that the United Nations Office on Drugs and Crimes (hereinafter UNODC) estimates that 230,000 are in the Middle East and North Africa (Hereinafter MENA region).<sup>15</sup> While most of the reports identified an increase and a high number of persons who are subjected to human trafficking, however, a very low number of law cases are brought against the traffickers. We can understand that the reason behind that low number is in most cases, the victims are not identified which leaves them in a situation where it is too hard to receive justice.

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<sup>11</sup> ILO. "Forced Labour, Modern Slavery and Human Trafficking (Forced Labour, Modern Slavery and Human Trafficking)." *Www.ilo.org*, Sept. 2017, [www.ilo.org/global/topics/forced-labour/lang-en/index.htm#:~:text=Out%20of%20the%2024.9%20million](http://www.ilo.org/global/topics/forced-labour/lang-en/index.htm#:~:text=Out%20of%20the%2024.9%20million).

<sup>12</sup> Ibid

<sup>13</sup> Ibid

<sup>14</sup> ---. *Global Estimates of Modern Slavery FORCED LABOUR and FORCED MARRIAGE in Partnership With*. 2017.

<sup>15</sup> UNODC. (2009). *Global Report on TIP*. Retrieved from [https://www.unodc.org/documents/human-trafficking/Global\\_Report\\_on\\_TIP.pdf](https://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf)

As mentioned above, migrants and refugees are considered one of the most common categories of individuals who are subjected to trafficking due to their vulnerable situation. According to a study published by ILO in 2008, it was estimated that the profits of trafficking in persons may amount to around \$32 billion annually.<sup>16</sup> It can be understood that the human trafficking business is considered a low-risk business with very high profits, especially with the increase in the number of people who are fleeing their countries and moving to different parts of the globe. For that reason, human trafficking is considered one of the market-driven crimes for the abovementioned reasons and this crime will likely continue and grow in the upcoming time. Accordingly, it is crucial to study the law-making and the implementation of different legal frameworks in Egypt in order to prevent and fight against this crime.

### **I. Research problem:**

According to one of the UNODC reports, human trafficking was identified as the third largest and most growing organized crime in the world after drug trafficking and arms trafficking.<sup>17</sup> It can be concluded from the available resources about human trafficking, that most of the scholars focused on the exploitation of women and girls for sexual purposes. While there was less focus on the labor dimensions of human trafficking. According to the United Nations reports, more specifically, the Global Report on Trafficking in Persons published by the UNODC in 2020, “During the reporting period, victims from Sub-Saharan Africa were detected in, or repatriated

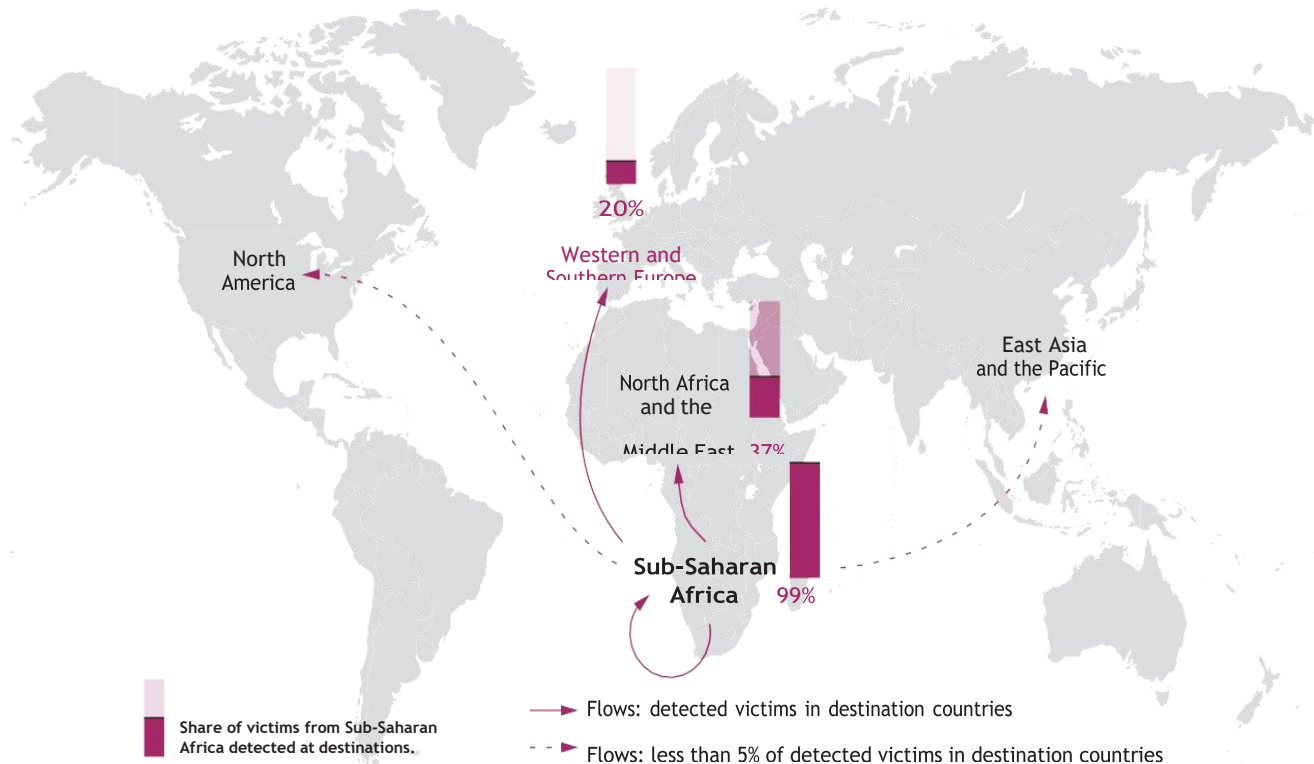
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<sup>16</sup> ILO, 2008.

<sup>17</sup> kristina.kuttng. (2019). The globalization of crime - A transnational organized crime threat assessment. Retrieved from Unodc.org website: <https://www.unodc.org/unodc/en/data-and-analysis/tocta-2010.html>

from, countries in most subregions across the globe, making it a relevant region of origin for detected cases of trafficking in persons globally.<sup>18</sup>

#### Destinations for trafficking flows from Sub-Saharan Africa, 2018 (or most recent)



This explains what was mentioned in the United Nations reports, more specifically, the Global Report on Trafficking in Persons published by the UNODC in 2013. This report provides that the patterns of almost all human trafficking activities originating from African countries are intersected, most of the people are intending to move to North.

<sup>18</sup> ---. *Global Report on Trafficking in Persons 2020*. 2020, [www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTiP_2020_15jan_web.pdf).

Due to the Egyptian-specific geographic location, it is considered as one of the main transit countries for African migrants and refugees fleeing their countries toward European countries or Israel.<sup>19</sup> For that reason, Egypt is considered one of the essential parts of the trafficking process in the Middle East. Yet, there is not enough literature available regarding Egypt's institutional response to the human trafficking issue. For that reason, it is essential to study and explore how the Egyptian government is controlling and governing the trafficking in persons. In addition, it is important to understand its institutional setup and framework to adhere to the international frameworks against this crime. Moreover, the role of the non-Governmental organizations (hereinafter NGOs), civil society, and United Nations (Hereinafter UN) organizations in implementing and governing the Egyptian national law for the victim of trafficking on its territory. It is worth noting that due to the increased number of human trafficking incidents in Egypt, more specifically, in the Sinai Peninsula, the European Union called the Egyptian government to start taking action against the abovementioned crime. The main aim of this research is to provide a concrete analysis of the legal frameworks of human trafficking in Egypt while identifying the different entities involved in its implementation.

As such, this thesis attempts to answer two main questions: how the Egyptian legal framework affects migrants and refugees living in its territories? And the second questions how the Egyptian legal framework protects migrants and refugees who were subjected to any forms of trafficking in line with its prevention measures. Analyzing the implementation of these laws and legal frameworks through different governmental and non-governmental institutions.

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<sup>19</sup> UNODC. (2013). *GLOBAL REPORT ON TRAFFICKING IN PERSONS*. Retrieved from [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)

For that reason, this research aims to focus on the development of a legal framework that controls Human trafficking worldwide. In addition, the research will tackle how the international legal framework influenced the Egyptian national laws and legal frameworks to prevent, suppress and punish the transnational trafficking of persons on its territory. Moreover, it would provide a concrete analysis of the legal frameworks of human trafficking in Egypt and identify Egypt's policy on human trafficking in terms of actors, drivers, and strategies. Finally, the research aims to elaborate on the protection provided to the African migrants and refugees identified as victims of trafficking from a human rights perspective.

Thus, the thesis will be divided into four main chapters as follows:

- 1- The history behind the adoption of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol) and its gaps.
- 2- The National Egyptian Anti-Trafficking Law and its compliance with International Human Rights Law and International Criminal Law.
- 3- The international cooperation between Egypt and the EU countries in implementing the Anti-Trafficking Law.
- 4- Implementation of the anti-trafficking law in Egypt: the role of the international organizations and NGOs in Egypt to protect the migrant and refugees against the crime of trafficking in human beings under its national anti-trafficking laws.

## **II. Geographical scope and Time frame:**

The research will be based on studies and the resources published between 2008 and 2022 since the development of a national legal system in Egypt against Human trafficking. Regarding the geographical scope, the research will focus on how the Egyptian national laws and legal



frameworks are protecting the African migrants and refugees living on its territory against the crime of trafficking in human beings. For that reason, the focus will be on Egypt as a country.

### **III.Literature Review:**

In recent times, Human trafficking is considered one of the main crimes and issues that seized the attention of the international community. It is worth noting that even though there is huge attention towards this issue, however, progress and research are still held back by several debates between academics, policymakers, and activists. Several challenges faced the scholars in firstly identifying a clear definition of trafficking, secondly measuring trafficking. Additionally, there were a lot of scholars that still focus on the sex trafficking of women and girls, ignoring the other types of trafficking that are taking part globally. Moreover, there were a lot of debates between different scholars on the type of crime that can be considered trafficking and its main drivers. For instance, some scholars are arguing that human trafficking is an organized crime, some others are arguing that it is human rights crime, and others are arguing that it is a migration policies issue. All these debates formulated an important impact on the way that this phenomenon is conceptualized and dealt with at the national and international levels. For this study, the main focus will be on the different literature addressing the definition and measurement of the human trafficking phenomenon. In addition to the different literature explaining and identifying the main characteristics of the victim of trafficking. Lastly, there will be a part on the different literature impacts of the policy adoption and implementation by different states.

One of the biggest challenges in studying the human trafficking phenomenon is its definition. While there are a lot of definitions that exist, however, there are a lot of debates on what the phenomenon is and how it should be measured (Ali 2010, Aromaa 2007, Guinn 2008, Savona &Stefanizzi 2007). Additionally, some scholars explained that most of the numbers and figures

published by several advocacy campaigns to convince and incite different governments to act against the Human trafficking phenomenon are not reliable sources as most of the estimates have a little solid empirical data behind them (Feingold 2010, Goodey 2008, Jahic & Finckenauer 2005, Warren 2010, Zhang 2009). For example, the US government's estimate of 600,000- 800,000 people trafficked internationally per year was later deflated in a Government Accountability Officer's report (hereinafter GAO)<sup>20, 21</sup> The internationally recognized definition used in the meantime is the one mentioned in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (hereinafter Palermo Protocol).

It should be noted that most of the states who ratified the Palermo protocol, started to criminalize human trafficking domestically, however, some of these states have included in their domestic laws some elements beyond the basic requirement of the Palermo Protocol. For example, Qatar banned trafficking in pornography while Israel banned trafficking in surrogacy (Mattar 2013). One of the main effects that there are several definitions used to identify human trafficking, is that when states are reporting on the number of trafficking crimes they have detected, these numbers cannot be considered as comparable internationally as each state has a separate definition. In addition, in different legislation applied in different states, the authorities have considered the victims of trafficking as illegal migrants not a victim of trafficking which will lead eventually to their deportation (Laczko 2007). Most of the scholars who are analyzing the international trafficking phenomenon are using a different variable to measure it which makes it difficult to

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<sup>20</sup> GAO provides fact-based, nonpartisan information to Congress. Often called the "congressional watchdog," GAO investigates federal spending and performance.

<sup>21</sup> GAO. (2006). HUMAN TRAFFICKING. Retrieved from website: <https://www.gao.gov/new.items/d06825.pdf>  
Gergana Danailova-Trainor, P. B. (2006, January 12). Globalization and the illicit market for human trafficking: an empirical analysis of supply and demand. Retrieved from [www.ilo.org](http://www.ilo.org) website:  
[https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_081931/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_081931/lang--en/index.htm)

compare these results and have a final determinant. Firstly, there are two data sets are based on the Palermo protocol's definition of human trafficking: the IOM's counter-trafficking Module (hereinafter CTM) and the UNODC's global Database on Trafficking Trends. The CTM is basing its collection of data on victim characteristics to understand the pattern of trafficking and victimization. However, one of the critiques is that these data are collected only from victims who were found and referred for assistance or in some rare cases who sought assistance themselves. As result, this is will limit the data on a certain type of victims, they are the ones who are willing to accept the term victim and the assistance that comes with it (Brunovskis & Surtees 2007, 2010; Surtees & Craggs 2010). While the data used by the UNODC's Global Database on Trafficking Trends are usually based on the reports published by international non-governmental organizations, research institutions, government institutions, and the media (Kangaspunta 2007). However, these data are considered biased as mainly they are focused on the sex trafficking victims as it was the primary focus of anti-trafficking activism and policy (Rao & Presenti 2012).

Other groups of scholars are basing their analysis to measure trafficking in a certain state on the change in a country's tier ranking on the annual US "Trafficking in Persons Report" (hereinafter TIP Report). However, it is worth noting that the methodology used in this report is still blurred, as it is unknown among most of the scholars what causes movement in Tier ranking from one year to the next and whether that corroborates the decrease in the incidence of trafficking or simply a better de jure policy by a particular government (Gallagher 2011). Overall, the clandestine nature of the crime and the reluctance of victims to come forward due to fear or shame make it difficult to estimate the dark figure—the difference between the number of cases reported and the actual instance of trafficking (Datta & Bales 2013). Researchers using qualitative methods have taken an expansive view of what should be included under the auspices of trafficking. In

addition to forced prostitution, there is a wide range of other activities that have been classified as human trafficking, at least under some conditions, including Indonesian and Filipina domestic workers in the United Arab Emirates and Saudi Arabia (Mahdavi 2013, Vlieger 2012); children working in fish processing in Bangladesh (Jensen 2013); transnational marriages between Westerners and Thai or Russian women (Tyldum 2013); organ trafficking from Sudanese refugees in Egypt (Budiani-Saberi et al. 2011) and in the Balkans (OSCE 2013); men trafficked for agricultural labor into the United States from Latin America (Barrick et al. 2014) and into Russia from Central Asia (Kelly 2005), Ukraine, and Belarus (Surtees 2008); children forced into begging on the streets in South-Eastern Europe and Asia (Cherneva 2011); and forced labor in the mining and logging industries (US Dep. State 2014). With this wide range of activities counting as trafficking, it can be difficult to draw clear definitional parameters.

Moreover, human trafficking is usually inter-related with a different and separate phenomenon in international law such as smuggling, forced labor, and slavery. For example, migrant smuggling is one of the very controversial terms used in migration policies and it overlaps with human trafficking. Initially, an individual who wants to flee his country of origin will reach out to a smuggler who will facilitate his journey outside his country to another country, therefore, both parties violate the law. While to consider a person trafficked, there must be an exploitative act that he has been subjected to throughout his journey. There are a lot of smuggled migrants who will end up in an exploitative situation when they fail for example to pay their debts at the end of the journey, and they will end up performing some tasks under hard conditions against their will and choice (Kyle & Koslowski 2001). This situation has forced many scholars to identify and broaden the term trafficking into slavery (Bales 1999, 2005; Choi-Fitzpatrick 2011; Datta & Bales 2014). Lastly, another group of scholars is following the definition of the ILO in identifying forced

labor as follows; “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 voluntarily.” For the above-mentioned reasons, different definitions, and the hardship of measuring the trafficking phenomenon, many scholars have explained research should be based on qualitative work, building theory from the ground up and refining existing methods to collect better data while at the same time explicitly acknowledging their limitations (Brunovskis & Surtees 2010, Tyldum 2010, Zhang 2009). However, qualitative research comes with its own set of difficulties including access and ethical issues, especially if it involves interviewing victims, people who are involved in illegal activities, or people whose migration status is irregular (Cwikel & Hoban 2005, Surtees & Craggs 2010, Zhang 2009).

Another debate in the literature is regarding the policy adoption and implementation of the trafficking legal frameworks. It is worth noting that most of the scholars are addressing policy instruction on how states should deal better with the problem or suggestions for how the phenomenon might be better conceptualized. According to a study published by Cho et al. (2014), they find that the developed countries are the ones who showed the highest level of commitment to passing anti-trafficking policies on prosecution, protection, and prevention, compared to a less commitment in South Asia and the Middle East. According to Lloyd et al. (2011), states that view trafficking as an organized crime problem are more likely to adopt criminalization policies if their neighbors do. Using GIS mapping of the density and number of border crossings, they show that states worry that if their neighbors criminalize human trafficking, it will be pushed over the border into their countries. The spread of anti-trafficking policies has also been driven by the United States’ annual TIP Report. Despite significant criticism about its methodology, politicization, and the choice to apply the US rather than international standards, the TIP Report has helped draw

attention to the issue in countries around the world and has provided a talking point, if not a leverage point, for encouraging trafficking policy adoption (Chuang 2006, Gallagher 2011).

While the other group of scholars is basing their research on human trafficking on the implementation of criminal justice. As of 2013, 182 countries have criminal laws fully or partially prohibiting trafficking, many of which have been in place for more than a decade (Prot. Proj. 2013). However, the total number of reported human trafficking prosecutions worldwide in 2013 was still only 9,460 with 5,776 reported convictions (US Dep. State 2014). As McDonald (2014, p. 125) notes in looking at trafficking prosecutions in the United States and European Union, “The less than impressive record of enforcement against human trafficking appears to be another example of how even very popular law reforms and crusades can be cooled out by the social realities of the criminal justice system.” An effective criminal justice response to trafficking requires extensive government investment of resources both to enable law enforcement to interdict it successfully and to make sure that victims are cared for and protected so they can cooperate in the investigation (Gallagher & Holmes 2008). However, there are some critiques which explains why the criminal justice system might not be effective. Firstly, criminal laws are mainly prohibiting illegal migration and prostitution, for that reason, the victims who were subjected to that sort of trafficking will be afraid to approach authorities as they are afraid that they might be convicted as criminals (Blanchette et al. 2013). Additionally, if cases are identified through proactive law enforcement work or uncovered in the process of investigating other crimes, frontline officers may not be able to recognize or identify trafficking victims. As noted above, the stereotypical victim of human trafficking is rarely what law enforcement finds in practice (Haynes 2007). To overcome this, some countries have established specialized trafficking units and deployed training modules to help frontline law enforcement (David 2007). The ILO has also

created a list of operational indicators of trafficking to help identify victims, but it is unclear whether these guidelines are being used by on-the-ground personnel (ILO 2009). However, even in the United States, which has put perhaps the most resources toward law enforcement education, surveys and interviews of local agents suggest that most do not believe that trafficking exists in their jurisdiction and remain minimally prepared to identify and respond if they were to encounter a trafficking case (Clawson et al. 2006, Farrell et al. 2012).

Despite the attention to the issue of human trafficking over the past 15 years, appropriate and effective policy responses are still held back by several debates among activists, scholars, and policymakers about the nature of the phenomenon and how best to address it. However, attention to these debates and their consequences allows us to assess where promising areas for future research may lie. The sides that people have taken in these debates have had important implications for policy adoption and implementation. Years of focus on prostitution have led the criminal justice system to overlook victims of labor trafficking, instead of treating them as illegal migrants and deporting them even though their situations may be significantly more exploitative and their freedom more severely curtailed than those working in prostitution. The focus on prostitution has also led to the application of a sharp dichotomy to women who are seen as either victims or agents, not both. Depending on their behavior when “rescued,” and their way of involvement in entering the country, they are categorized as victims or agents and treated accordingly. Another challenge is noted from the literature mentioned above, that most of the research was done in the United States and Europe while less research was taking place in the other parts of the world such as the Middle East and North Africa. The MENA region is one of the prominent regions with a huge amount of migration flows that will affect and encourage trafficking.

#### **IV. Conceptual Framework:**

##### **A. Conceptual Framework:**

Migration was never a new concept for human beings. The existence of this concept is always connected to the movement of human beings from one place to another in search for food, jobs, and security. It should be noted that people used to move from one place to another either inside their own country or by crossing international borders. However, in the past, borders were more accessible than nowadays. For example, there were no requirements of passports or visas in order to move between different states. Throughout time, visa regimes were introduced in order to regulate the movement of people from one country to another. Accordingly, the concept of illegal migration started to rise in order to allow in-need people to cross different borders without going through any legal steps. With the high risk of the illegal migration process, a new group of people emerged in order to facilitate this process. This group of people are known as traffickers, and they are the ones who facilitate the trans-border migration process using different illegal modalities. For that reason, there was an urge to adopt a new international legal framework which prohibits and criminalizes this process.

This crime is considered as a global phenomenon; however, it is widespread in and from underdeveloped and developing countries to developing and developed countries. As explained earlier, Egypt is considered as one of the main transit countries for African migrants and refugees fleeing their underdeveloped or developing countries toward European countries or Israel. For that reason, Egypt is considered one of the essential parts of the trafficking process in the Middle East. While the migration concept was never new to the Egyptian government due to its geographic location, however, the main reason that forced the Egyptian government to adopt and implement



a legal framework to address the trafficking crime on its territory is the pressure formed by the international community. More specifically, US and the EU countries. The sudden interest in Egypt can be justified by the continuous fear of the EU countries from uncontrolled migration flows coming from the Southern Mediterranean. The Egyptian government with its geographic location and the existence of refugees and irregular migrants on its territory played a significant role to create a channel of international cooperation between the Egyptian government and the EU countries.

Moreover, it is worth mentioning the difference between two main concepts “human trafficking and human smuggling” as it will serve the research. According to Gabriella Sanchez<sup>22</sup> politicians might refer to human trafficking and human smuggling as it is the same thing. She added that this reference is not always because of ignorance, however, the international community wants to gain support in blocking the flows of all migrants and refugees on its territories by denying the fact that some of them were victims of trafficking.<sup>23</sup>

## **B. Differentiation between Human Trafficking and Human smuggling:**

This part of the research aims to show the difference between the concept of human trafficking and the concept of human smuggling. These two terms are interrelated because of their intersection in the irregular migration process. However, the protocol to prevent, suppress and

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<sup>22</sup> Gabriella Sanchez is an ethnographer interested in the everyday dynamics of irregular migration facilitation. Her work (carried out in the Americas, North Africa, the Middle East and Europe) draws from the experiences and perspectives of migrants and the people behind their journeys. At the MPC she has worked to strengthen the empirical and conceptual base of "crimes of mobility," to increase the understanding of smuggling as part of community life and its economic impact, as well as to document the roles played by women, young people and indigenous communities in the facilitation of mobility. She is the author of *Human Smuggling and Border Crossings* (Routledge 2016) and co-editor of the 2018 Special Issue on Migrant Smuggling of *The Annals of the American Academy of Political and Social Sciences*.

<sup>23</sup> Stevenson, Luca. “Borders & Belonging: Human Smuggling or Human Trafficking?” *OpenDemocracy*, 22 Nov. 2022, [www.opendemocracy.net/en/podcasts/podcast-borders-belonging/human-smuggling-trafficking/](https://www.opendemocracy.net/en/podcasts/podcast-borders-belonging/human-smuggling-trafficking/). Accessed 26 Nov. 2022.

punish trafficking in human beings, especially women and children which supplemented the United Nations Convention against Transnational Organized Crime, commonly known as the Palermo Convention defined the Trafficking in persons as following:

“the recruitment, transportation, transfer, harbouring 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.”<sup>24</sup>

According to this definition, trafficking in persons should consist of three main elements. The first element is the act itself – what is done – such as recruitment, transportation, transfer, harbouring or receipt of persons. The second element is the means used to commit this crime – how it is done – like the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim. While the third element is the purpose of this crime – why it is done – for example, the purpose of exploitation, including but not limited to the prostitution of others, sexual exploitation, forced labor, slavery or similar practices, and the removal of organs.<sup>25</sup>

However, smuggling in migrants is a crime involving the procurement for financial or other material benefits of illegal entry of a person into a state of which that person is not a national or resident.<sup>26</sup> According to that definition provided by the UNODC, the smuggling of migrants should

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<sup>24</sup> OHCHR. (2019). OHCHR | Protocol to Prevent, Suppress and Punish Trafficking in Persons. Retrieved from Ohchr.org website: <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

<sup>25</sup> UNODC. “Trafficking in Persons and Migrant Smuggling.” [Www.Unodc.Org, www.unodc.org/lpo-brazil/en/trafico-de-pessoas/index.html](http://www.unodc.org/lpo-brazil/en/trafico-de-pessoas/index.html).

<sup>26</sup> ---. “Migrant Smuggling.” *United Nations : Office on Drugs and Crime*, [www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/migrant-smuggling.html#:~:text=Migrant%20Smuggling%20is%20the%20facilitation](http://www.unodc.org/unodc/en/human-trafficking/migrant-smuggling/migrant-smuggling.html#:~:text=Migrant%20Smuggling%20is%20the%20facilitation).

include migrants who have consented to the smuggling, while trafficking, victims have never consented. Additionally, the human smuggling journey ends up when the migrants arrive at their destination, however, trafficking involves the ongoing exploitation of the victim that the traffickers can benefit from the victims. Lastly, smuggling is always transnational while trafficking may not be.<sup>27</sup> It should be noted that smuggling can be considered as a crime according to its political context. For example, in Germany a smuggler was able to sue one of his clients when he did not pay the fixed amount that they agreed on to help him cross the borders from East to west Germany.

## **V. Methodology:**

This part of the research aims to describe the methodology that has been used to answer the research questions. The research design will be based on a descriptive research design which will help the researcher to identify and answer the main research questions such as the Egyptian national laws, legal frameworks as well as the institutional frameworks. Thus, there will be a clear picture of measuring the level of protection provided to the victims of trafficking in Egypt under its national laws and legal frameworks.

This study is also based on secondary research and most importantly on existing sources of data on the subject. It is noticed that the information was collected from books, peer-reviewed journals, e-books, and articles from e-journals, in addition, to reports from relevant governmental, non-governmental sources, and international organizations. It is worth mentioning that most of the secondary sources were published within the last 15 years to be able to collect information relevant to the time frame of the research. There are different forms of collecting data in qualitative

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<sup>27</sup> Ibid

research, but this research will use the technique of collecting the existing material and relevant documents.

## **VI. Study Limitation:**

The following issues stand to influence and define the parameters of the study. One, the study is primarily descriptive research hence may be affected by the scholars' biases and the limitation of previous studies. Secondly, the lack of consistency in the reports on the number of victims of human trafficking and the lack of several previous studies might influence the effectiveness of the research. Thirdly, the lack of accessibility to the victims of trafficking will influence the accuracy of the information in describing their journey and the type of torture and exploitation they were subjected to.

## Chapter one:

### **The history behind the adoption of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol)**

According to Pinghua Sun and Yan Xie in their book “*Human Trafficking and Sex Slavery in the Modern World*”, human trafficking is a “multifaceted phenomenon as it constitutes a transnationally coordinated and continually morphing chain of activities.”<sup>28</sup> Human trafficking links international human rights law to migration and organized crime due to its transnational nature. There are several forms of human trafficking, which might include but are not limited to; forced labor, sex trafficking, migrant workers’ debt bondage, and forced child labor, which is why it is entangled with a huge number of different transnational movements and different criminal activities.

Undeniably, differentiating between human trafficking and any other exploitative acts is not an easy mission due to the multifaceted nature of this phenomenon. In most cases, victims of trafficking cannot be recognized and protected unless it is decided whether or not an exploitative act can be considered trafficking. Accordingly, it is crucial to understand the development of human trafficking as a concept in public international law. In addition, to understand the commencement and the origin of all the applicable legal frameworks emerged to address this issue. Thus, this chapter will discuss the history that has shaped the different legislation and the relevant legal frameworks related to human trafficking. As such, this chapter will be divided into two sections, the first section is about the different international treaties and conventions that led to the

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<sup>28</sup> Sun, Pinghua, and Yan Xie. “Human Trafficking and Sex Slavery in the Modern World.” *Government Law Review*, vol. 7, no. 1, 21 Jan. 2014, p. 23928, [www.albanygovernmentlawreview.org/article/23928-human-trafficking-and-sex-slavery-in-the-modern-world](http://www.albanygovernmentlawreview.org/article/23928-human-trafficking-and-sex-slavery-in-the-modern-world). Accessed 6 Apr. 2022.

adoption of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol). The second section will be an in-depth analysis of the Palermo Protocol.

## **1.1. International Law on Human Trafficking:**

### **1.1.1. History on the Elimination of Human Trafficking:**

There is a huge number of national and international responses which focus on human trafficking to clarify how this notion has developed over time. More specifically, how these responses defined the different forms and shapes of human trafficking, and who can be considered a trafficked person. In this part of the thesis, there are a lot of international law regulations that will be analyzed to better understand how and when human trafficking became identified within a legal framework. In addition, how this new phenomenon was tackled at the level of international law and how it was influenced by the international movement to eliminate white slavery.<sup>29</sup>

According to Gallagher in her book *“The International Law of Human Trafficking,”* the term trafficking was firstly use in the early 20<sup>th</sup> to refer to human beings. At that specific time, the term trafficking was used to refer only to white slavery, more specifically, it was used to refer to forcible or fraudulent recruitment of white people into prostitution.<sup>30</sup> It can be understood from this definition that the term human trafficking was used in a very specific context which was the sexual exploitation of white women.

Jean Allain explained in his book *“Slavery in International Law: of Human Exploitation and Trafficking”* that in 1873, a report was handed to the International Medical Congress calling

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<sup>29</sup> Gallagher, Anne T. *The International Law of Human Trafficking*. Cambridge University Press, 2010.

<sup>30</sup> Ibid 55.

different states to put an end to any regulations that legalized prostitution through brothels.<sup>31</sup> Allain throughout his book explained that this report can be considered the origin of human trafficking law in international law. He added that this report represents “an effort not to end prostitution but to uphold the honor of women through suppression of the white slave trade.”<sup>32</sup> Later on – more specifically in 1877 – the International Abolitionist Federation at Geneva promoted the idea of abolishing state regulation of prostitution and the trafficking of women for prostitution.<sup>33</sup> Michael Palmiotto explained in his book “*Combatting Human Trafficking: A Multidisciplinary Approach*” in 1899, the International Congress on the White Slave Trade met to defy white slavery. He added that the supporters of this idea in the congress explained the following:

“We want to destroy this traffic (...) Traffic consists of three parts; first, there is supply; second, there are traffickers; and third, there must be a demand (...) [E]verything that can be done (...) to improve women’s position (...) will cut off the supply (...) [S]trike at the supply, strike at the traffickers, but strike also at the demand for the victims.”<sup>34</sup>

In 1904, 13 European countries finally adopted the first international agreement focusing on trafficking called “Agreement for the Suppression of White Slave Trade”.<sup>35</sup> The main purpose of this agreement was to link white slavery implicitly to trafficking of white women.<sup>36</sup> More specifically, Articles 1 to 4, provided different examples of women who were enforced and/or

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<sup>31</sup> Allain, Jean, and Inc Ebrary. *Slavery in International Law : Of Human Exploitation and Trafficking*. Boston, Mass., Martinus Nijhoff Publishers, 2013.

<sup>32</sup> Allain, Jean, and Inc Ebrary. *Slavery in International Law : Of Human Exploitation and Trafficking*. Boston, Mass., Martinus Nijhoff Publishers, 2013.

<sup>33</sup> Palmiotto, Michael. *Combating Human Trafficking : A Multidisciplinary Approach*. Boca Raton, Crc Press, 2015.

<sup>34</sup> Ibid

<sup>35</sup> Lloyd, Paulette. “Framing and Transnational Legal Organization: The Case of Human Trafficking.” *Proceedings of the ASIL Annual Meeting*, vol. 110, 2016, pp. 68–70, 10.1017/s0272503700102599. Accessed 20 Aug. 2022.

<sup>36</sup> Ibid

trapped into prostitution. There were different efforts made in interpreting the above-mentioned agreement, yet the most significant one is the description of trafficking as a transnational crime. More specifically, it was explained in the agreement that prostitution could occur either nationally within the borders of the same country or can take place cross-border. A few years after, more specifically in 1910, there was a significant amendment that took place for the later agreement. The amendment took place to manage and control the punishment of anyone who facilitated or assisted in trafficking girls under 20 years old which can take place by any type of threats, violence, or fraud.<sup>37</sup>

The 1921 Convention known as “the International Convention for the Suppression of the Traffic in Women and Children” is considered one of the main reasons that made the international community reduce linking the term trafficking to white slavery only. The main focus of this convention was to punish the procurers who facilitate the issuance of forced labor contracts to women and girls – in addition, to monitoring the licensing and supervising the employment agencies – and to protect immigrant women and children.<sup>38</sup> However, the convention did not show any success as it did not include any measures to enforce any kind of international commitments towards the persons of concern and it left states as the main actor to determine the implementation procedures.<sup>39</sup> Despite the failure of this convention, it displayed an overall improvement in considering that women and children from any race can be trafficked and not only white women.

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<sup>37</sup> United Nations Treaty Collection. “United Nations Treaty Collection.” *Treaties.un.org*, [treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=VII-10&chapter=7&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=VII-10&chapter=7&clang=_en).

<sup>38</sup> European Commission. “1921 International Convention for the Suppression of the Traffic in Women and Children.” *Ec.europa.eu*, July 2005, [ec.europa.eu/anti-trafficking/1921-international-convention-suppression-traffic-women-and-children\\_en](https://ec.europa.eu/anti-trafficking/1921-international-convention-suppression-traffic-women-and-children_en).

<sup>39</sup> Morcom, Corin, and Andreas Schloenhardt. *ALL about SEX?! THE EVOLUTION of TRAFFICKING in PERSONS in INTERNATIONAL LAW*. Mar. 2011.



Another convention that had a great impact on shaping the term trafficking is the 1933 convention for the Suppression of the Traffic in Women of Full Age. According to Gallagher, this convention enlarged the trafficking limitations to add trafficking for all sexual purposes not only for prostitution.<sup>40</sup> While this convention widened the concept of trafficking as it was mentioned above, but it also still had some gender limitations. According to the 1933 convention, trafficking was defined as the following: “the transfer of women across nation-state borders for immoral purposes.”<sup>41</sup> From that definition, it can be understood that trafficking was associated with the immorality of prostitution in women only. Though the 1921 and the 1933 Conventions widened the scope of trafficking, none of those conventions were able to show the different dimensions of trafficking. Both conventions concentrated on the forced movement of women and girls whether inside or outside their countries for prostitution only. It can be understood from all the conventions mentioned above that they dealt with prostitution as a matter of internal jurisdiction. The international response to the concept of human trafficking started to change when the 1949 International Convention for the Suppression of the Traffic of Persons and the Exploitation of the Prostitution of Others was adopted. It can be argued that the 1949 convention considered all the relevant agreements. For that reason, this convention was considered the primary international covenant on trafficking until the adoption of the Trafficking Protocol in 2000.

### **1.1.2. Trafficking in International Human Rights Law, International Labour Law, and International Refugee Law:**

The main development that was offered by the 1949 convention was its extended level of protection. In other words, the inclusion of the non-white women under the umbrella of the

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<sup>40</sup> Gallagher, Anne T. *The International Law of Human Trafficking*. Cambridge University Press, 2010.

<sup>41</sup> Morcom, Corin, and Andreas Schloenhardt. *ALL about SEX?! THE EVOLUTION of TRAFFICKING in PERSONS in INTERNATIONAL LAW*. Mar. 2011.

convention's protection. It can be understood that the main reason behind this extension is that at that time in Europe, Asia, and Africa, sexual exploitation became more apparent. As a result, the convention mentioned clearly in its preamble the importance of respecting the human rights of victims of trafficking. More specifically, the convention mentioned the following:

“Prostitution and the accompanying evil of trafficking in persons for the purpose of prostitution were incompatible with the dignity and worth of the human persons and endangered the welfare of the individual and the community.”<sup>42</sup>

In addition, the convention declared that freedom is one of the basic birthrights for each and every human being. Though the convention expanded the definition and conceptualization of human trafficking, its focus remained primarily on the sex industry.<sup>43</sup>

The 1949 convention continued to be the main and the only official Convention on trafficking in international law until the adoption of the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter CEDAW) in 1979. According to article 6 of this convention “States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution in women.”<sup>44</sup> One of the main developments that occurred due to the adoption of the CEDAW is allowing women to ask for their right to equal treatment. More specifically, their right of being protected against sex trafficking and the right to equal treatment in all forms of life in general.

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<sup>42</sup> Refugees, United Nations High Commissioner for. “Refworld | Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.” *Refworld*, 2 Dec. 1949, [www.refworld.org/docid/3ae6b38e23.html](http://www.refworld.org/docid/3ae6b38e23.html).

<sup>43</sup> Gallagher, Anne T. *The International Law of Human Trafficking*. Cambridge University Press, 2010.

<sup>44</sup> ---. “Refworld | the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Issues in the U.S. Ratification Debate.” *Refworld*, 23 June 2011, [www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=4e3fd53e2&skip=0&query=cedaw](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=4e3fd53e2&skip=0&query=cedaw). Accessed 7 Apr. 2022.

CEDAW's offered an expanded list of prohibition than the ones offered by the 1949 convention. For instance, it included different forms of exploitation other than sexual exploitation., such as forced labor, forced marriage, and organ trafficking.<sup>45</sup> Additionally, CEDAW played a crucial role in trafficking laws – since its ratification, trafficking was addressed clearly by different other international treaties. For example, the Convention on the Rights of the Child and its Optional Protocol in 1989. Though the convention did not directly mention trafficking, it was implicitly mentioned in its preamble when the convention provided a clear definition for the “sale of children”.<sup>46</sup> Later on, the sale of children, child prostitution, and child pornography was banned by the UN Optional Protocol to the Convention on the Rights of the Children.<sup>47</sup>

International law made a great effort in addressing human trafficking. These efforts can be seen in various international and regional instruments which were developed over the years. For example, the Universal Declaration of Human Rights (hereinafter UDHR), in which some of the rights stated can be considered a milestone in combatting human trafficking. More specifically, the declaration explains that human rights are created for every human being, and all of them should have a legal framework that would regulate their protection under the umbrella of international human rights law. Additionally, the declaration affirms that all rights have no borders or limitations. For instance, Article 1 of the UDHR states the following: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should

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<sup>45</sup> Gallagher, Anne T. *The International Law of Human Trafficking*. Cambridge University Press, 2010.

<sup>46</sup> ---. “Refworld | Implementation Handbook for the Convention on the Rights of the Child.” *Refworld*, Sept. 2007, [www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=585150624&skip=0&query=convention%20on%20the%20right%20of%20the%20child](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=585150624&skip=0&query=convention%20on%20the%20right%20of%20the%20child). Accessed 7 Apr. 2022.

<sup>47</sup> Ibid

act towards one another in a spirit of brotherhood.”<sup>48</sup> It can be understood from this article that the main aim of the declaration is to acknowledge the constitutional worth of all human beings. In addition, two of the most important articles in this declaration are Articles 4 and 5 as they state the following: “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.” and “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>49</sup> Moreover, Article 13 of the same declaration explains that any person has the right to leave any country freely depending on their will, and their freedom of movement is regulated clearly in that article. Another international instrument – its main purpose is fighting international human trafficking – the International Covenant on Civil and Political Rights (hereinafter ICCPR). Article 8 of the ICCPR banned all forms of slavery and its related activities.

Furthermore, the 1999 ILO Worst Forms of Child Labour Convention prohibited in Article 3 the following

“(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;”<sup>50</sup>

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<sup>48</sup> United Nations. “Universal Declaration of Human Rights.” *United Nations*, 1948, [www.un.org/en/about-us/universal-declaration-of-human-rights](http://www.un.org/en/about-us/universal-declaration-of-human-rights).

<sup>49</sup> United Nations. “Universal Declaration of Human Rights.” *United Nations*, 1948, [www.un.org/en/about-us/universal-declaration-of-human-rights](http://www.un.org/en/about-us/universal-declaration-of-human-rights).

<sup>50</sup> ---. “Refworld | Worst Forms of Child Labour Convention, C182.” *Refworld*, 17 June 1999, [www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ddb6e0c4&skip=0&query=ILO%20worst%20forms%20of%20child%20labour%20convention](http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ddb6e0c4&skip=0&query=ILO%20worst%20forms%20of%20child%20labour%20convention). Accessed 7 Apr. 2022.

It can be understood from the aforementioned article that the convention considered slavery as one of the main forms of child labor and it urged its elimination. Additionally, the *Guiding Principles on Internal Displacement*, more specifically principle 11(2) states the following:

“2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and or the outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault; (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labor of children;”<sup>51</sup>

As such, most the conventions and organizations were treating child prostitution, child pornography, and the sale and trafficking of children for sexual purposes as inseparable acts which are regulated by the same legislation.

### **1.1.3. Human trafficking as a human rights violation:**

After examining the different international treaties and conventions that played an enormous role in shaping the international community’s understanding of human trafficking, we should examine whether human trafficking can be considered a human rights violation from a legal perspective or not. In order to answer this question, the researcher examines only the arguments of two specific authors “Piotrowicz” and “Gallagher” as they are two of the main leading global experts in the international law of human trafficking.

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<sup>51</sup> ICRC. “Guiding Principles on Internal Displacement - ICRC.” *International Review of the Red Cross*, 30 Sept. 1998, [www.icrc.org/en/doc/resources/documents/article/other/57jogl.htm#:~:text=Internally%20displaced%20persons%20shall%20enjoy](http://www.icrc.org/en/doc/resources/documents/article/other/57jogl.htm#:~:text=Internally%20displaced%20persons%20shall%20enjoy). Accessed 8 Apr. 2022.

According to Piotrowicz Ryszard, considering human trafficking as a sole violation to human rights is incorrect. He argues that it is not right to consider human trafficking as a breach of human rights as it is not correct to state that  $2+2=5$ . He added that without the state involvement in the process, human trafficking can be only considered a crime same as any other type of crime such as murder or theft.<sup>52</sup> For that reason, Piotrowicz considers that human trafficking is not a human rights violation but more of a private criminal act, in which some private individuals participated in the recruitment and the transportation of some people for the sole purpose of their exploitation.<sup>53</sup> Piotrowicz did not deny the fact that trafficking is a serious crime, yet, he argues that states failed to protect its citizens' human rights when committed. Yet, the lack of the state's involvement in the crime will not increase its level of liability to consider trafficking as a human rights violation by the state. Thus, according to his point of view as long as the state was not involved by any means in this crime, trafficking will remain a crime between two or several individuals, even though the state failed to prevent it from the beginning. As such, this thesis cannot agree with Piotrowicz's argument, human trafficking should be considered a human rights violation, since all states are obliged to take all reasonable and necessary measures to restrain any specific event from occurring on its territories.

On the other hand, Gallagher explained that despite the adoption of several international treaties and conventions, none of them managed to link trafficking to the violation of a specific right in a specific treaty.<sup>54</sup> As it can be seen from the aforementioned treaties and conventions none of them managed to address human trafficking from a human rights perspective. For that reason,

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<sup>52</sup> Piotrowicz, Ryszard. *THE LEGAL NATURE of TRAFFICKING in HUMAN BEINGS*. 2009.

<sup>53</sup> Ibid

<sup>54</sup> Gallagher, Anne. "Trafficking in Persons Report (Review)." *Human Rights Quarterly*, vol. 23, no. 4, 2001, pp. 1135–1141, 10.1353/hrq.2001.0050. Accessed 08 April. 2022.

this thesis is leaning toward the argument used by Gallagher. By acknowledging this real gap in international human rights instruments, the international community might start addressing the different obligations of states to prevent this crime. For example, by implementing national legislation to control corruption taking place on its territory, or to allow the exchange of evidence across national borders to facilitate the prosecution of traffickers. Additionally, the international community will stop using the argument that human trafficking is a direct issue related to migration, public order, or organized crime, however, they should consider this crime as a serious human rights violation, in which victims of trafficking's basic rights are violated under the jurisdiction of the state. Based on the above, it can be considered that the ultimate approach that should be used by states is to consider human trafficking a crime and a human rights violation at the same time. As such, criminal and civil laws can be used on the national level to prosecute traffickers, while on the international level, human trafficking is considered a human rights violation, in which all the fundamental rights of the victims of trafficking are violated, for such, it falls within the jurisdiction of every state.

Affirming the thesis's point of view, it is really important to mention that the United Nations General Assembly and the Human Rights Council explained on several occasions the following: "Trafficking violates and impairs fundamental human rights, as have many of the international human rights mechanisms."<sup>55</sup> It also can be noted that trafficking was always a matter of international human rights law before it was ever considered to be a matter of migration or transnational organized crime. Additionally, considering that human trafficking is a human rights violation for which states are held accountable, will be the only effective way to make sure that

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<sup>55</sup> United Nations Human office of the high commissioner Rights. "Human Rights and Human Trafficking Fact Sheet No.36." *Wwww.ohchr.org*, June 2014, [www.ohchr.org/sites/default/files/Documents/Publications/FS36\\_en.pdf](http://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf).

trafficking can be prevented, victims will be protected, and their fundamental needs can be taken into consideration on an international level.

#### **1.1.4. Counter-trafficking in International Criminal Law:**

Instead of having a global legal instrument that would discuss and explain all features of human trafficking, the international criminal law has adopted several treaties and conventions which contributed to the formation of the international counter-trafficking law system.<sup>56</sup> In 2000, a new treaty was adopted, and the main aim of this treaty is to be served as the principal legally binding global instrument to combat trafficking it started to be known as the Trafficking Protocol.<sup>57</sup> It is worth noting that human trafficking was narrowed until the beginning of the 20<sup>th</sup> century to be only linked to prostitution. However, the Trafficking Protocol offered a shift in placing trafficking in a transnational crime context.

### **1.2. The Organized Crime Convention and the Trafficking Protocol:**

#### **1.2.1. The Drafting process of the Trafficking Protocol:**

The Palermo Protocol is the most recent international treaty on human trafficking. Before the adoption of this protocol, it was hard to find a clear and universally accepted definition of human trafficking. The main reason behind the lack of a clear definition is that human trafficking is more of a process. As such, human trafficking cannot be assigned to a single specific act. The definition of the term human trafficking presented in the Palermo Protocol is considered the basis for most of the national legislation adopted by state parties to the convention. Before the adoption of this protocol, human trafficking was considered one of the main struggles that several states were

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<sup>56</sup> Théry, Grégoire. *Prostitution under International Human Rights Law: An Analysis of States' Obligations and the Best Ways to Implement Them*. Feb. 2016.

<sup>57</sup> Anne T. Gallagher. *The International Law of Human Trafficking*. 2010.



facing for decades, and there was no accepted international definition. As a result, there were contradictory responses to this phenomenon by these states which render most of the states' efforts ineffective, and any kind of cross-border cooperation was ineffective. Accordingly, the definition presented in the Palermo Protocol facilitated international cooperation about human trafficking and made it easier.

### **1.2.2. Different legislative approaches to the Trafficking Protocol:**

According to Gallagher, before 2000 the different forms of trafficking such as forced labor, child labor, debt bondage, forced marriage, and commercial sexual exploitation of children and adults expanded all over the world.<sup>58</sup> During that time, most of the international anti-trafficking tools were not exhaustive to combat and fight against human trafficking. Despite the states' efforts to legislate their anti-trafficking laws, the trafficking issue continued to be considered one of the main political and practical issues.<sup>59</sup>

Sexual exploitation of women, as one of the controversial topics around the globe, was discussed in different international conferences such as the 1993 Vienna International Conference on Human Rights<sup>60</sup> and the 1995 Beijing International Conference on Women.<sup>61</sup> The Vienna Process can be considered the first official step by the international community to adopt a law to fight against transnational organized crime. It should be noted that Vienna Process involved more than 120 states, NGOs, and intergovernmental agencies. Nonetheless, this process did not last long,

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<sup>58</sup> Hathaway, James. *The Human Rights Quagmire of "Human Trafficking."* 2008.

<sup>59</sup> Gallagher, Anne, and Paul Holmes. "Developing an Effective Criminal Justice Response to Human Trafficking." *International Criminal Justice Review*, vol. 18, no. 3, Sept. 2008, pp. 318–343, 10.1177/1057567708320746.

<sup>60</sup> United Nations Human Rights office of the high commissioner. "Vienna Declaration and Programme of Action." *Www.ohchr.org*, 25 June 1993, [www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action](http://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action). Accessed 8 Apr. 2022.

<sup>61</sup> UN Women. "World Conferences on Women." *UN Women*, 2019, [www.unwomen.org/en/how-we-work/intergovernmental-support/world-conferences-on-women](http://www.unwomen.org/en/how-we-work/intergovernmental-support/world-conferences-on-women).

it continued for only two years.<sup>62</sup> In between these two conferences, there were some proposals on the adoption of an international treaty of transnational organized crime. The very first time this proposal took place was at the World Ministerial Conference on Organized Transnational Crime in Naples, Italy, in November 1994.<sup>63</sup> According to Gallagher, the origins of the Trafficking Protocol go back to when Argentina became interested in the trafficking issue, more specifically, trafficking related to minors.<sup>64</sup> Argentina proposed at that time a convention to fight against trafficking in minors which were discussed firstly at the 1997 session of the UN Commission on Crime Prevention and Criminal Justice.<sup>65</sup> Later on by the end of 1997, the UN General Assembly founded an intergovernmental group of experts to draft a preamble, and they created an intergovernmental Ad Hoc Committee for that assembly. After taking these initial steps, the UN in December 1998 proposed the foundation of a new international instrument that would address the issues of human trafficking.<sup>66</sup>

In the year of 2000, around 80 countries met in Palermo, Italy to adopt a new international legal framework to fight transnational organized crime. According to Kristina Touzenis:

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<sup>62</sup> Venla Roth. *Defining Human Trafficking and Identifying Its Victims a Study on the Impact and Future Challenges of International, European and Finnish Legal Responses to Prostitution-Related Trafficking in Human Beings*. Boston :Martinus Nijhoff Publishers, 2012.

<sup>63</sup> Gallagher, Anne T., and Fiona David. *The International Law of Migrant Smuggling*. Cambridge University Press, 2014.

<sup>64</sup> Gallagher, Anne. "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis." *Www.citeseerx.ist.psu.edu*, 27 May 2009, citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf.

<sup>65</sup> Gallagher, Anne. "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis." *Www.citeseerx.ist.psu.edu*, 27 May 2009, citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf.

<sup>66</sup> Warren, Kay. "The 2000 UN Human Trafficking Protocol: Rights, Enforcement, Vulnerabilities." *Cambridge University Press*, Cambridge University Press, 2007, [www.cambridge.org/core/books/abs/practice-of-human-rights/2000-un-human-trafficking-protocol-rights-enforcement-vulnerabilities/E45D3F8266F107E65DB4F880D484883A](http://www.cambridge.org/core/books/abs/practice-of-human-rights/2000-un-human-trafficking-protocol-rights-enforcement-vulnerabilities/E45D3F8266F107E65DB4F880D484883A). Accessed 8 Apr. 2022.

“The Convention and its Protocols were negotiated at a series of eleven meetings of a special intergovernmental Ad-hoc Committee under the auspices of the UN Crime Commission, which were held in Vienna from January 1999 until October 2000 and more than 100 countries took part.”<sup>67</sup>

After two years of extensive meetings, the result of the Trafficking Protocol was attained.<sup>68</sup> This took place when UN declared that the Convention and its Protocol are ready to be signed by the states in Palermo, the heartland of the Sicilian Mafia. Since that time, these protocols including the Trafficking Protocol were known as the Palermo Protocol.<sup>69</sup> In December 2003, the Trafficking Protocol came into force as a part of the UN Convention against Transnational Organized Crime. States had to become party to the Organized Crime Convention to be part of the Protocol, for that reason the Protocol and the Convention are meant to be interpreted together. It should be noted that these Protocols were never adopted to become stand-alone treaties.<sup>70</sup>

### **1.3. The substance of Palermo Protocol:**

The Palermo Protocol tried to ban human trafficking in its articles as follows: Articles 5-8, in which the Protocol linked a set of issues, reforms, and remedies for receiving states. In other words, the Protocol forces every state party to the protocol to apply national legal reforms to criminalize trafficking and to make sure that all the victims are receiving adequate protection. It can be noted that though there were several gaps in different Articles mentioned in the Protocol,

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<sup>67</sup> Touzenis, Kristina. “TRAFFICKING in HUMAN BEINGS Human Rights and Trans-National Criminal Law, Developments in Law and Practices.” Unesco.org, 2010, [unesdoc.unesco.org/ark:/48223/pf0000188397](https://unesdoc.unesco.org/ark:/48223/pf0000188397).

<sup>68</sup> Warren (n 85) 264.

<sup>69</sup> Allain, Jean. *The Law and Slavery Prohibiting Human Exploitation*. Leiden ; Boston, Brill, 2015.  
Allain, Jean, and Inc Ebrary. *Slavery in International Law : Of Human Exploitation and Trafficking*. Boston, Mass., Martinus Nijhoff Publishers, 2013.

<sup>70</sup> Anne T. Gallagher. *The International Law of Human Trafficking*. 2010.

the Protocol tried to tighten the net around traffickers by forcing the state parties to adopt new national laws to prevent human trafficking.

In addition, there is another gap that can be depicted within Articles 9-11, which is the involvement of state officials in law enforcement and immigration. It can be understood from the bigger picture that the main goal of these articles is to differentiate between victims of trafficking and traffickers on different international routes that are commonly used by organized crime groups. As such, these articles were drafted to identify how border procedures, their security, and the control of documents should be adopted by state parties to the protocol. When analyzing the language used in drafting the protocol, it can be noted that this language shows some items as mandatory and some other items as weak or optional.<sup>71</sup> The main reason behind this issue is the terminology used by the drafters, as they are using some hypothetical and noncommittal language such as “shall Endeavour to,” “shall consider in appropriate cases” and “to the extent possible.”<sup>72</sup> This ambiguous language can be seen in the provisions related to how victims of trafficking should be assisted and protected.

As explained earlier that trafficking is more of a process. Accordingly, we cannot deal with this crime as any other crime in which the threats would come to an end by the end of the crime itself. For example, when a victim escaped or was rescued from a criminal situation. However, in human trafficking crime, the situation is different as there would be some continuous threats that victims might be subjected to. For that reason, the term protection used by the drafters and the situations that victims would be subjected to at the hands of the traffickers need to be defined

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<sup>71</sup> Hyland, Kelly. “The Impact of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.” *Human Rights Brief*, vol. 8, no. 2, 2001, digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1492&context=hrbrief.

<sup>72</sup> Ibid.

clearly in the Protocol, because traffickers can ploy victims in numerous ways – such as violence, deception, imprisonment, collusion, debt bondage, isolation, religion, culture, and belief.<sup>73</sup> Additionally, the Protocol has different protective necessities such as “victim assistance and support”; however, there is no clear identification of how this support should be implemented by the state parties to the convention. Nonetheless, the Protocol states the following:

“State party to the protocol will not be breaching either the letter or the spirit of the Convention if it decides, after proper consideration, to provide material, medical, or other assistance whatsoever to any victim of trafficking within its territory.”<sup>74</sup>

It can be understood from the previous statement that the Protocol goes directly against the concept of “Victim assistance and support” due to the lack of a clear identification of how each state party to the convention will implement this kind of support and assistance and it will be considered according to their own evaluation. Another important point that albeit the development of this Protocol, however, its focus goes repeatedly to women and children. In addition, it focuses on the influence of trafficking for sexual exploitation purposes mainly, hence, the protocol can be considered of having a gendered perspective on the trafficking crime.

As explained above, trafficking is a multilayered phenomenon as it involved different perpetrators across different borders, as such, those perpetrators will in their turn constitute networks. It should be noted that the drafter of the Protocol by identifying the transnational aspects of this crime, did not intend to explain that states cannot take any action against traffickers unless

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<sup>73</sup> United Nations Office on Drugs and Crime. *4 Anti-Human Trafficking Manual for Criminal Justice Practitioners Module 4*. 2009.

<sup>74</sup> Gallagher, Anne, and Paul Holmes. “Developing an Effective Criminal Justice Response to Human Trafficking.” *International Criminal Justice Review*, vol. 18, no. 3, Sept. 2008, pp. 318–343, 10.1177/1057567708320746.

it contains an international element. However, the inclusion of the transnational facet of this protocol aimed to explain that trafficking is not meant to have a border-crossing aspect in every case. According to the Organized Crime Convention, every state party to the convention should indicate the legal offenses of trafficking in their domestic laws, whether it has a transnational aspect, or it has an organized criminal group involved. For that reason, different court cases included domestic traffickers that were prosecuted. For instance, in Mexico, a person met a 16-year-old girl, who started a romantic relationship with her. After they moved together -as a couple- to a different city within the same country, he forced her into prostitution and took away all the profits.<sup>75</sup> Another court case can be brought to our attention, in Brazil, a European person was found guilty by the court when he employed a woman into prostitution after he deceived her that they are in a romantic relationship in order to convince her to move to Europe. However, his main aim is to take her to Europe for sexual exploitation.<sup>76</sup>

According to a report published by Transparency International, “most of the perpetrators of organized crime consider human trafficking a high-profit and low-risk gamble that provides them a huge amount of money with a very limited risk of being arrested and prosecuted.”<sup>77</sup> Various criminal networks managed throughout time to recruit easily individuals coming from some specific countries and transfer them across some specifically regulated borders. One of the famous examples of such traffickers is the famous Albanian Luan Plakici who was the head of a group of traffickers, and he was using a forged British passport to enable illegal entry into the UK. At that

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<sup>75</sup> ---. “Trafficking in Persons Report (Review).” *Human Rights Quarterly*, vol. 23, no. 4, 2001, pp. 1135–1141, 10.1353/hrq.2001.0050. Accessed 27 Mar. 2019.

<sup>76</sup> Ibid.

<sup>77</sup> Transparency International. “Working Paper No.03/2011: Corruption and Human Trafficking.” *Issuu*, 2011, [issuu.com/transparencyinternational/docs/ti-working\\_paper\\_human\\_trafficking\\_28\\_jun\\_2011?mode=window&backgroundColor=%23222222](https://issuu.com/transparencyinternational/docs/ti-working_paper_human_trafficking_28_jun_2011?mode=window&backgroundColor=%23222222). Accessed 8 Apr. 2022.

time, he facilitated the entry of around 50 up to 60 young Romanian women. His strategy is to approach these Romanian ladies offering them a job in the UK, however, when they managed to enter the UK, they were forced into prostitution.<sup>78</sup> In this case and any similar cases, it is highly likely to find other related-crimes to trafficking such as document fraud, money laundering, cyber-crime, and corruption.<sup>79</sup> In most of the cases where a criminal organization is involved in trafficking, there is a corruption factor that would help them do their jobs like immigration control offices, border protection, and security systems.

Despite the gaps that were mentioned above, yet the Protocol managed to establish a clear unified definition for trafficking to better understand and highlight its transnational facet. For that reason, this protocol is considered a unique legal instrument in comparison to different other international treaties. In addition, the Protocol has created a technique to deal with transnational organized crime, namely the “Three P’s” approach, Prevention, Protection, and Prosecution. This technique was mentioned in Article 2 of the Protocol as follows:

“The purposes of this Protocol are: (a) To prevent and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives.”

It can be understood from the aforementioned article that the main aim of the Protocol is to prevent the crime mainly by promoting the idea of border management between different countries. As

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<sup>78</sup> BBC News. “Prison for Sex Slave Gang Leader.” *News.bbc.co.uk*, 22 Dec. 2003, [news.bbc.co.uk/2/hi/uk\\_news/3340921.stm](https://www.bbc.com/news/uk-3340921). Accessed 8 Apr. 2022.

<sup>79</sup> Shelley, Louise. “Shelley, Louise. “Human Trafficking as a Form of Transnational Crime”, in Human Trafficking, Ed. Maggy Lee (Portland: Willan, 2007). 116-137.” *Traccc.gmu.edu*, 2007, [traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/](https://traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/). Accessed 8 Apr. 2022.

such, the Protocol lost its human rights focus. Jean Allain explained that the main focus of this protocol is on the perpetrators of human trafficking more than the victims of trafficking.<sup>80</sup>

While it can be seen that the protocol's only concern is to take preventive measures to put an end to any crimes that have transnational nature, however, there is an advantage to this approach, as the protocol forces state parties to prosecute traffickers directly. Still all the officials who were involved in the process should be punished too. As explained earlier, in some trafficking cases, it can be assessed that some police officials and border control officers were involved in human trafficking related activities. For that reason, the law enforcement agencies should be well funded and regulated to respond properly to the whole process.

#### **1.4. Analysis of the Palermo Protocol:**

Egypt has based its national legal framework mainly on the international framework, more specifically, the Palermo Protocol. Accordingly, any gaps that are identified in the Palermo Protocol will be directly replicated in the Egyptian national law. The issues that are related to the Palermo Protocol will be examined thoroughly to allow Egypt to amend its anti-trafficking national law. It was proven throughout time that amending an international convention will take a long time or may never take place, for that reason, it is much easier to amend the national laws banning human trafficking than to amend the Palermo Protocol.

##### **1.4.1. Gaps in Palermo Protocol and its breakdown to address the root causes of human trafficking:**

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<sup>80</sup> Jean Allain. "No Effective Trafficking Definition Exists: Domestic Implementation of the Palermo Protocol." *Www.unodc.org*, 2014, [www.unodc.org/e4j/data/\\_university\\_uni\\_/no\\_effective\\_trafficking\\_definition\\_exists\\_domestic\\_implementation\\_of\\_the\\_palermo\\_protocol.html?lng=en](http://www.unodc.org/e4j/data/_university_uni_/no_effective_trafficking_definition_exists_domestic_implementation_of_the_palermo_protocol.html?lng=en). Accessed 8 Apr. 2022.



Palermo Protocol was shaped based on different treaties addressing the white slavery issue in Europe. For that reason, Palermo Protocol was adopted to reflect the superiority of Europe and the West, in general, over the other parts of the world. It is worth noting that a huge number of NGOs played a significant role in negotiating the process of the Palermo Protocol along with an organized UN Interagency Group which was mainly composed of the United Nations Human Rights Commission, United Nations High Commissioner for Refugees, United Nations Children's Fund, and the International Organization for Migration.<sup>81</sup> However, the outcome of these negotiations did not meet the anticipated expectations due to the language used by the drafters. According to Gallagher, the Palermo Protocol includes only non-obligatory language to its state parties while a binding instrument such as the Palermo Protocol should be binding obligatory to its state parties.<sup>82</sup> In addition to the non-obligatory language used, there are different gaps, that will be examined as they render the Protocol incapable of providing a clear legal framework to put an end to this crime. Gallagher in her analysis of the Palermo Protocol *travaux-preparatoire* explained that some different issues and gaps were skipped or were not given any attention by the committee, thus, this will raise several questions about the effectiveness of this Protocol.<sup>83</sup>

As a starting point, Palermo Protocol failed to identify the root causes of the crime<sup>84</sup> as it was drafted with a general problem in the language as explained earlier. It can be understood that the Protocol did not examine the other factors that force the people to fall prey to traffickers and thus

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<sup>81</sup> Gallagher, Anne. "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis." [www.citeseerx.ist.psu.edu](http://www.citeseerx.ist.psu.edu), 2001, [citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf](http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf).

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Daoud, Emad. *Trafficking of Eritreans in Egypt: Facts and Misconceptions Trafficking of Eritreans in Egypt: Facts and Misconceptions*. 6 Jan. 2015.

become victims of trafficking. For example, in the first paragraph of its preamble, the Palermo Protocol states the following:

“To prevent and combat trafficking in persons, especially women and children requires a comprehensive international approach in the countries of origin, transit and destination that includes measures to prevent such trafficking.”<sup>85</sup>

However, the Protocol did not include these measures. In addition, Article 9 of the Palermo Protocol, related to the prevention of the crime, explains in paragraph 4 the following:

“States Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.”<sup>86</sup>

From this article, it can be understood that the Protocol lists few factors that force people to become victims of trafficking while many other factors were not mentioned in the Protocol. For example, one of the main reasons that was not mentioned in the Protocol and that are leading people to become victims of trafficking is the issue of irregular labor migration. In other words, it became difficult for laborers nowadays to reach their destination countries as these countries don't allow a legal migration process.<sup>87</sup> Another great example that was not mentioned in the Protocol is regional conflicts which produce a huge population of refugees who were in the first place

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<sup>85</sup> ---. *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.

<sup>86</sup> Ibid.

<sup>87</sup> Shelley, Louise. “Shelley, Louise. “Human Trafficking as a Form of Transnational Crime”, in Human Trafficking, Ed. Maggy Lee (Portland: Willan, 2007). 116-137.” *Traccc.gmu.edu*, 2007, [traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/](http://traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/). Accessed 8 Apr. 2022.

neglected by the international community.<sup>88</sup> That group of people should be allowed to move from their country of origin to different countries through safer channels. However, it was never the case, as the migration policies became more and more strict and borders were tightened, which resulted in the increased demand for smuggling. On their journey fleeing their countries, traffickers take advantage of their desire and their vulnerabilities to reach a safer place. Additionally, the Protocol did not give any attention to the huge number of people who are trafficked to Western Europe, as these specific countries are in dreadful need of workers due to the low birth rates in these countries.<sup>89</sup>

From the previous examples, it can be understood, that as much as the demand for domestic cheap labor in destination countries increased, the more human trafficking would increase. Additionally, as Gallagher explained in her analysis of the *travaux préparatoires* of the Protocol, the negotiations never addressed in any of its provisions the crime of organ harvesting, yet the protocol survived for more than 20 years. She added that were different objections mentioned by some of the negotiators, who mainly argued against its inclusion because it was not the main focus of the adoption of this Protocol.<sup>90</sup>

#### **1.4.2. Gaps related to the victims' assistance:**

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<sup>88</sup> Ibid

<sup>89</sup> Shelley, Louise. "Shelley, Louise. "Human Trafficking as a Form of Transnational Crime", in Human Trafficking, Ed. Maggy Lee (Portland: Willan, 2007). 116-137." *Traccc.gmu.edu*, 2007, [traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/](http://traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/). Accessed 8 Apr. 2022.

<sup>90</sup> Gallagher, Anne. "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis." *Www.citeseerx.ist.psu.edu*, 2001, [citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf](http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf).

Palermo Protocol has different gaps related to the needs of victims of trafficking. Initially, the main three articles that are related to the victims' assistance are Articles 6, 7, and 8. Article 6, more specifically its first paragraph, states the following:

“In appropriate cases and to the extent possible under its domestic law, each State Party shall protect the privacy and identity of victims of trafficking in persons, including, inter alia, by making legal proceedings relating to such trafficking confidential.”<sup>91</sup>

From the language used in this article, more specifically, the use of the term “appropriate,” we can understand that the Protocol is giving the states the right to divide victims into two different groups “appropriate” and “inappropriate.” Accordingly, this differentiation will give the states an open-door policy to decide who deserves protection on its territory and who does not. As a result, the states will easily be able to evade their responsibilities toward the victims. It can be understood that the protocol did not adopt a humanitarian approach to protect the victims, however, the protocol's main aim is to safeguard state resources and to deny its obligations toward different victims. Another gap is found, in which the article did not state clearly what the term “to the extent possible” means. The article did not state the minimum standard that should be followed to determine the assistance provided to the applicant, which will allow each state to determine this assistance in their national laws. It can be evaluated by practice and by seeing real examples, that states are good at exploiting these gaps. For example, in Egypt, the government always categorized victims of trafficking as illegal migrants. As such, victims will not be assisted by the Egyptian government based on its national trafficking law. According to a report published by the Human

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<sup>91</sup> ---. *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.

Rights Watch in which Ambassador Naela Gabr, the head of the NCCPIM & TIP, explained publicly that until international organizations working on human trafficking-related issues in Egypt provide her committee with the names of the Eritrean victims of trafficking, who were involved in a trafficking incident at that specific time, the committee will consider all these reports against the different types of abuses which were taking place in Sinai, only propaganda and it is an illegal migration issue.<sup>92</sup>

Another gap identified in this article is mentioned in paragraph 3 of Article 6, which states the following:

“Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons...”<sup>93</sup>

In fact, by using the term “shall consider”, the state parties to the Protocol can choose to avoid their responsibility towards the victims. More specifically, the Protocol is giving each state the freedom to decide in their national legislation which action is a priority to be provided to the victims and which actions are not. As the human trafficking crime has a transnational element, it can be seen that in most cases, victims are identified and recognized in the receiving countries, not in the transit countries, or the origin countries. As such, it can be understood from the way the negotiators drafted the Protocol, that the Protocol is drafted in a way to reflect the destination states’ intentions to diminish in every way possible their responsibilities towards the victims.<sup>94</sup>

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<sup>92</sup> HRW. ““I Wanted to Lie down and Die” | Trafficking and Torture of Eritreans in Sudan and Egypt.” *Human Rights Watch*, 11 Feb. 2012, [www.hrw.org/report/2014/02/11/i-wanted-lie-down-and-die/trafficking-and-torture-eritreans-sudan-and-egypt](http://www.hrw.org/report/2014/02/11/i-wanted-lie-down-and-die/trafficking-and-torture-eritreans-sudan-and-egypt).

<sup>93</sup> ---. *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.

<sup>94</sup> ---. “MODEL LEGISLATIVE PROVISIONS against TRAFFICKING in PERSONS.” *Www.unodc.org*, 2020, [www.unodc.org/documents/human-trafficking/2020/TiP\\_ModelLegislativeProvisions\\_Final.pdf](http://www.unodc.org/documents/human-trafficking/2020/TiP_ModelLegislativeProvisions_Final.pdf). Accessed 23 Apr. 2022.

Article 7 of the Palermo Protocol, which is mainly focusing on the legal status of victims in receiving countries, also has several gaps. Article 7 is stating the following:

“In addition to taking measures under article 6 of this Protocol, each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases.”<sup>95</sup>

Using these very vague terms such as “consider”, “temporarily or permanently”, and “in appropriate case”, gives states the space to interpret their obligations according to their willingness to react to this crime. Accordingly, we have seen many examples in which states were able to deport victims who arrived at their territories without taking into consideration any of the traumas or past experiences that they were subjected to.<sup>96</sup>

In the following Article 8 of the Protocol, there were also several gaps to be taken into consideration, more specifically, the effectiveness of the Protocol. Article 8 is covering the repatriation of victims of trafficking in persons. Paragraph one of the same Article states the following:

“The State Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory

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<sup>95</sup> Ibid

<sup>96</sup> Gallagher, Anne. “Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis.” [www.citeseerx.ist.psu.edu](http://www.citeseerx.ist.psu.edu), 2001, [citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf](http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf).

of the receiving State Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.”<sup>97</sup>

When the legislators used the term “without undue or unreasonable delay”, it means that the article was drafted in a way to explain that victims are not allowed to reside in the receiving countries for a long period. In addition, by giving states the option to allow the return of victims to their country of origin, the Protocol is not acknowledging the fact that most of these victims can fall again under the same deception of traffickers that they faced when they fled their countries for the first time. In the following paragraph of the same article, the following is stated:

“When a State Party returns a victim of trafficking in persons to a State Party of which that person is a national or in which he or she had, at the time of entry into the territory of the receiving State Party, the right of permanent residence, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary.”<sup>98</sup>

By using the term “shall preferably be voluntary”, the state parties to the Protocol, especially, the receiving countries, are allowed to force the victims to return to their country of origin. This can happen if the receiving countries adopt any legal provisions in their national laws that allow them to force the migrants and the refugees outside of their territories in some specific cases. Accordingly, it can be understood that the Protocol is not putting the best interest of victims as a priority, however, the main aim of this Protocol is to find the best interest of the receiving states,

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<sup>97</sup> ---. *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.

<sup>98</sup> Ibid

which are in most cases Western European countries. For these reasons, it can be concluded that the Protocol by dealing in such a way with repatriating victims, is conflicting with its obligation to protect asylum seekers and refugees. Additionally, the Protocol is conflicting with the principle of non-refoulment, in which the states are under the obligation not to push away that group of people outside their territories if they entered the country illegally without any documents.<sup>99</sup> This internal inconsistency between different international legal frameworks will lead to the loss of the victims' rights.

#### **1.4.3. International cooperation:**

The Palermo Protocol did not impose on state parties to the Protocol any actual provisions to facilitate effective international cooperation. While the international cooperation was mentioned in different Articles such as Article 20, Article 9, and Article 10. Article 20 for example, states the following:

“For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.”<sup>100</sup>

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<sup>99</sup> Guihad Dauod, Emad. *Trafficking of Eritrean in Egypt: Facts and Misconception*. 6 Jan. 2015.

<sup>100</sup> ---. *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.



We can understand from this article that one of the main goals of the Palermo Protocol is to promote international cooperation. Nevertheless, Article 9 which tackles the Prevention of trafficking in persons, and Article 10 which tackles the information exchange and training, did not have the clear language to impose different states to collaborate to reach this goal. Using the term “shall take or strengthen”, gave the states the impression that they are allowed to determine what measures they might carry out regarding this matter. As a result, states were leaning towards the wide interpretation of these terms which rid them of their main aim. Article 10, states the following:

“1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine...”<sup>101</sup>

The usage of the two terms “as appropriate” and “by their domestic law”, is giving the states the impression that they had the choice to decide which parts exactly they want to invest in when fighting human trafficking. As long as the Protocol is allowing the states to have their freedom to interpret terms in their ways to the extent that will render the states to manipulate the main purpose of the Protocol, thus the Protocol will never be effective.

#### **1.4.4. Border management:**

Border management is considered one of the main instruments highlighted by the Protocol to identify victims and criminal networks by preventing trafficking from reaching its territories. The main provisions in the Protocol that are tackling this issue are Articles 10, 11, 12, and 13, as they

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<sup>101</sup> ---. *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.

are addressing the information exchange and training, border measures, security and control of documents, and legitimacy and validity of documents. However, these Articles focused primarily on crime prevention at the border side. This aspect can be considered a difficult one because most of the recent migration laws are focusing on controlling their borders and eliminating the number of migrants and refugees entering their territories. As such, most of the migrants and refugees are seeking smugglers' help to reach their destinations illegally. These smugglers will always have the ability to arrange their journeys to cross these borders by using their enormous resources. On their journey, smugglers can become traffickers who will not reveal their real intentions to coerce the migrants and the refugees until they arrive at their destinations. The migrants and refugees will become more vulnerable in that situation as they don't have the support system they had in their countries of origin. They might also think that this method is the norm in the receiving countries.

Article 11 is the main article tackling the border measures that should be taken by states to limit trafficking in persons. Article 11 is stating the following:

“Without prejudice to international commitments in relation to the free movement of people, States Parties shall strengthen, to the extent possible, such border controls as may be necessary to prevent and detect trafficking in persons. 2. Each State Party shall adopt legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences established in accordance with article 5 of this Protocol. 3. Where appropriate, and without prejudice to applicable international conventions, such measures shall include establishing the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel

documents required for entry into the receiving State. 4. Each State Party shall take the necessary measures, in accordance with its domestic law, to provide for sanctions in cases of violation of the obligation set forth in paragraph 3 of this article. 5. Each State Party shall consider taking measures that permit, in accordance with its domestic law, the denial of entry or revocation of visas of persons implicated in the commission of offences established in accordance with this Protocol. 6. Without prejudice to article 27 of the Convention, States Parties shall consider strengthening cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.”<sup>102</sup>

From these different rules presented in Article 11, it can be understood that this article is not serving or helping the victims. As explained earlier, the more the borders are controlled, the more the people resort to using illegal ways to cross these borders. For that reason, people lean towards seeking help from smugglers and traffickers to cross these tightened borders. This would give a high chance to the traffickers to attract and traffic more victims through different countries. Additionally, these new migration policies to control the borders of receiving countries are contrary to the rights of asylum seekers and refugees to seek asylum in different countries due to the persecution that they were subjected to in their country of origin.<sup>103</sup> As such, the only option that these migrants and refugees have is to obey the traffickers’ orders as it is their only hope to reach the destinations they are aiming for. Once they will arrive at their destination countries, they will benefit from fewer rights as they are residing illegally, and they don’t have any legal rights due to their illegal residences. At this point, most of the victims do not approach authorities to

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<sup>102</sup> ---, *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.

<sup>103</sup> Hathaway, James. *The Human Rights Quagmire of “Human Trafficking.”* 2008.

inform them about their traffickers out of fear of deportation, which will result in a more exploitative situation. Another important point, that should be highlighted, is that most of the law enforcement bodies in receiving countries are treating the victims upon their identification, to be illegal residents with fewer rights and they will be delivered to prosecution entities to punish them for entering the country illegally.<sup>104</sup>

It can be understood that most of the receiving states are adopting this approach by falsely identifying the victims of trafficking as smuggled economic migrants. As a result, these victims will be granted lesser rights and the states will avoid their international obligations toward these victims.<sup>105</sup> Accordingly, this creates a gap that exposes the real intentions behind the Protocol. It is worth noting that the UN Interagency Group mentioned this issue during the negotiation phase of drafting the Protocol.<sup>106</sup> During this negotiation phase, the group explained that the trafficking protocol and the smuggling protocol lacked any well-defined mechanism that would put a clear differentiation between the victims of trafficking and the smuggled migrants and refugees, which will create confusion for the state parties to the Protocol in adopting their national laws based on their compliance with the Protocol.<sup>107</sup> Despite that, the two Protocols identify what trafficking is and what smuggling is but it is really hard to distinguish between both of them as in most cases, the two actions are interrelated. The issue of identification does not end at this point; however, different factors would affect the victims such as language barriers, lack of knowledge of their

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<sup>104</sup> Ibid.

<sup>105</sup> Gallagher, Anne. "Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis." [www.citeseerx.ist.psu.edu](http://www.citeseerx.ist.psu.edu), 2001, [citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf](http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.1038.4636&rep=rep1&type=pdf).

<sup>106</sup> Sigmon, Jane Nady. "Combating Modern-Day Slavery: Issues in Identifying and Assisting Victims of Human Trafficking Worldwide." *www.tandfonline.com*, 19 May 2008, [www.tandfonline-com.libproxy.aucegypt.edu/doi/full/10.1080/15564880801938508?scroll=top&needAccess=true](http://www.tandfonline-com.libproxy.aucegypt.edu/doi/full/10.1080/15564880801938508?scroll=top&needAccess=true). Accessed 18 Apr. 2022.

<sup>107</sup> Ibid.

rights, loss of trust in the authorities, and their fear about their lives and their family's lives back home. All of these external factors are making their identification much harder.<sup>108</sup>

Despite the severity of this crime, however, human trafficking can be considered one of the only crimes that international and national courts dealt with in a very lenient way.<sup>109</sup> Most of the national legislation and law enforcement bodies failed to deal properly with the crime.<sup>110</sup> Accordingly, it can be understood that there is an absence of the political will of state parties to the convention, insufficient resources, and limited protection for the victims.<sup>111</sup> Additionally, there is an approach applied to victims of trafficking by different countries to blame them as they consider them as the ones who chose to put themselves in this situation.<sup>112</sup> It can be understood that there is no understanding from the international community of the main reasons that lead to this crime, thus, the current legal framework will remain ineffective in fighting human trafficking.

## **1.5. Conclusion:**

This chapter of the thesis provided an in-depth analysis of most of the international legal guidelines affecting human trafficking. From a historical perspective, human trafficking was always related to white slavery, more specifically in the first part of the 20th century. The common forms of exploitation that men were facing are related to forced labor. The process can take place when different recruitment agencies which are operating usually in either sending or receiving

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<sup>108</sup> Ibid.

<sup>109</sup> Shelley, Louise. "Shelley, Louise. "Human Trafficking as a Form of Transnational Crime", in Human Trafficking, Ed. Maggy Lee (Portland: Willan, 2007). 116-137." *Traccc.gmu.edu*, 2007, [traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/](http://traccc.gmu.edu/shelley-louise-human-trafficking-as-a-form-of-transnational-crime-in-human-trafficking-ed-maggy-lee-portland-willan-2007-116-137/). Accessed 8 Apr. 2022.

<sup>110</sup> UNODC. "Global Report on Trafficking in Persons." *United Nations : Office on Drugs and Crime*, 2012, [www.unodc.org/unodc/en/data-and-analysis/glotip\\_2012.html](http://www.unodc.org/unodc/en/data-and-analysis/glotip_2012.html).

<sup>111</sup> UNODC. "Global Report on Trafficking in Persons." *United Nations : Office on Drugs and Crime*, 2012, [www.unodc.org/unodc/en/data-and-analysis/glotip\\_2012.html](http://www.unodc.org/unodc/en/data-and-analysis/glotip_2012.html).

<sup>112</sup> Ibid.

countries, are deceiving the victims by providing them with false promises about the circumstances of their new jobs. Additionally, the definition of trafficking was intricate especially after it has been pointed out as “white slave traffic” in the 1904 Agreement which was amended to the 1910 Trafficking Convention. Accordingly, there was confusion between the slave trade and the process of trafficking. One of the main reasons that force the international community to act on human trafficking is that the number of trafficking incidents increased dramatically which led to the increase in legal responses to this issue. The increase in these legal responses was the main reason that a huge number of legal instruments were created to fight human trafficking on a national and international level. As a result, these legal instruments created the anti-trafficking legal regime which continued to govern human trafficking until the present day.

To better understand the modern legal system, which is used currently to regulate human trafficking, this chapter focused on the analysis of the development of trafficking under international law. The main reason for doing so is to better evaluate how these developments affected the new national legislation that was created to control this issue of trafficking. It was also seen throughout this chapter that before the adoption and the creation of the Trafficking Protocol, no treaties were focused on human trafficking. Moreover, this chapter focused on explaining how the Protocol was developed and organized by the different efforts that were made to establish a solid legal framework that can be applied worldwide.

## **Chapter two**

### **The National Egyptian Anti-Trafficking Law**

As explained in the previous chapter that human trafficking is a universal phenomenon that is currently affecting every country in the universe. A report published in 2009 by the United Nations Special Rapporteur on Trafficking in Persons, especially Women, and Children explained the following: “in varying degrees and circumstances, men, women, and children all over the world are victims of what has become a modern-day slave trade”.<sup>113</sup> In the same report, the Special Rapporteur described human trafficking as follows: “one of the fastest-growing criminal activities in the world.”<sup>114</sup> Accordingly, this new growing business produces an enormous profit for all the criminal groups involved in that business, though, it leads to crucial breaches in human rights.

#### **2.1.The adoption of the national Egyptian Anti-Trafficking Law:**

##### **2.1.1. The history behind the adoption of the National Egyptian Anti-Trafficking Law:**

Egypt signed and ratified the Convention and the Palermo Protocol in 2004, however, the first national committee to fight against human trafficking was created in 2007. In addition, the first anti-trafficking law was approved in 2010, which means that it was passed 6 years after Egypt has ratified the convention. This law was known as anti-trafficking law 64/2010. This chapter will be divided into two sections, the first one will identify the internal and the external dimensions that

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<sup>113</sup> Ezeilo, Joy, and Especially in Women and Children UN. Human Rights Council. Special Rapporteur on Trafficking in Persons. “Report Submitted by the Special Rapporteur on Trafficking in Persons, Especially Women and Children, Joy Ngozi Ezeilo ”: *Digitallibrary.un.org*, 12 May 2010, [digitallibrary.un.org/record/684577?ln=en#record-files-collapse-header](https://digitallibrary.un.org/record/684577?ln=en#record-files-collapse-header).

<sup>114</sup> Ibid.

played a significant role in the drafting of the anti-trafficking laws in Egypt at that specific time. While the second section will examine the gaps in the Egyptian Anti-Trafficking Law.

### **A. Internal Elements:**

As explained earlier human trafficking is a process, accordingly, we cannot consider it as a separate crime that is only penalized by the anti-trafficking laws adopted by state parties to the Palermo Protocol. It was noted that different countries have adopted several laws and legislations that banned trafficking crime. The different internal dimensions that affected the adoption of anti-trafficking law 64/2010 are constituted from different national efforts by adopting different laws, and some social factors that shaped this law. For instance, Egypt has several laws that penalized trafficking in persons before law 64/2010. The first legislation in which the trafficking act was penalized is the 1937 Egyptian Penal Code. More specifically, Article 267 states the following:

“(i) Any person who copulates with a female without her consent is punished by penal servitude for life or for a certain period of time. If the offender is related to the child or responsible for the child’s upbringing or having authority over the child or serving her against salary or one of those previously mentioned, penalty of penal servitude of life is inflicted.”<sup>115</sup>

Later on, the Suppression of Prostitution Act no.10 of 1961 in Egypt in its Articles 3 and 5 have criminalized any person who had a role in inciting, assisting in facilitating the exercise of prostitution as follows:

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<sup>115</sup> ILO. *Law No. 58 01 the Year 1937 Promulgating the Penal Code Index Book One General Provisions Part 1: General Rules Part 2: Types of Crimes Part 3: Penalties Section 1: Original Penalties Section 2: Ancillary Penalties Section 3: Plurality of Penalties Part 4: Complicity of Several Persons in One Crime Part 5: Attempt Part 6: Criminal Agreements Part 7: Recidivism Part 8: Conditional Execution of Rulings*. 23 Oct. 1992.



“Anyone who incites or helps a person to enter or leave the country, or who employs or accompanies such person, for the purpose of engagement in prostitution or other indecent acts is punishable by a term of one to five years' imprisonment, together with a fine, and the maximum term of imprisonment is increased to seven years if the offence is committed against two or more persons or through the use of coercion or threats.”<sup>116</sup>

Another important step took place in 1996 when the Egyptian Child Law penalized child pornography. According to Article 96 of 1996 Child law:

“The child shall be considered at risk if he is exposed to a situation threatening the sound upbringing that should be made available to him, or in any of the following cases: 6 - If the child is exposed in the family, school, care institutions, or other to violence, or to acts contrary to public morals, or pornographic material, or to commercial exploitation of children, or to harassment or sexual exploitation, or to the illegal use of alcohol or narcotic substances affecting the mental state.”<sup>117</sup>

According to Article 5 of the African Charter of Human and People's Rights, Egypt is under the obligation to ban human trafficking. Article 5 of this Charter states the following:

“Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and

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<sup>116</sup> African Child Forum. *Suppression of Prostitution Act No. 10 of 1961, Egypt*. 9 Apr. 2002.

<sup>117</sup> ---. “Refworld | Egypt: Law No. 12 of 1996 Promulgating the Child Law Amended by Law No. 126 of 2008.” *Refworld*, 28 Mar. 1996, [www.refworld.org/docid/5a4cb6064.html](http://www.refworld.org/docid/5a4cb6064.html). Accessed 12 Apr. 2022.

degradation of man, particularly slavery, slave trade, torture, cruel, inhuman, or degrading punishment and treatment shall be prohibited.”<sup>118</sup>

The last step before the adoption of the 64/2010 anti-trafficking law is the amendment that took place to the child law in 2008 when the drafters added the term protection of children. According to Article 291 which was added to the initial Child law:

“It is prohibited to violate the right of a child to protection from trafficking or from sexual, commercial or economic exploitation, or from being used in research and scientific experiments; the child shall have the right to awareness and be empowered to address those risks.”<sup>119</sup>

Besides the different legislations that were mentioned above, some social factors affected the adoption of the 64/2010 anti-trafficking law. The most important one is the seasonal marriage for girls under 18 years old. Seasonal marriage is very significant among poor families who try to forcibly marry their daughters to wealthy, and old foreign men in exchange for money. This type of marriage will usually take place for a temporary period. During that time right before the adoption of the anti-trafficking law, this social trend was significant in number to the extent that *Al Azhar* released a *Fatwa* in which they declared that this type of marriage was forbidden as it annuls the main purpose of marriage according to *Shari'a law*. *Al Azhar* added that this type of marriage is considered a type of prostitution in which young girls and women are forced into different types of inhumane situations which amounts to trafficking. During that time the former

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<sup>118</sup> African Commission on Human and Peoples' Rights. “African Commission on Human and Peoples’ Rights Legal Instruments.” *Wwww.achpr.org*, 27 June 1981, [www.achpr.org/legalinstruments/detail?id=49#:~:text=of%20this%20right.-](http://www.achpr.org/legalinstruments/detail?id=49#:~:text=of%20this%20right.-).

<sup>119</sup> Ibid

Egyptian *Mufti* Ali Gomaa issued a *Fatwa* stating the following: “Child marriage is not a form of legal marriage and that it jeopardizes the life survival and security of the child.”<sup>120</sup>

Besides the aforementioned laws, many government agencies played a significant role in shaping the current anti-trafficking law in Egypt. Their main aim was to address all forms of violence against women and children, and to produce reports on human rights’ situation in Egypt. The agencies who had a significant role can be limited to the National Council for Childhood and Motherhood (hereinafter NCCM), the National Council for Women (hereinafter NCW), and the National Council for Human Rights (hereinafter NCHR). The NCCM was implementing different programs which were mainly tackling child protection related issues. For example, the “Child at Risk” project which was funded by the European Commission, and it was responsible for providing medical consultations and treatment for in-need children.<sup>121</sup> Another program which was funded by the USAID in order to address the different forms of violence that were taking place against children mainly street children.<sup>122</sup>

Also, since the commencement of the NCW in 2000, it has created a political empowerment center in order to raise the awareness among vulnerable women regarding their legal rights. Accordingly, the Council drafted a national plan in order to empower women and created an Ombudsman’s office to receive the different complaints submitted by women from all over Egypt among them women who were subjected to trafficking crime. Additionally, the Council offered different grants and courses on microfinance, business, and literacy.<sup>123</sup> It should be noted that a

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<sup>120</sup> Caravan, The. “Raise Awareness to End Child Marriage in Egypt, Experts Say.” *The Caravan*, 1 Dec. 2018, [www.auccaravan.com/?p=7979](http://www.auccaravan.com/?p=7979). Accessed 12 Apr. 2022.

<sup>121</sup> USAID. *CHANGING PERCEPTIONS and PROPOSING APPROPRIATE INTERVENTIONS*. 2007.

<sup>122</sup> Ibid

<sup>123</sup> Ibid

meeting was held by the USAID with the Council in 2007, in which the Council showed its interest to create a new office which will be dedicated to human trafficking related issues.<sup>124</sup>

Additionally, the NCHR as it was the sole government entity responsible for reporting any human rights violations in Egypt, received different complaints from Egyptians who were trafficked for the purpose of forced labor.<sup>125</sup> In addition, the Council is responsible for receiving different complaints related to street children related issues. However, the role of the Council is only limited to receiving such complaints and submitting it to the relevant ministry of government office for follow-up.<sup>126</sup> The Council is also responsible for publishing an annual report in order to address the different complaints which were received throughout the relevant year and also to address the level of response from the government. Additionally, the Council is responsible for providing human rights training, more specifically, for journalists who are working on human rights related cases.<sup>127</sup>

## **B. External Elements:**

Besides the internal and national elements that played a significant role in the adoption of 64/2010 anti-trafficking law at that specific time, some political pressures also played a significant role to necessitate Egypt to adopt well-defined legislation to fight against human trafficking on its territory.

### **- US Department of State:**

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<sup>124</sup> USAID. *CHANGING PERCEPTIONS and PROPOSING APPROPRIATE INTERVENTIONS*. 2007.

<sup>125</sup> National Council for Human Rights. "Annual Report of the National Council for Human Rights." <https://www.nchr.eg/>, 2005, [www.nchr.eg/Uploads/publication/annualreport2E1570445263.pdf](http://www.nchr.eg/Uploads/publication/annualreport2E1570445263.pdf).

<sup>126</sup> USAID. *CHANGING PERCEPTIONS and PROPOSING APPROPRIATE INTERVENTIONS*. 2007.

<sup>127</sup> Ibid

As explained above, there were some political pressures and external elements that influenced the adoption of the anti-trafficking law 64/2010, the US Department of State is considered as one of the crucial elements that played a significant role in adopting this law. Since 2001, the US Department of State started to publish a yearly report to evaluate the situation of trafficking in different countries. According to this report, countries are divided and classified based on a tier system. The department each year will evaluate these countries based on their efforts to combat trafficking according to the Trafficking Victims Protection Act (hereinafter TVPA)<sup>128</sup>. As a first step, the Department will evaluate if the government is fully conforming to the TVPA's minimum standards to eliminate trafficking. Based on this evaluation, the department will place the government in one of the following four tiers<sup>129</sup>:

“Tier 1: Countries whose governments fully comply with the Act's minimum standards. Tier 2: Countries whose governments do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards. Tier 2 Watch List: Countries whose governments do not fully comply with the Act's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and: a) The absolute number of victims of severe forms of trafficking is very significant or is increasing significantly, or b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year; or

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<sup>128</sup> Trafficking Victims Protection Act of 2000 - Amends the Foreign Assistance Act of 1961 (FAA) to require the Secretary of State (the Secretary) to include as part of required reports on human rights and development assistance and human rights and security assistance: (1) a description of the nature and extent of severe forms of trafficking in persons in each foreign country; and (2) with respect to each country that is a country of origin, transit, or destination for victims of severe forms of trafficking in persons, an assessment of the efforts by such countries' governments to combat such trafficking.

<sup>129</sup> State, US Department of. “Trafficking in Persons Interim Assessment.” [Http://www.state.gov/G/Tip/RIs/Reports/2010/137250.Htm](http://www.state.gov/G/Tip/RIs/Reports/2010/137250.Htm), 24 Feb. 2010, [www.ecoi.net/de/dokument/1026306.html](http://www.ecoi.net/de/dokument/1026306.html). Accessed 12 Apr. 2022.

c) The determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on commitments by the country to take additional future steps over the next year. Tier 3: Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.”<sup>130</sup>

The above-mentioned report started to include Egypt in its annual report in 2004. The main reason behind this inclusion is the new information delivered to the Department explaining that there is a significant trafficking problem in Egypt.<sup>131</sup> It should be noted that in 2004 and 2005 reports, Egypt was placed as a Tier 2 State.<sup>132</sup> While in the following years, 2006, 2007, 2008, and 2009, Egypt was placed on the Tier 2 Watch list<sup>133</sup>. During that time, according to a report published by the EIPR if Egypt did not take any steps to accomplish its obligations to combat human trafficking, Egypt would have been placed in Tier 3 state in 2010. Accordingly, this classification played a significant role in pushing Egypt to draft and pass the anti-trafficking law in 2010.<sup>134</sup> It is worth noting that after the passing of this law, Egypt was upgraded to Tier 2 in 2010.<sup>135</sup>

According to the United States’ 2010 Trafficking in Persons Report on Egypt, Egypt can be considered a source, transit, and destination country.<sup>136</sup> More specifically, Egypt is considered a

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<sup>130</sup> State, US Department of. “Trafficking in Persons Interim Assessment.” [Http://www.state.gov/G/Tip/Rls/Reports/2010/137250.Htm](http://www.state.gov/G/Tip/Rls/Reports/2010/137250.Htm), 24 Feb. 2010, [www.ecoi.net/de/dokument/1026306.html](http://www.ecoi.net/de/dokument/1026306.html). Accessed 12 Apr. 2022.

<sup>131</sup> U.S Department of State. “Trafficking in Persons Report.” <https://www.state.gov>, June 2004, 2009-2017.state.gov/documents/organization/34158.pdf.

<sup>132</sup> Ibid

<sup>133</sup> U.S Department of State. *Trafficking in Persons RePorT J U N E 2 0 0 9*. June 2009.

<sup>134</sup> EIPR. “Law Combating Trafficking in Persons: A Welcome Step That Requires Careful Implementation | Egyptian Initiative for Personal Rights.” *Eipr.org*, 24 Nov. 2010, [eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation](http://eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation). Accessed 19 Apr. 2022.

<sup>135</sup> ---. “Refworld | Trafficking in Persons Report 2010 - Egypt.” *Refworld*, 14 June 2010, [www.refworld.org/docid/4c1883f8c.html](http://www.refworld.org/docid/4c1883f8c.html). Accessed 13 Apr. 2022.

<sup>136</sup> Ibid

source country for children who are trafficked inside the country itself mainly for commercial sexual exploitation and domestic bondage. While it is considered a transit country according to this report for women coming from Eastern European countries moving mainly to Israel. Additionally, it is considered a destination country for trafficking in persons in general. Some of the common examples of trafficking in Egypt that are taking place are the following: street children who are usually forced into begging and are exploited into prostitution.<sup>137</sup>

Another famous example is boys and girls who are recruited into domestic and agricultural labor under hard conditions which in general amount to those of involuntary bondage. While the very common example that is taking place in Egypt until the current time which was highlighted mainly by the US State Department is temporary marriages between Egyptian women (usually under the legal age) and rich men coming from some Gulf states. It is worth noting that some Egyptian cities are considered destinations for sex tourism.<sup>138</sup>

- **Special Rapporteur on Trafficking:**

Another factor that played a significant role in drafting the anti-trafficking law in Egypt along with the US Department of State's report, is the Special Rapporteur on Trafficking's visit that took place in April 2010. During that mission, the Special Rapporteur explained that the common forms of trafficking in persons that are taking place in Egypt are the ones for sexual exploitation. More specifically, seasonal, and temporary marriage for minor girls, child labor, domestic servitude, and prostitution. The Special Rapporteur explained that there were other forms of trafficking that are less common in Egypt such as forced marriages, forced labor, and transplantation of human organs

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<sup>137</sup> Ibid

<sup>138</sup> U.S Department of State. *United States Department of State*, 2010, [www.state.gov/g/tip/rls/tiprpt/2010/](http://www.state.gov/g/tip/rls/tiprpt/2010/). Accessed 11 Apr. 2022.

and body tissues. She added that internal trafficking is higher in number than transnational ones.<sup>139</sup> According to the US Department of State's report and the Special Rapporteur's report in that specific year, Egypt was doing a great effort in combating human trafficking on its territory, however, such efforts are still not sufficient.<sup>140</sup> For that reason, these two reports can be considered the main reasons to accelerate the drafting process of the anti-trafficking laws in Egypt. More specifically, in May 2010, which was one month after the visit of the Special Rapporteur, Law 64/2010 was approved by the Egyptian Parliament.<sup>141</sup>

#### - **European Parliament:**

Another external factor that played a huge role in shaping the anti-trafficking law in Egypt is the European Parliament resolutions. The European Parliament published and approved three resolutions on trafficking in Egypt, more specifically, in the Sinai Peninsula. The first resolution was passed in 2010,<sup>142</sup> followed by another one in 2012,<sup>143</sup> and then in 2014.<sup>144</sup> The first resolution which took place in 2010 was focusing mainly on some Eritrean Refugees who were kept as hostages in Sinai at the hands of their smugglers. The European Parliament based its resolution on a report published by the United Nations High Commissioner for Refugees (hereinafter UNHCR)

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<sup>139</sup> OHCHR. "UN Expert on Trafficking in Persons Urges Egypt to Intensify Its Efforts at Combating Human Trafficking." *Www.ohchr.org*, 21 Apr. 2010, [www2.ohchr.org/english/issues/trafficking/docs/statement\\_egypt\\_april2010.pdf](http://www2.ohchr.org/english/issues/trafficking/docs/statement_egypt_april2010.pdf).

<sup>140</sup> OHCHR. "Egypt Faces Growing Threats of Human Trafficking, Warns UN Expert." *Https://Www.ohchr.org/*, 21 Apr. 2010, [www.ohchr.org/en/taxonomy/term/1308?page=25](http://www.ohchr.org/en/taxonomy/term/1308?page=25).

<sup>141</sup> EIPR. "Law Combating Trafficking in Persons: A Welcome Step That Requires Careful Implementation | Egyptian Initiative for Personal Rights." *Eipr.org*, 24 Nov. 2010, [eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation](http://eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation). Accessed 19 Apr. 2022.

<sup>142</sup> "MOTION for a RESOLUTION on Eritrean Refugees Held Hostage in Sinai." *Www.europarl.europa.eu*, 7 Dec. 2010, [www.europarl.europa.eu/doceo/document/B-7-2010-0712\\_EN.html](http://www.europarl.europa.eu/doceo/document/B-7-2010-0712_EN.html). Accessed 12 Apr. 2022.

<sup>143</sup> ---. "Procedure File: 2012/2569(RSP) | Legislative Observatory | European Parliament." *Oeil.secure.europarl.europa.eu*, 15 Mar. 2012, [oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/2569\(RSP\)](http://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/2569(RSP)). Accessed 12 Apr. 2022.

<sup>144</sup> ---. "MOTION for a RESOLUTION on Security and Human Trafficking in the Sinai." *Www.europarl.europa.eu*, 2014, [www.europarl.europa.eu/doceo/document/B-7-2014-0261\\_EN.html](http://www.europarl.europa.eu/doceo/document/B-7-2014-0261_EN.html). Accessed 13 Apr. 2022.



regarding 250 Eritrean refugees who were kept as hostages.<sup>145</sup> At that specific time, the European Parliament declared that Egypt is taking extensive measures to combat and prevent trafficking on its territory, however, they highlighted that the Sinai desert became one of the main routes of trafficking for African migrants and refugees.<sup>146</sup>

The following resolution which was adopted in 2012, was more detailed than the latter. The main reason behind this is that the cases of trafficking amplified and there were some clear records on the modality used by traffickers to operate the whole process. These modalities became clear when an Eritrean refugee called Solomon managed to escape from El Rashaïda tribe in the Sinai desert.<sup>147</sup> Solomon was one of 27 other Eritrean refugees who were living in a UN refugee camp located in Sudan and he was kidnaped along with the 27 other Eritreans from the camp. However, Solomon was the only survivor who managed to escape from his traffickers. The European Parliament took a different approach to this incident, as they considered only the political aspect of this incident rather than considering its humanitarian aspect. They declared also in the same year 2012, that around 2000 African migrants and refugees manage to cross the Sinai desert to enter Israeli borders on monthly basis. They explained in the above-mentioned resolution the following:

“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

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<sup>145</sup> “UNHCR Urging Egypt to Intervene to Secure Release of Eritreans Held Hostage.” *UNHCR*, 7 Dec. 2010, [www.unhcr.org/news/briefing/2010/12/4cfe36f29/unhcr-urging-egypt-intervene-secure-release-eritreans-held-hostage.html](http://www.unhcr.org/news/briefing/2010/12/4cfe36f29/unhcr-urging-egypt-intervene-secure-release-eritreans-held-hostage.html). Accessed 12 Apr. 2022.

<sup>146</sup> European Parliament. “MOTION for a RESOLUTION on Eritrean Refugees Held Hostage in Sinai.” *Www.europarl.europa.eu*, 7 Dec. 2010, [www.europarl.europa.eu/doceo/document/B-7-2010-0712\\_EN.html](http://www.europarl.europa.eu/doceo/document/B-7-2010-0712_EN.html). Accessed 12 Apr. 2022.

<sup>147</sup> LAMBERT, JEAN, et al. “Human Trafficking in Sinai, in Particular the Case of Solomon W.” *Greens/EFA*, 13 Mar. 2012, [www.greens-efa.eu/de/artikel/document/human-trafficking-in-sinai-in-particular-the-case-of-solomon-w](http://www.greens-efa.eu/de/artikel/document/human-trafficking-in-sinai-in-particular-the-case-of-solomon-w). Accessed 13 Apr. 2022.

political dialogue with Egypt”, instead of inciting the Egyptian government to give the alleged UN agencies and human rights organizations full access to the specific areas located in Sinai where human trafficking’s incidents are high in number.”<sup>148</sup>

In the last resolution adopted by the European Parliament in 2014,<sup>149</sup> the European Parliament identified the different types of assistance that were provided by the EU to the government of Egypt to support its law enforcement agencies to track and punish traffickers. There was a clear message directed to the Egyptian and Israeli governments to put a decisive end to the trafficking activities in the Middle East and North African countries (hereinafter MENA). As a result, the first Committee “National Committee for Combating and Preventing Trafficking in Persons” was created.

### **2.1.2. Egypt’s efforts to eliminate trafficking in persons:**

As explained earlier that Egypt became a party to the United Nations Convention against Transnational Organized Crime and the related Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, which are known as the Palermo Protocol in 2004. In addition, Egypt is a signatory to relevant human rights instruments that are related in one way or another to trafficking in persons as explained earlier. As a step forward for Egypt to fulfill its international obligations, the National Coordinating Committee for Combating and Preventing Trafficking in Persons was established in July 2007 by a decree of the Prime

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<sup>148</sup> ---. “Procedure File: 2012/2569(RSP) | Legislative Observatory | European Parliament.” *Oeil.secure.europarl.europa.eu*, 15 Mar. 2012, [oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/2569\(RSP\)](http://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2012/2569(RSP)). Accessed 12 Apr. 2022.

<sup>149</sup> ---. “MOTION for a RESOLUTION on Security and Human Trafficking in the Sinai.” *www.europarl.europa.eu*, 2014, [www.europarl.europa.eu/doceo/document/B-7-2014-0261\\_EN.html](http://www.europarl.europa.eu/doceo/document/B-7-2014-0261_EN.html). Accessed 13 Apr. 2022.

Minister.<sup>150</sup> The Committee was established to adopt a national plan of action to oversee Egypt's respect for its international obligations in terms of trafficking in persons. The main aim of this Committee is to draft a proper law to combat trafficking and to take some protective measures for victims of trafficking in compliance with the above-mentioned Convention. The Committee was designed in the scheme to be headed by an adviser to the Ministry of Foreign Affairs. It is also composed of members from different governmental bodies and ministries such as the Ministry of Justice, the Ministry of Interior, the Ministry of Defense, and the Ministry of Health. Additionally, members from the National Council for Human Rights, the National Council for Childhood and Motherhood, and the National Council for Women. It is worth noting that the National Council for Childhood and Motherhood established a special child trafficking unit to serve the purpose of this committee.

In around February 2008, a sub-committee was created to formulate a comprehensive national anti-trafficking law in alliance with the UN Protocol. More specifically, it was tasked to adopt a law prohibiting all forms of human trafficking and to provide sufficient protection to the victims by Article 5 (1) of the Palermo Protocol. The draft of this law was presented for the first time to the Parliament by the end of 2009 and it was finally approved by the People's Assembly on 02 May 2010 to finally have law 64/2010 on Combating Trafficking in Persons. Different political pressures forced the Egyptian government to accelerate the adoption of this law, as such it is considered an important step to fight trafficking in persons in Egypt. It is worth noting that this is the first law adopted by the Egyptian government to forbid all forms of human trafficking. In addition, it provided a descriptive legal framework to protect and respect the victims' rights. This anti-trafficking law adopted a rights-based approach in its different provisions, and this can be

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<sup>150</sup> The European Commission. *EN*. 2010.

considered as one of the pillars of this law as it is adopted in a way to be compatible with general international instruments and standards.

It should be acknowledged that during that time, there were several other developments in the legislation aspect in Egypt. For example, in 2008, the Egyptian government elevated the legal age of marriage for girls to 18 years old after the new amendments that took place in the Child Law. Additionally, in 2009, Egypt adopted the Organ Transplant Law which came into force in 2010 as law No. (5) of the year 2010.<sup>151</sup> Another great step that was implemented by the Egyptian government is its collaboration with the International Organization for Migration (hereinafter IOM), which ended with the founding of a pilot medical unit in 2011, to help and support victims of trafficking to get medical assistance at the National Bank Hospital.<sup>152</sup> Moreover, another ground-breaking project was launched by the Faculty of Law at the University of Alexandria. The main aim of this project was to provide legal aid services to victims of trafficking. Furthermore, the former first lady Suzanne Mubarak and through her center called the Suzanne Mubarak Regional Centre for Women, Health and Development have created a new clinic to help and provide medical support to female victims who were suffering from any forms of gender-based violence.<sup>153</sup>

During the phase of drafting the trafficking law, the Egyptian government explained repetitively that civil society organizations were involved in all stages of the drafting process. In

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<sup>151</sup>Egypt Today. "Parliament to Discuss Organ Transplantation Law June 19." *EgyptToday*, 9 June 2017, [www.egypttoday.com/Article/1/7160/Parliament-to-discuss-organ-transplantation-law-june-19](http://www.egypttoday.com/Article/1/7160/Parliament-to-discuss-organ-transplantation-law-june-19). Accessed 7 May 2022.

<sup>152</sup>OHCHR. *Brief on the Cooperation between IOM and the Government of Egypt with a Focus on Activities Aiming to Uphold Migrants Rights*. Feb. 2014.

<sup>153</sup> ---. "UN Expert on Trafficking in Persons Urges Egypt to Intensify Its Efforts at Combating Human Trafficking." *Www.ohchr.org*, 21 Apr. 2010, [www2.ohchr.org/english/issues/trafficking/docs/statement\\_egypt\\_april2010.pdf](http://www2.ohchr.org/english/issues/trafficking/docs/statement_egypt_april2010.pdf).

addition, the Egyptian government confirmed that a significant number of their representatives were consulted before drafting the law.<sup>154</sup> However, the Egyptian Initiative for Personal Rights' experience – as one of the civil society organizations that were supposed to be involved in the drafting process – explained that the consultation identified by the government can be restricted to only one meeting that took place on 09 September 2009. They added that during this meeting the government personnel refused to communicate the draft bill while they have mentioned several times that the draft bill had been completed. Yet, at that time, the government provided civil society organizations with one-page documents in which, they explained the broad principles of the bill. Even after the bill was handed to the Parliament and discussed openly in the Shura Council and the People's Assembly, the government continued its refusal to share the bill, which effectively rendered all the consultation mentioned by the government's side not real. Even in the following steps, since the law was adopted, civil society organizations were never involved in any discussions or even the drafting of the Implementing Statute of the law.

To better understand the current role of the National Coordinating Committee for Combating and Preventing Illegal Migration and Trafficking in Persons (hereinafter NCCPIM & TIP), the following section of this chapter will cover the different stages of the creation of this committee and how the current committee was influenced by the EU countries.

## **2.2.The compliance of the Egyptian Anti-Trafficking Law with International Law:**

Egypt has different legal obligations to combat human trafficking. More specifically, Egypt is a state party to several international conventions, treaties, and protocols that lay obligations on

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<sup>154</sup> Ministry of Foreign Affairs. *National Coordinating Committee for Combating and Preventing Trafficking in Persons, Second Yearly Report 2008 -2009, Egypt*. 2010.

the state to address this phenomenon.<sup>155</sup> Firstly, Egypt is a state party to the Convention against Transnational Organized Crime and its Protocols, which is the first reason that forces Egypt to fight human trafficking on its territory.<sup>156</sup> Secondly, as explained in the previous Chapter, Egypt is a state party to different international conventions that address human trafficking such as the International Covenant on Civil and Political Rights (hereinafter ICCPR), CEDAW, Convention on the Rights of the Child (hereinafter CRC) and its optional protocol, International Covenant on Economic, Social, and Cultural Rights (hereinafter ICESCR), the Convention against Torture (hereinafter CAT), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (hereinafter ICRMW), the 1930 Forced Labour Convention, the 1957 Abolition of Forced Labour Convention, and the 1999 Worst Forms of Child Labour Convention.<sup>157</sup> It can be seen that Egypt is a party to all the different treaties mentioned above, which have different provisions that oblige Egypt to fight human trafficking. Additionally, Egypt is a party to the African Charter on Human and Peoples' Rights.<sup>158</sup>

Accordingly, Egypt has a clear legal responsibility to combat human trafficking that is taking place on its territory. After examining the circumstances under which the Egyptian Anti-trafficking Law was adopted, in this chapter, the following section will examine the compliance of this law with the International Human Rights Law and the International Criminal Law. This will take place

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<sup>155</sup> Guihad Dauod, Emad. *Trafficking of Eritrean in Egypt: Facts and Misconception*. 6 Jan. 2015.

<sup>156</sup> Ibid

<sup>157</sup> Ezeilo, Joy, and Especially in Women and Children UN. Human Rights Council. Special Rapporteur on Trafficking in Persons. "Report Submitted by the Special Rapporteur on Trafficking in Persons, Especially Women and Children, Joy Ngozi Ezeilo ": Digitallibrary.un.org, 12 May 2010, digitallibrary.un.org/record/684577?ln=en#record-files-collapse-header.

<sup>158</sup> AM&BF Trading PLC. "African Commission on Human and Peoples' Rights Legalinstruments." *Achpr.org*, 2019, [www.achpr.org/legalinstruments/detail?id=49](http://www.achpr.org/legalinstruments/detail?id=49).

by analyzing the main factors that rendered the Egyptian Anti-Trafficking law ineffective in combating this phenomenon on its territory.

### **2.2.1. Gaps in the Egyptian National Anti-Trafficking law:**

Egypt's efforts in combating human trafficking are noticeable. Egypt has made great efforts in adopting law 64/2010 and amending it due to new global circumstances that forced every state in the globe to adopt new policies. Yet, there are still some gaps that need improvement either because the Egyptian national anti-trafficking law is based primarily on the Palermo Protocol, or due to the lack of relevant legislation.

#### **A. The main gaps of the Egyptian National Anti-Trafficking law:**

The efforts that were made by the Egyptian national legislation to draft and adopt the anti-trafficking law 64/2010 were praised by the UN Special Rapporteur during its visit that took place in 2010. She explained that this is considered a great step for Egypt to fight human trafficking on its territory.<sup>159</sup> However, there are still several gaps that need improvement because the Egyptian law still fails to make a great impact in fighting this phenomenon.

One of the main deficiencies in law 64/2010 is that many of the terms used in its definition regarding the identification of the human trafficking crime were previously mentioned in other Egyptian laws but with different interpretations. According to a report published by the EIPR – commenting on the Egyptian anti-trafficking law in 2010 – that the main elements identifying the trafficking crime, should be pointed out by its international definition. As Egyptian laws

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<sup>159</sup> OHCHR. "UN Expert on Trafficking in Persons Urges Egypt to Intensify Its Efforts at Combating Human Trafficking." *Www.ohchr.org*, 21 Apr. 2010,

criminalize some of the interrelated trafficking crimes in other legislations.<sup>160</sup> More precisely, the differentiation between trafficking and any other crime is because the penalties will vary depending on its type. For example, the Egyptian anti-prostitution law sets out three years of imprisonment for the crime of “exploitation in prostitution”.<sup>161</sup> While the anti-trafficking law sets out a maximum of 15 years of imprisonment for the crime of “trafficking for purposes of sexual exploitation”.<sup>162</sup> In the same report, EIRP urged the Egyptian government to single out these similarities to prevent any confusion that may occur when deciding which law the prosecutors should apply when working on trafficking cases.<sup>163</sup> As such, it is recommended that these terms should be identified in a way that they may resemble their similar definitions found in other legislations. More specifically, the definitions related to exploitation in acts of prostitution, forced labor services such as begging, slavery, or any practices similar to slavery or servitude such as the sale of children, and the removal of human organs or tissues.<sup>164</sup>

Another gap which is found in law 64/2010 in article 1(3), is that legislators tried to identify who can be considered a victim of trafficking, however, they did not provide a clear interpretation of where the burden of proof lies.<sup>165</sup> The Egyptian anti-trafficking law is not clear if the victims or

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<sup>160</sup> EIPR. “Law Combating Trafficking in Persons: A Welcome Step That Requires Careful Implementation | Egyptian Initiative for Personal Rights.” *Eipr.org*, 24 Nov. 2010, [eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation](http://eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation). Accessed 19 Apr. 2022.

<sup>161</sup> ---. “Refworld | Egypt: Law No. 10/1961, on the Combating of Prostitution.” *Refworld*, 1961, [www.refworld.org/docid/5492d8784.html](http://www.refworld.org/docid/5492d8784.html).

<sup>162</sup> ---. *UNITED NATIONS CONVENTION against TRANSNATIONAL ORGANIZED CRIME and the PROTOCOLS THERETO*. 2012.

<sup>163</sup> EIPR. “Law Combating Trafficking in Persons: A Welcome Step That Requires Careful Implementation | Egyptian Initiative for Personal Rights.” *Eipr.org*, 24 Nov. 2010, [eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation](http://eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation). Accessed 19 Apr. 2022.

<sup>164</sup> UNITED NATIONS: United Nations Office on Drugs and Crime. *Abuse of a Position of Vulnerability and Other "Means" within the Definition of Trafficking in Persons Issue Paper*. 2013.

<sup>165</sup> Arab Republic of Egypt The People’s Assembly. “Egypt - Law No. 64 of 2010 Regarding Combating Human Trafficking.” *Www.ilo.org*, 2010, [www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=89881&p\\_country=EGY&p\\_count=537&p\\_classification=03&p\\_classcount=1](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89881&p_country=EGY&p_count=537&p_classification=03&p_classcount=1).



the traffickers are the ones who should prove their innocence of the trafficking crime. As such, there will always be a gap in the identification process which will affect the victims' protection.<sup>166</sup> It should be noted that generally, the burden of proof in criminal offenses lies on the criminals to prove their innocence to the accusations leveled against them. While, in refugee claims, the burden of proof is always shared between the refugees and their prosecutors due to their vulnerability, and their emotional and psychological situation. In addition to their past traumas, particularly if they were victims of trafficking. Generally, this gap renders victims unable to prove their innocence as in trafficking cases, victims are usually accused of being part of the trafficking process.<sup>167</sup>

Additionally, in Chapter 2, Article 5 of the Egyptian Anti-Trafficking law, the legislators set a fine between 50,000 and 200,000 Egyptian pounds for people who were found guilty of committing human trafficking crimes.<sup>168</sup> According to a report published by Amnesty International in 2013, traffickers ask for a ransom which may vary from 30-40,000 USD to release Sudanese, Eritrean, and Ethiopian refugees who were kidnaped while crossing the Sinai Peninsula.<sup>169</sup> Accordingly, the amount paid to release only one victim who was kidnaped on their way to Egypt is higher than the total amount of fine set by the anti-trafficking law that should be paid by traffickers. Accordingly, legislators should not set a specific amount in the law, to give the freedom to prosecutors and relevant courts to determine the suitable amount of fine to be paid in a case-by-

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<sup>166</sup> EIPR. "Law Combating Trafficking in Persons: A Welcome Step That Requires Careful Implementation | Egyptian Initiative for Personal Rights." *Eipr.org*, 24 Nov. 2010, [eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation](http://eipr.org/en/publications/law-combating-trafficking-persons-welcome-step-requires-careful-implementation). Accessed 19 Apr. 2022.

<sup>167</sup> ---. "Refworld | Note on Burden and Standard of Proof in Refugee Claims." *Refworld*, 16 Dec. 1998, [www.refworld.org/docid/3ae6b3338.html](http://www.refworld.org/docid/3ae6b3338.html). Accessed 26 Nov. 2022.

<sup>168</sup> Arab Republic of Egypt The People's Assembly. "Egypt - Law No. 64 of 2010 Regarding Combating Human Trafficking." *Www.ilo.org*, 2010, [www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=89881&p\\_country=EGY&p\\_count=537&p\\_classification=03&p\\_classcount=1](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89881&p_country=EGY&p_count=537&p_classification=03&p_classcount=1).

<sup>169</sup> Amnesty International. "Egypt/Sudan: Refugees Face Kidnapping for Ransom, Brutal Treatment and Human Trafficking [EN/AR] - Sudan." *ReliefWeb*, 3 Apr. 2013, [reliefweb.int/report/sudan/egyptsudan-refugees-face-kidnapping-ransom-brutal-treatment-and-human-trafficking-enar](http://reliefweb.int/report/sudan/egyptsudan-refugees-face-kidnapping-ransom-brutal-treatment-and-human-trafficking-enar). Accessed 19 Apr. 2022.

case scenario and depending on the severity of the crime committed by those traffickers.<sup>170</sup> Therefore, the fine mechanism adopted by the anti-trafficking law will be more efficient to prevent traffickers from participating in this crime.

Another gap that should be taken into consideration is the one found in Article 6 of the Anti-trafficking law stating the following:

“Life imprisonment and a fine not less than 100,000 pounds and not to exceed 500,000 pounds shall be imposed on anyone who committed the crime of human trafficking in the following cases:

- 1) If the perpetrator established, organized, or managed an organized criminal group for the purposes of human trafficking , if he was a leader thereof, if he was one of its members or belonged thereto, or if the crime was of a transnational nature; 2 ) 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; 3 ) If the perpetrator was the spouse, one of the ascendant (s) or descendant (s), or custodian or guardian of the victim , or was responsible for the supervision or care or had authority over the victim ; 4 ) If the perpetrator was a public official or was assigned to carry out a public service and committed the crime by exploiting the office or public service; 5 ) If the crime resulted in the death of the victim or caused him to suffer a permanent disability or an incurable disease; 6 ) If the victim was a child, was incapacitated

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<sup>170</sup> UNITED NATIONS OFFICE ON DRUGS AND CRIME. *Toolkit to Combat Trafficking in Persons*. 2008.

or was a person with disabilities; 7 ) If the crime was committed by an organized criminal group.<sup>171</sup>

In this Article, the Egyptian legislators listed several forms of human trafficking which should be prosecuted in a different way than the other forms of trafficking. The legislators in this article set a higher amount of fines and a harsher sentence. While in Article 5 legislators identified the perpetrators in a very broad way when they stated the following “Shall be imposed on anyone who committed the crime of human trafficking”.<sup>172</sup> Hence, prosecutors may be confused when determining the set of penalties that should be applied, whether the one mentioned in Article 5 or 6.

In Chapter 4 related to the international judicial cooperation, Article 18 states the following:

“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 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>173</sup>

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<sup>171</sup> Arab Republic of Egypt The People’s Assembly. “Egypt - Law No. 64 of 2010 Regarding Combating Human Trafficking.” *Www.ilo.org*, 2010, [www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=89881&p\\_country=EGY&p\\_count=537&p\\_classification=03&p\\_classcount=1](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89881&p_country=EGY&p_count=537&p_classification=03&p_classcount=1).

<sup>172</sup> Ibid

<sup>173</sup> Ibid

There is no clear obligation set in this article from the Egyptian law, on judicial personnel and police authorities – as they are the main law enforcement personnel – to cooperate with international authorities in regard to the investigations covering trafficking crimes. It can be seen that the above-mentioned article more specifically in the following statement “all under the rules decided by bilateral and multilateral agreements” condition the international cooperation only in case of any available bilateral or multilateral agreements. As such, in the absence of an obligation to cooperate, any destination countries that are benefitting from the crime of trafficking are not obliged to cooperate. As explained earlier about the absence of the political will when analyzing the Palermo Protocol, this Article creates the same gap. In the absence of this obligation, most of the receiving countries will evade their international responsibilities to do their duties in fighting human trafficking.<sup>174</sup>

Chapter 5 of the Egyptian Anti-Trafficking law, which covers the “Protection of Victims”, has many gaps. For example, Article 21 states that: “The victim shall not be criminally or civilly liable for any of the crimes of human trafficking as long as the crime occurred or was directly related to being a victim.”<sup>175</sup> As such, this article is waiving the criminal and the civil liability of any person who can be considered as a victim of trafficking. In other words, the legislators waive the criminal and the civil liability of the victims who decided to cooperate with traffickers voluntarily to avoid being tortured. As such, it created a legal limbo and a legal indeterminate state

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<sup>174</sup> Daoud, Emad. *Trafficking of Eritreans in Egypt: Facts and Misconceptions* *Trafficking of Eritreans in Egypt: Facts and Misconceptions*. 6 Jan. 2015.

<sup>175</sup> Arab Republic of Egypt The People’s Assembly. “Egypt - Law No. 64 of 2010 Regarding Combating Human Trafficking.” *Www.ilo.org*, 2010, [www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=89881&p\\_country=EGY&p\\_count=537&p\\_classification=03&p\\_classcount=1](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89881&p_country=EGY&p_count=537&p_classification=03&p_classcount=1).

for the prosecutors when applying the rule of this article. Additionally, article 22 states the following:

“The State shall guarantee the protection of the victim and shall work to create the appropriate conditions for his assistance, health, psychological, educational and social care ; and rehabilitation and reintegration into the society, within the framework of liberty and human dignity, as well as his return to his homeland in an expeditious and safe manner , if he was a foreigner or a non -permanent resident in the State, in accordance with the rules and procedures established by a decision of the Counsel of Ministers.”<sup>176</sup>

It is worth noting that the Official Executive Regulations which followed the adoption of an anti-trafficking law in Egypt, should include – when it was firstly released – how these different forms of protection should be offered to the victims. However, the Official Executive Regulations failed to do so. As such, this lack of clear interpretation will give the prosecutors the freedom to decide whether these victims need such protection or not.<sup>177</sup> According to a recent report published by the United Nations Human Rights Office of the High Commissioner (hereinafter OHCHR) that a huge number of Eritrean asylum seekers were deported back to Eritrea without identifying their claims, and they added that before their deportation, most of them were held in detention from a few months to several years, while some of them were detained in human trafficking-related activities.<sup>178</sup> It can be concluded from this report that the Egyptian government does not comply

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<sup>176</sup> Ibid

<sup>177</sup> Daoud, Emad. *Trafficking of Eritreans in Egypt: Facts and Misconceptions Trafficking of Eritreans in Egypt: Facts and Misconceptions*. 6 Jan. 2015.

<sup>178</sup> ---. *Egypt: UN Experts Condemn Expulsions of Eritrean Asylum Seekers despite Risks of Torture, Arbitrary Detention and Enforced Disappearance*. 13 Apr. 2022.

with its international obligations to the victim's identification of their reasons of fleeing and their protection.

Additionally, article 22 explains that Egypt should facilitate the repatriation of the victims to their country of origin, still, there were no obligations on Egypt to provide any legal assistance to the persons who need legal assistance or seeking asylum in Egypt. Furthermore, article 23 states the following:

“In all stages of evidence collection, investigation or trial of the crimes of human trafficking, efforts shall be made to identify the victim, to classify him, to determine his identity, nationality, and age to ensure that he is far removed from his perpetrators. In addition, the following rights of the victim shall be guaranteed: 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, in particular the right to counsel in the investigation and trial stages; if he has not chosen a lawyer, the public prosecutor or the court, whichever the case, may assign him a lawyer in accordance with the rules prescribed in the Criminal Procedures Code regarding assigning a lawyer to the accused; f) In all cases, the competent court shall take measures to ensure that protection is provided to the victims and witnesses to avoid any influence upon them and shall take whatever measures required to conceal their identity, all without prejudice to the

rights of the defense and the requirements of the principle of confrontation between adversaries.”<sup>179</sup>

In this article, the Egyptian government is obliged to protect the identified victims of trafficking throughout the prosecution process of traffickers. It can be concluded from the language used in this article that once the process will come to an end, the government is not obliged to provide any kind of protection to the victims. Thus, the Egyptian government when drafting this law did not take into consideration that the victims of trafficking should be treated on a humanitarian basis during the process.<sup>180</sup> Victims of trafficking need continuous protection due to their traumas and past experiences of harm. Additionally, there is another serious gap in this article, which is that the Egyptian legislators failed to indicate that the legal investigations should be conducted in a language that victims can understand. By doing so, the Egyptian government is not taking into consideration the migrants, asylum seekers, and refugees who become victims of trafficking either on their route coming to Egypt or in the Egyptian territories.

Article 26 of the same chapter states the following: “The competent authorities shall provide care, education, training, and rehabilitation programs to the Egyptian victims, whether through governmental or non -governmental institutions.”<sup>181</sup> From this article, it can be seen that all forms of rehabilitation programs and activities are offered only to Egyptian victims of

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<sup>179</sup> Arab Republic of Egypt The People’s Assembly. “Egypt - Law No. 64 of 2010 Regarding Combating Human Trafficking.” *Www.ilo.org*, 2010, [www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=89881&p\\_country=EGY&p\\_count=537&p\\_classification=03&p\\_classcount=1](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89881&p_country=EGY&p_count=537&p_classification=03&p_classcount=1).

<sup>180</sup> Daoud, Emad. *Trafficking of Eritreans in Egypt: Facts and Misconceptions Trafficking of Eritreans in Egypt: Facts and Misconceptions*. 6 Jan. 2015.

<sup>181</sup> Arab Republic of Egypt The People’s Assembly. “Egypt - Law No. 64 of 2010 Regarding Combating Human Trafficking.” *Www.ilo.org*, 2010, [www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=89881&p\\_country=EGY&p\\_count=537&p\\_classification=03&p\\_classcount=1](http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=89881&p_country=EGY&p_count=537&p_classification=03&p_classcount=1).

trafficking, excluding migrants, asylum seekers, and refugees from its legislation. Additionally, article 27 states the following:

“A fund shall be established to assist victims of human trafficking, which shall have a public juristic personality under the Prime Minister to provide financial assistance to the victims who have suffered harm resulting from any of the crimes stipulated in this law. A decision by the President of the Republic shall regulate this fund and determine its jurisdiction, resources, and the sources of its funding. The proceeds of the fines sentenced for the crimes stipulated in this law, as well as the properties, objects, and means of transportation forfeited shall be allocated directly to the fund, which may also accept contributions, grants, and donations from national, and foreign entities.”<sup>182</sup>

According to this article, the Egyptian government should create a fund system to provide the victims with financial assistance. According to a study made by the U.S government that when the victims are compensated with money to help them reintegrate into society by having small businesses, this can be considered a faster process than waiting for the effect of the rehabilitation programs.<sup>183</sup> However, according to article 27, the fund will be collected from fines, and grants from the national and international entities in addition to the tools that were used by the traffickers. If the government was not able to allocate money from any of these means, thus the fund will be empty. For that reason, it can be concluded that the terms and the regulations adopted by the Egyptian government render this fund option very difficult to be applicable.<sup>184</sup>

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<sup>182</sup> Ibid

<sup>183</sup> Ibid

<sup>184</sup> Daoud, Emad. *Trafficking of Eritreans in Egypt: Facts and Misconceptions Trafficking of Eritreans in Egypt: Facts and Misconceptions*. 6 Jan. 2015.



One final gap is that the Egyptian anti-trafficking law reserved chapter 5 to identify the means of protection offered to the victims. Yet, there was no single provision mentioned in the law to specify any means to prevent this crime from happening in the first place. As such, the law does not impose any legal obligations on the government to take any actions that might put an end to the crime on its territory. From the different gaps identified above, it can be seen that the root causes of trafficking were never tackled by the 64/2010 law. However, the Egyptian legislators should follow the governments who succeeded in identifying the root causes of trafficking in its national law as a step to eliminate this phenomenon in its territories. For example, the Swedish strategy to combat trafficking in persons explains that the main causes of this phenomenon are divided into three categories such as economic causes, legal and political causes, and socio-cultural causes.<sup>185</sup> According to a report published by the US State of Department in 2020, the Swedish government is classified as Tier 1 due to its continuous efforts to combat this crime on its territory.<sup>186</sup>

It is worth noting that the Executive Regulations which were articulated after the adoption of the law, were created to fill any gaps in the law. However, the regulations provided some generic information that did not play any effective role to clarify any of the gaps mentioned above. Much of these generic statements were repeated throughout the regulations without any clear interpretation, as such, it was impossible to translate these statements into actual action that might help victims and prevent the crime from taking place in Egypt.

### **2.3.Conclusion:**

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<sup>185</sup> Department for Global Development. *Poverty and Trafficking in Human Beings: A Strategy for Combating Trafficking in Human Beings through Swedish International Development Cooperation*.

<sup>186</sup> ---. "Sweden." *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/sweden/#:~:text=In%202019%2C%20police%20investigated%20272](https://www.state.gov/reports/2020-trafficking-in-persons-report/sweden/#:~:text=In%202019%2C%20police%20investigated%20272).

Due to these different gaps mentioned and examined throughout this chapter, it can be concluded that the 64/2010 law is unable to provide a complete protection for victims of trafficking or preventing the crime. While the Anti-trafficking law was found to be effective in some of its provisions, however due to the lack of different clear definitions and clear provisions as mentioned earlier, prosecutors are having the freedom to deal with human trafficking cases on their interpretations. Accordingly, some trafficking cases might be judged based on the penal code or the anti-prostitution law, which will cause the loss of victims' rights. The following chapter of this thesis will analyze the importance of international cooperation in the human trafficking process and its role in shaping the Egyptian anti-trafficking law. Later on, the role of the different UN organizations, NGOs, and Civil Society Organizations in protecting and identifying victims of trafficking from the African population living in Egypt as part of the international cooperation, will be examined thoroughly in the following chapter.

## **Chapter three**

### **International cooperation:**

International cooperation was mentioned in different articles in Palermo Protocol as well as the Egyptian anti-trafficking law. With the continuous fear of the EU countries from uncontrolled migration flows coming from the Southern Mediterranean. The Egyptian government with its geographic location and the existence of refugees and irregular migrants on its territory played a significant role to create a channel of international cooperation between the Egyptian government and the EU countries. The main trigger of this cooperation is controlling the migration flows stepping into the EU countries. This trigger affected the human trafficking policies in Egypt in a very clear way. The researcher will examine only the role of the EU countries as it is one of the main donors to Egypt that played a significant role in drafting the anti-trafficking law. Accordingly, this chapter will be divided into two different sections, the first section will cover the role of the EU countries in the drafting phase of the anti-trafficking law in Egypt and its implementation. While the second section will cover the role of international organization in implementing the anti-trafficking law in Egypt.

#### **3.1.The EU's role in shaping the anti-trafficking law:**

Egypt was considered one of the main migration states in the global south. For several historical, geopolitical, and socio-economic reasons, Egypt was located at the center of different migration flows for much of its history.

##### **3.1.1. EU-Egypt Action Plan in 2007:**

The EU's relationship with Egypt is overseen by different bilateral and multilateral agreements. The relationship between the EU and Egypt is not a recent matter, however, it was historically governed by EU Policies draws on the Global Approach to Migration and Mobility (hereinafter GAMM) which took place in 2005.<sup>187</sup> There were several legal frameworks that their main task is to implement effectively the GAMM such as the European Neighborhood Policy (hereinafter ENP).<sup>188</sup> Additionally, the two processes that the EU applies to cooperate on migration-specific issues with non-European countries which are the 2006 Euro-African Dialogue on Migration and Development, is known as the Rabat Process.<sup>189</sup> Moreover, the EU-Horn of Africa Migration Route Initiative (hereinafter Khartoum Process) which was established in 2014. The main focus of this Process is to address the challenges of migrant smuggling and trafficking in human beings.<sup>190</sup>

In addition to the aforementioned agreements there were different policy frameworks whose main aim is to set this relationship in a more strategic context. Under the umbrella of the Euro-Mediterranean Partnership, an Association Agreement entered into force in June 2004 – it is considered the legal basis of the EU-Egypt relationship. Its main goal was declared as follows: “furthering regional integration, with a view to creating an area of shared prosperity, as well as providing a framework for political dialogue and closer economic, social and cultural relations

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<sup>187</sup> Martin, Marie. *Analysis the Global Approach to Migration and Mobility: The State of Play*. 18 Nov. 2011.

<sup>188</sup> ---. “Egypt.” *Ec.europa.eu*, 2021, [ec.europa.eu/neighbourhood-enlargement/european-neighbourhood-policy/countries-region/egypt\\_en](https://ec.europa.eu/neighbourhood-enlargement/european-neighbourhood-policy/countries-region/egypt_en). Accessed 12 Apr. 2022.

<sup>189</sup> ---. “Euro-African Dialogue on Migration and Development (Rabat Process).” *International Organization for Migration*, 2015, [www.iom.int/euro-african-dialogue-migration-and-development-rabat-process#:~:text=The%20Euro%2DAfrican%20Dialogue%20on](https://www.iom.int/euro-african-dialogue-migration-and-development-rabat-process#:~:text=The%20Euro%2DAfrican%20Dialogue%20on). Accessed 12 Apr. 2022.

<sup>190</sup> ---. “EU-Horn of Africa Migration Route Initiative (Khartoum Process).” *International Organization for Migration*, 2016, [www.iom.int/eu-horn-africa-migration-route-initiative-khartoum-process#:~:text=The%20Khartoum%20Process%2C%20primarily%20focused](https://www.iom.int/eu-horn-africa-migration-route-initiative-khartoum-process#:~:text=The%20Khartoum%20Process%2C%20primarily%20focused). Accessed 12 Apr. 2022.

between the two parties.”<sup>191</sup> This Agreement is considered a standard agreement used between the EU and different other countries. As such, Egypt’s Association Agreement was supplemented in 2007 by an Action Plan. This Action Plan is a non-legally binding plan which explains the basic understanding of political, social, and economic cooperation between the EU countries and Egypt. Accordingly, this plan was approved in March 2007 for a period of three to five years.<sup>192</sup> According to a report published by the European Commission that Egypt held different meetings with the Association Council, Association Committee, and seven of the eight subcommittees, in which there were different political and economic dialogues took place.<sup>193</sup> Accordingly, in April 2009, Egypt and the EU countries based on mutual interest decided to work together in order to improve their relationship in different aspects – as proposed by Egypt earlier in 2008.<sup>194</sup> During these different meetings, both parties decided that an *ad hoc* group should be created in order to improve their relationship, introduce new policies to strengthen the bilateral agreements already signed by both parties, and incorporate all these results into the Action Plan.

In May 2009, Egypt and the EU sub-committee related to Justice and Security and the Working group on Migration, Social, and Consular Affairs held a meeting in order to enhance their cooperation on justice, freedom, and security. Following this meeting, in June 2009, the National Committee to Combat and Prevent Trafficking in Persons prepared comprehensive anti-trafficking

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<sup>191</sup> The Delegation of the European Union to Egypt. “EURO-MEDITERRANEAN AGREEMENT ESTABLISHING an ASSOCIATION between the EUROPEAN COMMUNITIES and THEIR MEMBER STATES, of the ONE PART, and the ARAB REPUBLIC of EGYPT, of the OTHER PART.” [Http://Eeas.europa.eu/](http://Eeas.europa.eu/), 2006, [eeas.europa.eu/egypt/aa/06\\_aaa\\_en.pdf](http://eeas.europa.eu/egypt/aa/06_aaa_en.pdf).

<sup>192</sup> EUROPEAN COMMISSION. “Legal Provisions of SEC(2010)517 - DTS 5 - Progress Report on Egypt Accompanying the COMMUNICATION from the COMMISSION to the EUROPEAN PARLIAMENT and the COUNCIL Taking Stock of the European Neighbourhood Policy (ENP) - Implementation of the European Neighbourhood Policy in 2009 - EU Monitor.” [www.eumonitor.eu](http://www.eumonitor.eu), 4 May 2010, [www.eumonitor.eu/9353000/1/j4nvhdscs8bljza\\_j9vvik7m1c3gyxp/vk8jg1w31dzt](http://www.eumonitor.eu/9353000/1/j4nvhdscs8bljza_j9vvik7m1c3gyxp/vk8jg1w31dzt). Accessed 27 Aug. 2022.

<sup>193</sup> Ibid

<sup>194</sup> Ibid

legislation covering penalties, measures to assist victims, the establishment of a special assistance fund, and international cooperation in line with its international obligations.<sup>195</sup> At that specific time, the Ministry of Interior established a new anti-trafficking unit working under its supervision in order to eliminate illegal migration, especially between women and children. Also, they started the process of preparing a separate draft of the law in order to control the transfer of human organs.<sup>196</sup> It is worth noting that back in February 2009, Egypt participated in the organization of the first comprehensive world report on trafficking in persons. Additionally, in April 2009, members of the National Committee and representatives of relevant line ministries participated in a TAIEX study visit on border control and organized crime which was organized by the Serious Organized Crime Agency in the UK.<sup>197</sup> Moreover, the Committee with the collaboration of the National Centre for Social and Criminological Research prepared a survey in order to collect some information on forms of human trafficking in Egypt, more specifically, forced marriage and trafficking of children for labor exploitation purposes.<sup>198</sup>

In March 2010, the European Commission along with the UN started what was so-called the Joint Migration and Development Initiative in collaboration with the Egyptian MFA. The main aim of this initiative is to help small-scale actors to understand the link between migration

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<sup>195</sup> EUROPEAN COMMISSION. "Legal Provisions of SEC(2010)517 - DTS 5 - Progress Report on Egypt Accompanying the COMMUNICATION from the COMMISSION to the EUROPEAN PARLIAMENT and the COUNCIL Taking Stock of the European Neighbourhood Policy (ENP) - Implementation of the European Neighbourhood Policy in 2009 - EU Monitor." [www.eumonitor.eu](http://www.eumonitor.eu), 4 May 2010, [www.eumonitor.eu/9353000/1/j4nvhdcs8bljza\\_j9vvik7m1c3gyxp/vk8jg1w31dzt](http://www.eumonitor.eu/9353000/1/j4nvhdcs8bljza_j9vvik7m1c3gyxp/vk8jg1w31dzt). Accessed 27 Aug. 2022.

<sup>196</sup> Ibid

<sup>197</sup> Ibid

<sup>198</sup> Ibid

and development.<sup>199</sup> More specifically, Egypt as explained earlier is becoming a key transit country for migrants and refugees from the Sub-Saharan countries to EU countries. Those migrants and refugees might be at risk of becoming victims of trafficking on their ways to EU.<sup>200</sup>

As such, by creating different development programs in Egypt targeting the migration flows on its territories, the EU countries tend to create some integration channels to prevent migrants and refugees from fleeing Egypt to the EU. In addition to the geographic location of Egypt and it is considered a transit country for migrants and refugees coming from sub-Saharan African countries. Accordingly, the Egyptian government adopted its national Anti-trafficking law in order to comply with its international obligations and the National Action Plan established with the EU countries. It is worth noting that during the phase of drafting the trafficking law, the Egyptian government explained repetitively that civil society organizations were involved in all stages of the drafting process. In addition, the Egyptian government confirmed that a significant number of their representatives were consulted before drafting the law.<sup>201</sup>

### **3.1.2. EU-Egypt Action Plan in 2016:**

The 2011 Egyptian Revolution stopped most of the cooperation that was taking place between Egypt and the EU countries. This Arab uprising that took place in 2011 in several Arab countries forced the EU countries to review its policies while dealing with its southern countries, among them Egypt. This uncertainty from the EU countries regarding the general political situation

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<sup>199</sup> ---. "Implementation of the European Neighbourhood Policy in 2010 - Progress Country Report: Egypt - Egypt | ReliefWeb." *Reliefweb.int*, 26 May 2011, [reliefweb.int/report/egypt/implementation-european-neighbourhood-policy-2010-progress-country-report-egypt](https://reliefweb.int/report/egypt/implementation-european-neighbourhood-policy-2010-progress-country-report-egypt). Accessed 27 Aug. 2022.

<sup>200</sup> Ibid

<sup>201</sup> Ministry of Foreign Affairs. *National Coordinating Committee for Combating and Preventing Trafficking in Persons, Second Yearly Report 2008 -2009, Egypt*. 2010.

in Egypt continued until the Egyptian Presidential Elections took place in May 2014. At that specific time, the EU countries helped Egypt to gain stability and peace within its territory to control the broader region. Egypt was an important element according to the EU countries to solve regional conflicts that were taking place in Syria, Libya, and Yemen. These conflicts affected the EU countries in terms of the increase in migration flow toward their territories.

The diversity and the complexity of cross-border movements, into, out of, and through Egypt have shaped the EU-Egypt relations which was the main factor that forced the two parties to cooperate again at that specific time. Given the rising migratory trends following the Arab Spring in several Arab countries, Egypt started to take some important steps in order to develop an inclusive strategy to decrease all forms of smuggling and trafficking taking part on its territory.<sup>202</sup>

As such in Oct 2016, Egypt initiated a new National Strategy for Combating Illegal Migration from the year 2016 until 2026.<sup>203</sup> The strategy plan was planned to be headed by the NCCPIM. It is worth noting that in 2016, a strategy plan for combating trafficking in persons was finalized by the NCCTIP.<sup>204</sup> The very first step that the Egyptian government took to be considered and seen as a reliable partner in migration policies with the EU countries, is the adoption of the new Anti-Smuggling Law. The Anti-Smuggling Law is known as Law 82/2016 on Combating Illegal Migration & Smuggling of Migrants. This law was adopted by the Egyptian parliament on 17 October 2016.<sup>205</sup> The main purpose of this new law is to complement the Anti-trafficking law. According to ambassador Naela Gabr, “the Anti-Smuggling Law is meant to become, ‘along with

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<sup>202</sup> ---. *Aid Method/Implementation Methods -Direct Management -Indirect Management with EU Member States DAC Code 150 Sector 2. BACKGROUND*. 2017.

<sup>203</sup> Ibid

<sup>204</sup> Ibid

<sup>205</sup> ---. “Egypt Passes New Anti-Human Smuggling Law.” *International Organization for Migration*, 27 Nov. 2015, [www.iom.int/news/egypt-passes-new-anti-human-smuggling-law](http://www.iom.int/news/egypt-passes-new-anti-human-smuggling-law). Accessed 13 Apr. 2022.



the Anti-Trafficking Law issued in 2010', the legal cornerstone of our national response to the phenomena of illegal migration."<sup>206</sup> It should be noted that it is for the very first time in Egypt's history that the country adopted a law that "should safeguard the rights of smuggled migrants as victims and impose punishment for smugglers and accomplices."<sup>207</sup>

There were different positive international responses regarding the adoption of the new Anti-Smuggling law. For example, different Western countries explained that the new law is considered an efficient step that will lead Egypt in the right direction, in addition to the statement made by IOM, explaining that this law is a "milestone."<sup>208</sup> Additionally, the EU-Egypt Association Council through its Representative Federica Mogherini explained its gratitude for the adoption of the new Anti-Smuggling Law by describing it as key legislation. For that reason, she explained that the EU and Egypt will enhance their cooperation on migration-related issues.<sup>209</sup> As such, it can be understood that the NCCPIM achieved its main objective. More specifically, by drafting and adopting this new law, the committee achieved its technical goal to adopt a new national strategy to control illegal migration within and through its territory. In addition, the committee started to be considered the main focal point for foreign development aid organizations. As it was mentioned earlier that one of the Committee's main goals is to secure international funds from different

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<sup>206</sup> Ibid

<sup>207</sup> ---. *Aid Method/Implementation Methods -Direct Management -Indirect Management with EU Member States DAC Code 150 Sector 2. BACKGROUND*. 2017.

<sup>208</sup> ---. "Egypt Passes New Anti-Human Smuggling Law." *International Organization for Migration*, 27 Nov. 2015, [www.iom.int/news/egypt-passes-new-anti-human-smuggling-law](http://www.iom.int/news/egypt-passes-new-anti-human-smuggling-law). Accessed 13 Apr. 2022.

<sup>209</sup> ---. *Aid Method/Implementation Methods -Direct Management -Indirect Management with EU Member States DAC Code 150 Sector 2. BACKGROUND*. 2017.

international and national partners. Moreover, the EU funded the NCCTIP with around €500,000, which was paid to the Committee through its partner “IOM.”<sup>210</sup>

These steps in strengthening the cooperation between the EU and Egypt, in border control and migration policies, can be considered a very logical outcome of the EU’s GAMM, which was initiated in 2011. The Commission explained that its cooperation with its Mediterranean neighbors would be of mutual benefit.<sup>211</sup> At that time, Egypt did not play a huge role in sending irregular migrants to Europe. However, due to the instability that took place in Libya since 2011 and the different types of crimes that were reported to be taking place in Libya against irregular migrants and refugees. In addition to the closing of the borders to Israel in around 2012, Egypt gained its importance again in the EU agenda. It is worth noting that the time of the adoption of the new Anti-Smuggling Law is very alarming as it was adopted only a few months after the signing of the EU-Turkey deal. During that time, the EU offered around €6 billion to the Turkish government to handle the Syrian refugees within its borders.<sup>212</sup> According to Haferlach, this deal raised the expectations of several southern countries, more specifically, Egypt.<sup>213</sup> However, this critique can be considered misleading information in assessing the adoption of the Anti-Smuggling Law, as the preparatory works started a few years before 2016, yet, the international cooperation between the EU and Egypt should be still considered to play a crucial role in pushing for the adoption of this

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<sup>210</sup> European Union External Action. “Improving “Action to Support the National Coordinating Committee on Combating and Preventing Trafficking in Persons to Create a Safe and Secure Environment in Egypt” | EEAS Website.” *Www.eeas.europa.eu*, 31 May 2018, [www.eeas.europa.eu/node/45632\\_en](http://www.eeas.europa.eu/node/45632_en). Accessed 22 May 2022.

<sup>211</sup> Hinnebusch, Raymond. *From Imperialism to Failed Liberal Peace: How Europe Contributed to MENA’s Failing States System and How MENA Blowback Threatens Europe*. 2017.

<sup>212</sup> Wallis, Emma. “EU Concludes €6 Billion Contract for Refugees in Turkey.” *InfoMigrants*, 18 Dec. 2020, [www.infomigrants.net/en/post/29205/eu-concludes-%E2%82%AC6-billion-contract-for-refugees-in-turkey](http://www.infomigrants.net/en/post/29205/eu-concludes-%E2%82%AC6-billion-contract-for-refugees-in-turkey).

<sup>213</sup> Haferlach, Lisa, and Dilek Kurban. “Lessons Learnt from the EU-Turkey Refugee Agreement in Guiding EU Migration Partnerships with Origin and Transit Countries.” *Www.researchgate.net*, June 2017, [www.researchgate.net/publication/318453666\\_Lessons\\_Learnt\\_from\\_the\\_EU-Turkey\\_Refugee\\_Agreement\\_in\\_Guiding\\_EU\\_Migration\\_Partnerships\\_with\\_Origin\\_and\\_Transit\\_Countries](http://www.researchgate.net/publication/318453666_Lessons_Learnt_from_the_EU-Turkey_Refugee_Agreement_in_Guiding_EU_Migration_Partnerships_with_Origin_and_Transit_Countries). Accessed 22 May 2022.

law. As such, the Anti-Smuggling Law played a significant role in international assistance flowing into the country. In addition, this law allowed Egypt to be qualified as a beneficiary of the ‘Global Action to Prevent and Address Trafficking in Persons and the Smugglings of Migrants’. This initiative is a joint initiative between the EU and UNODC. The main aim of this initiative is to develop and implement more effective national and international responses to trafficking in persons and migrant smuggling through a prevention, protection, prosecution, and partnerships approach.<sup>214</sup>

### **3.1.3. Other forms of cooperation between Egypt and EU:**

There were different other aspects of the EU’s financial deals that were offered to Egypt. For example, the Association Agreement with Southern Mediterranean countries in the framework of the Barcelona Process included different references to the cooperation in migration-related issues.<sup>215</sup> Another aspect of this cooperation is the Khartoum Process is known as the “EU-horn of African Migration Route Initiative”, which was established around November 2014. The Khartoum process can be considered a significant attempt by the EU countries to enhance their cooperation with the different governments in North Africa including Egypt in migration management issues. However, the EU countries during that time were accused of disregarding serious human rights violations by taking part in different participating countries such as Egypt,

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<sup>214</sup> Piecyk, Aleksander. “OverviewThe Global Action to Prevent and Address Trafficking in Persons and the Smuggling of Migrants.” *Unodc.org*, 2015, [www.unodc.org/unodc/en/human-trafficking/glo-act/overview.html](http://www.unodc.org/unodc/en/human-trafficking/glo-act/overview.html). Accessed 22 May 2022.

<sup>215</sup> Völkel, Jan. “More for More, Less for Less: More or Less: A Critique of the EU’s Arab Spring Response à La Cinderella.” *Www.researchgate.net*, May 2014, [www.researchgate.net/publication/327550760\\_More\\_for\\_More\\_Less\\_for\\_Less\\_More\\_or\\_Less\\_A\\_Critique\\_of\\_the\\_EUs\\_Arab\\_Spring\\_Response\\_a\\_la\\_Cinderella](http://www.researchgate.net/publication/327550760_More_for_More_Less_for_Less_More_or_Less_A_Critique_of_the_EUs_Arab_Spring_Response_a_la_Cinderella). Accessed 22 May 2022.

Sudan, and Eritrea.<sup>216</sup> It is worth noting that Egypt took the leadership of the Khartoum process until July 2017.

Besides the aforementioned cooperation, there was some other cooperation that was made solely with Egypt. For example, Egypt became eligible for the EU Regional Trust Fund in Response to the Syrian Crisis known as the “*Madad Fund*”, this fund was created for all the countries that are welcoming Syrian refugees on their territory since December 2014, to decrease the burden of accommodating that huge number from the shoulder of the hosting countries.<sup>217</sup> Moreover, the Valletta Summit is known as the *EU Emergency Trust Fund for Africa (hereinafter EUTF)*, which was established to provide incentives and financial offers to African countries, including Egypt, in November 2015. Which, this fund was assigned to African countries to curb the migration flows going toward the EU countries. Another one that was implemented under the umbrella of the EUTF is EUR 3 million “Strengthening of migration management through institutional support” which is implemented by the Spanish Agency for International Development Cooperation (hereinafter AIDC) with the NCCPIM-TIP.<sup>218</sup> Another example is the launch, on 19 October 2020, by Egypt, the EU, and Germany of the EUR 30 million project “Towards a Holistic Approach to Labor Migration Governance and Labor Mobility in North Africa” (hereinafter THAMM).<sup>219</sup>

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<sup>216</sup> Ibid.

<sup>217</sup> ---. “Homepage.” Ec.europa.eu, 2017, ec.europa.eu/trustfund-syria-region/index\_en. European Council. “Role of NGOs.” Action against Trafficking in Human Beings, [www.coe.int/en/web/anti-human-trafficking/role-of-ngos](http://www.coe.int/en/web/anti-human-trafficking/role-of-ngos).

<sup>218</sup> EuroMed Rights. “Return Mania. Mapping Policies and Practices in the EuroMed Region.” <https://Euromedrights.org/>, Apr. 2021, euromedrights.org/wp-content/uploads/2021/04/EGYPT-CHAPTER.pdf.

<sup>219</sup> Ibid

Egypt has also enlarged its collaboration with the European Union's border protection authority known as FRONTEX.<sup>220</sup> This form of collaboration is under the EUR 4 million program "Strengthening the Africa-Frontex Intelligence Community" financed by the Instrument contributing to Stability and Peace.<sup>221</sup> It is worth noting that FRONTEX is also funding different training to border police officers from around 22 African countries under the supervision of the International Training Center at the Egyptian Police Academy.<sup>222</sup>

#### **3.1.4. Italy's role in International Cooperation:**

Most of the cooperation between Egypt and EU countries is related to return and border management bilateral agreements. It is worth noting that these agreements have a direct impact on the human trafficking situation in Egypt. As explained earlier in Chapter 1 that the more border management increase, the more migrants and refugees will seek help to reach their destinations illegally with the help of smugglers and traffickers.

##### **- Italy:**

The very first bilateral agreement that took place between Egypt and Italy goes back to the year 2000 when it was signed by the two parties. This agreement was followed by two others, the first one took place in 2004 while the second one took place in 2007. However, the last bilateral agreement which took place in 2007 is still in place until now. Those agreements mainly cover return policies and border management between both countries. For the aspect of border

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<sup>220</sup> *الوطن*, 29 Sept. 2019, "عياد, بهاء الدين." الاتحاد الأوروبي: ندعم جهود مصر والتزامها في مواجهة الهجرة غير الشرعية [www.elwatannews.com/news/details/4358419](http://www.elwatannews.com/news/details/4358419). Accessed 27 Aug. 2022.

<sup>221</sup> FRONTEX. "Frontex Launches Capacity Building Project for Africa during AFIC Meeting." *Frontex.europa.eu*, 29 Sept. 2017, [frontex.europa.eu/media-centre/news/news-release/frontex-launches-capacity-building-project-for-africa-during-afic-meeting-g3JfQJ](http://frontex.europa.eu/media-centre/news/news-release/frontex-launches-capacity-building-project-for-africa-during-afic-meeting-g3JfQJ). Accessed 27 Aug. 2022.

<sup>222</sup> FRONTEX. "Consolidated Annual Activity Report 2019." <https://Frontex.europa.eu/>, 27 May 2020, [frontex.europa.eu/assets/Key\\_Documents/Annual\\_report/2019/General\\_Report\\_2019.pdf](http://frontex.europa.eu/assets/Key_Documents/Annual_report/2019/General_Report_2019.pdf). Accessed 27 Aug. 2022.

management, the Italian government signed a technical agreement with Egypt in September 2017.<sup>223</sup> This agreement was meant to be implemented by the Italian State Police, more specifically the Central Directorship for Immigration and Border Police financed with the Funds for Internal Security - Borders and Visa for a total amount of more than EUR 1.8 billion for two years.<sup>224</sup> It is worth noting that this agreement falls under the ITEPA project, which is a collaboration between the two countries to train border police from 22 African countries. More specifically, the border police will be trained on how to combat human trafficking and illegal immigration.

While on the return aspect, the agreement which was signed in 2007 allows the Italian government to return people to the Egyptian territories without even identifying them but only in the event that there is strong evidence of Egyptian nationality. According to the agreement, Egypt has only 7 days in order to respond to that expulsion and in case of silence from the Egyptian government, the Italian government will consider this silence as consent to the expulsion process. It is worth noting that Egypt can only return people to the Italian territories after their arrival in Cairo if the Egyptian government discovered that the people who were expelled were not initially Egyptians. As such, there is always a risk that Italy can use this agreement to send non-Egyptians to Egypt. In 2008, the total number of Egyptians who were expelled from Italy is 294, while in 2019, the number increased to 469.<sup>225</sup> However, the year 2020 witnessed a decrease in the number of expulsions, but it happened due to the COVID-19 pandemic only as Italy did not modify this

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<sup>223</sup> EuroMed Rights. "Return Mania. Mapping Policies and Practices in the EuroMed Region." <https://Euomedrights.org/>, Apr. 2021, euomedrights.org/wp-content/uploads/2021/04/EGYPT-CHAPTER.pdf.

<sup>224</sup> Privacy International. "New Report Underlines the EU's Strategy in the War on Migration: Border Externalisation." *Privacy International*, 18 Sept. 2019, [privacyinternational.org/news-analysis/3224/new-report-underlines-eus-strategy-war-migration-border-externalisation](https://privacyinternational.org/news-analysis/3224/new-report-underlines-eus-strategy-war-migration-border-externalisation).

<sup>225</sup> EuroMed Rights. "Return Mania. Mapping Policies and Practices in the EuroMed Region." <https://Euomedrights.org/>, Apr. 2021, euomedrights.org/wp-content/uploads/2021/04/EGYPT-CHAPTER.pdf.

agreement. This agreement can be assessed as being in direct violation of Article 16 of the International Convention of All Persons from Enforced Disappearance, which was ratified by Italy in July 2015.<sup>226</sup> This Article explains that no one can be expelled to any country in which the person will be at risk of enforced disappearance.<sup>227</sup> According to a report published by the ICRC that a significant number of migrant disappearance can be the end result of smuggling and trafficking activities held by private or non-state actors. In some other cases, agents of the state can such as border and immigration officials, police, port authorities, embassy and consulate employees or members of the armed forces can be smugglers or traffickers themselves. According to the same report, if migrants disappeared throughout their journey or at the destination countries due to the direct or indirect involvement of the government officials in these activities, this would make the incident an enforced disappearance according to the definition of the above-mentioned Convention. As such, this would trigger the responsibility of the states concerned.<sup>228</sup>

Accordingly, through these different examples of international cooperation between Egypt and the EU, it can be understood that EU pushed Egypt to adopt a new national anti-trafficking law. EU has seen throughout time the importance of Egypt in controlling the migrations flows moving towards EU especially after the Arab spring. Also, Egypt has taken the opportunity to sign different agreements with EU in order to develop its country.

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<sup>226</sup> Ibid

<sup>227</sup> Article 16 of the International Convention for the Protection of All Persons from Enforced Disappearance reads as follows: "1. No State Party shall expel, return ("refouler"), surrender or extradite a person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to enforced disappearance. 2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights or of serious violations of international humanitarian law."

<sup>228</sup> Duhaime, Bernard, and Andréanne Thibault. "Protection of Migrants from Enforced Disappearance: A Human Rights Perspective." *International Review of the Red Cross*, vol. 99, no. 905, Aug. 2017, pp. 569–587, 10.1017/s1816383118000097.

### **3.2.Role of International Organizations in implementing the Anti-trafficking law in Egypt:**

Human trafficking in Egypt necessitates collaboration between different national and international agencies. International organizations throughout time played a crucial role to fill in the gap of expertise that countries, in general, may lack. The yearly report published by the United States Department of State in 2020 explained that the main financiers of the programs assigned to victim assistance are international organizations.<sup>229</sup> The main international organizations that play a crucial role in the human trafficking process in Egypt are the following: United Nations High Commissioner for Refugees (hereinafter UNHCR), International Organizations for Migration (hereinafter IOM), United Nations Office on Drugs and Crime (hereinafter UNODC), and the League of Arab State (hereinafter LAS).

#### **3.2.1. UNHCR:**

UNHCR is considered one of the main organizations in Egypt that play a leading role in identifying victims of trafficking that fall under its protection mandate.<sup>230</sup> It should be noted that UNHCR has developed an effective referral mechanism to identify victims of trafficking throughout the past years. As a starting point, UNHCR has a protection Infoline to report any actual or potential human trafficking cases.<sup>231</sup> These cases are referred directly to the protection unit, in which well-trained staff will deal directly with these cases. The protection unit is responsible for the identification of these cases to provide them with legal assistance if needed, to

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<sup>229</sup> US Department of State. "Egypt." *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/egypt/](http://www.state.gov/reports/2020-trafficking-in-persons-report/egypt/).

<sup>230</sup> ---. "Refworld | IOM-UNHCR Framework Document on Developing Standard Operating Procedures to Facilitate the Identification and Protection of Victims of Trafficking." *Refworld*, June 2020, [www.refworld.org/docid/5ee22b4f4.html](http://www.refworld.org/docid/5ee22b4f4.html).

<sup>231</sup> ---. "SERVICES for REFUGEES and ASYLUM-SEEKERS in EGYPT." <https://help.unhcr.org/>, May 2022, [help.unhcr.org/egypt/wp-content/uploads/sites/50/2022/06/Service-Brochure-May-2022.pdf](http://help.unhcr.org/egypt/wp-content/uploads/sites/50/2022/06/Service-Brochure-May-2022.pdf).



provide them with financial assistance, and to accommodate these cases in a safe place. UNHCR is working closely with different NGOs that can provide victims with the required assistance they need.<sup>232</sup>

Additionally, UNHCR has a significant role in working on the capacity-building level for national authorities, law enforcement agencies, and different governmental entities who are considered as front liners in dealing with migrants and refugees. According to a report published by UNHCR in 2021, over the past five years, UNHCR in collaboration with LAS has organized 9 training sessions for around 583 officials from 21 different governmental entities, such as the Ministry of Foreign Affairs and law enforcement agencies such as the Ministry of Interior, the Ministry of Justice.<sup>233</sup> The main aim of this training is to spread the knowledge between the national law enforcement bodies and national authorities on International Refugee Law, the definition of refugees, to differentiate between migrants and refugees, and to identify the type of protection that needs to be provided to the asylum seekers and refugees.<sup>234</sup> Additionally, throughout this training, the targeted law enforcement bodies will be able to identify victims of trafficking starting from the time they are crossing the Egyptian borders until they are referred to normal prosecution under Egyptian law.

Another great step that shed light on human trafficking in Egypt, is the training that was conducted by trainers and experts from UNHCR in collaboration with the Cairo International Center for Conflict Resolution, Peacekeeping & Peacebuilding in 2019 on combating human

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<sup>232</sup> Ibid

<sup>233</sup> UNHCR. "Capacity Building." *UNHCR Egypt*, 2021, [www.unhcr.org/eg/what-we-do/las-cooperation/capacity-building](http://www.unhcr.org/eg/what-we-do/las-cooperation/capacity-building). Accessed 26 Apr. 2022.

<sup>234</sup> Ibid.

trafficking and smuggling of migrants.<sup>235</sup> According to a report published by the center that the training took part from 29 September to 03 October 2019. During this training, there were 15 mid-career African civilian, military, and police personnel from different national governments and regional organizations who are concerned with combating human trafficking and smuggling migrants.<sup>236</sup> The main aim of this training is to enrich the participants' understanding of the definitions of human trafficking and its difference from smuggling. In addition, the training was aiming to address the root causes of migrations, how it is related to trafficking, and their implications. Another important point that was addressed during the training is the importance of international cooperation in addressing human trafficking and the smuggling of migrants.<sup>237</sup> Another important protection measure offered to the victims of trafficking by UNHCR is to refer their cases for resettlement programs to third countries. UNHCR is the only organization in Egypt that has the authority to conduct resettlement interviews for identified victims.

### **3.2.2. IOM:**

Along with UNHCR, IOM is considered one of the main organizations that provide different activities and campaigns that raise awareness on migration-related issues to tackle human trafficking in Egypt. IOM funded many fundamental programs carried out in Egypt to address the human trafficking crime and its severity. Since 2008, IOM has been involved in training and seminars held to accommodate law enforcement bodies in Egypt to address the human trafficking crime.<sup>238</sup> Additionally, in January 2010, IOM funded a project called “Supporting the Government

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<sup>235</sup> CCCPA. “Training on Combating Human Trafficking and Smuggling of Migrants.” *Cairopeacekeeping*, 21 Oct. 2019, [www.cccpa-eg.org/news-details/484](http://www.cccpa-eg.org/news-details/484). Accessed 26 Apr. 2022.

<sup>236</sup> Ibid

<sup>237</sup> Ibid

<sup>238</sup> Daoud, Emad Guihad. *Trafficking of Eritreans in Egypt: facts and misconceptions*. 2015. American University in Cairo, Master's Thesis. *AUC Knowledge Fountain*. <https://fount.aucegypt.edu/etds/67>

of Egypt's Efforts to Combat Human Trafficking by Enhancing Key Investigation and Prosecution Capacities" which continue to take place until recent time. The main aim of this project is to provide different training to the law enforcement bodies such as police officers, and prosecutors on human trafficking. Additionally, they might guide the law enforcement bodies to determine whether the victims identified will fall under the law 64/2010 or not.<sup>239</sup> IOM continued to fund this project and provide such training, for example, in June 2021, IOM along with the Office of the Prosecutor General (hereinafter OPG), and the NCCPIM & TIP organized different training on counter-trafficking in persons and smuggling of migrants in Cairo and Alexandria.<sup>240</sup>

As explained earlier, the Executive Regulations failed to fill in the gaps that were found in law 64/2010 or to provide clear identification of certain areas unclear in the anti-trafficking law. Accordingly, IOM published "The Guidelines on Investigation and prosecution of trafficking in persons and treatment of victims during law enforcement proceedings." Within this publication, IOM tried to provide the law enforcement bodies dealing with human trafficking in Egypt with a comprehensive legal framework to cover the areas that were not covered either in law 64/2010 or by the Executive Regulations.<sup>241</sup> In Addition, IOM managed to launch in collaboration with the NCCPIM & TIP the National Awareness Raising Campaign about the Dangers of Illegal Migration which took place in 2017.<sup>242</sup> Moreover, IOM in collaboration with the NCCPIM & TIP and the NCCM organized 2017 a community outreach program to raise awareness of the dangers of illegal

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<sup>239</sup> Ibid

<sup>240</sup> United Nations Egypt. "60 Egyptian Prosecutors Received IOM Training on Countering Trafficking and Smuggling of Migrants | United Nations in Egypt." *Egypt.un.org*, 4 July 2021, [egypt.un.org/en/134516-60-egyptian-prosecutors-received-iom-training-countering-trafficking-and-smuggling-migrants](https://egypt.un.org/en/134516-60-egyptian-prosecutors-received-iom-training-countering-trafficking-and-smuggling-migrants).

<sup>241</sup> Daoud, Emad Guihad. *Trafficking of Eritreans in Egypt: facts and misconceptions*. 2015. American University in Cairo, Master's Thesis. *AUC Knowledge Fountain*.<https://fount.aucegypt.edu/etds/67>

<sup>242</sup> NCCPIM & TIP. "Awareness Raising | NCCPIM&TIP." *Www.nccpimandtip.gov.eg*, [www.nccpimandtip.gov.eg/en/Awareness/1](http://www.nccpimandtip.gov.eg/en/Awareness/1). Accessed 27 Apr. 2022.

migrations and its alternatives.<sup>243</sup> Another Campaign called “Together against Human Trafficking” took place in 2019 in collaboration between IOM and the NCCPIM & TIP to raise awareness about the severity of human trafficking crime and to encourage people to report this crime.<sup>244</sup>

While on the protection level, IOM funded the establishment of the NCCM regional shelter for women and children’s victims of trafficking, the Egyptian government designated this shelter only for national victims and they did not allow foreigners to be protected in that shelter.<sup>245</sup> It is worth noting that in 2012, IOM along with the NCCPIM and the Ministry of Interior established a National Referral Mechanism for Victims of Trafficking (Hereinafter NRM). The main purpose of this referral mechanism is to improve the protection, initial reception, and medical and social services provided to the victims of trafficking in Egypt.<sup>246</sup> Moreover, IOM in collaboration with the NCCM and the Ministry of Health established a medical recovery unit to provide the required medical assistance to the victims of trafficking, particularly in emergency cases.<sup>247</sup> To allow the victims to benefit from this collaboration as much as possible, IOM has been delivering health-related training for more than 1,671 Egyptian health care professionals since 2010.<sup>248</sup> Another great effort represented by IOM is the creation of the IOM BOSLA website. This website is providing information on legal aid, health care, education, housing, resettlement, and return for

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<sup>243</sup> Ibid

<sup>244</sup> Ibid

<sup>245</sup> Daoud, Emad Guihad. *Trafficking of Eritreans in Egypt: facts and misconceptions*. 2015. American University in Cairo, Master's Thesis. *AUC Knowledge Fountain*.<https://fount.aucegypt.edu/etds/67>

<sup>246</sup> ---. “IOM in Egypt Contribution to UPR on Egypt.” *Ohchr.org*, Feb. 2014, [uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1212&file=EnglishTranslation](http://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1212&file=EnglishTranslation).

<sup>247</sup> Ibid

<sup>248</sup> Ibid

not only the migrant community but also for local organizations and community centers. Each organization can create its profile to update its scope of services and activities.<sup>249</sup>

According to the Egyptian anti-trafficking law, the Egyptian government should provide the victims with a safe place to protect them from the harm of traffickers. However, according to the 2020 US Department of State report, Egypt in the reporting period lacked an adequate shelter to respond to the needs of victims.<sup>250</sup> It should be noted that in 2020, the Egyptian government worked closely with the IOM to renovate one of the shelters to accommodate female Egyptian victims of trafficking. However, the shelter will not accommodate any foreign victims including migrants and refugees, despite all the recommendations by different NGOs and civil society to accommodate foreign victims as similar as accommodating the Egyptian females.<sup>251</sup>

### **3.2.3. UNODC:**

UNODC's mandate about human trafficking is the following:

“UNODC strives for the eradication of these crimes through the dismantling of the criminal enterprises that trade in people and the conviction of the main perpetrators. Ultimately, our work safeguards people from the abuse, neglect, exploitation, or even death that is associated with these crimes.”<sup>252</sup>

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<sup>249</sup> Ibid

<sup>250</sup> US Department of State. “Egypt.” *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/egypt/](http://www.state.gov/reports/2020-trafficking-in-persons-report/egypt/).

<sup>251</sup> US Department of State. “Egypt.” *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/egypt/](http://www.state.gov/reports/2020-trafficking-in-persons-report/egypt/).

<sup>252</sup> ---. “UNODC - Human Trafficking and Migrant Smuggling.” *United Nations : Office on Drugs and Crime*, 2021, [www.unodc.org/unodc/en/human-trafficking/index.html#:~:text=OUR%20MISSION&text=UNODC%20strives%20for%20the%20eradication](http://www.unodc.org/unodc/en/human-trafficking/index.html#:~:text=OUR%20MISSION&text=UNODC%20strives%20for%20the%20eradication). Accessed 27 Apr. 2022.

The main goal of UNODC is to provide the required assistance to different governments to fight human trafficking. In Egypt, UNODC's efforts to fight human trafficking were primarily based on publishing relevant reports, in addition, to the supervisory level to monitor the government's activities in addressing and tackling human trafficking on its territory.<sup>253</sup> Since 2011, UNODC started to carry out different activities that have been taking part in the League of Arab State to guide different states to tackle the crime properly.<sup>254</sup> Most of the activities held in this project targeted legislators, parliamentarians, policymakers, criminal justice practitioners, and victims' service providers.<sup>255</sup> It can be assessed that most of these activities are diplomatic as they were taking into consideration only the policies of the country without addressing any ideas on how to eliminate trafficking. Thus, there were no actual implementations to help and protect victims of trafficking.<sup>256</sup>

Besides producing relevant reports, UNODC launched a 3-year project to dismantle migrants' smugglings and human trafficking networks in 2019. This project was in collaboration with the EU to support Egypt, Libya, Morocco, and Tunisia to identify migrant smuggling and human trafficking criminal networks that are operating in North Africa. The project will reach this main aim by providing assistance to the above-mentioned countries to improve the capacities of front-line officers and agencies, strengthening their capacities to identify and investigate migrant smugglings and human trafficking cases and protecting victims.<sup>257</sup> Under this project, UNODC in

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<sup>253</sup> ---. "UNODC Publications - Human Trafficking and Migrant Smuggling." *United Nations : Office on Drugs and Crime*, [www.unodc.org/unodc/en/human-trafficking/publications.html](http://www.unodc.org/unodc/en/human-trafficking/publications.html).

<sup>254</sup> UNODC. *FINAL INDEPENDENT PROJECT EVALUATION the ARAB INITIATIVE to BUILD NATIONAL CAPACITIES to COMBAT HUMAN TRAFFICKING in the ARAB COUNTRIES*. Sept. 2020.

<sup>255</sup> Ibid

<sup>256</sup> Ibid

<sup>257</sup> Daily News Egypt. "EU, UNODC Launch 3-Year Project to Dismantle Migrant Smuggling, Human Trafficking Networks." *Dailynewsegypt.com*, 5 Aug. 2019, [dailynewsegypt.com/2019/08/05/eu-unodc-launch-3-year-project-to-dismantle-migrant-smuggling-human-trafficking-networks/](http://dailynewsegypt.com/2019/08/05/eu-unodc-launch-3-year-project-to-dismantle-migrant-smuggling-human-trafficking-networks/). Accessed 15 May 2022.

collaboration with the Ministry of Foreign Affairs and the NCCPIM & TIP organized two workshops, the first in 2020 and the second in 2021. During the workshop sessions, definitions and different terminologies related to human trafficking and the smuggling of migrants were explained. In addition, these sessions covered the different international and national legal frameworks to combat human trafficking. Moreover, there were real cases discussed during the sessions.<sup>258</sup>

#### **3.2.4. LAS:**

All the Gulf state parties to the LAS depend mainly on foreign labor, as a result, human trafficking found its way to the agenda of the LAS.<sup>259</sup> The LAS started to tackle human trafficking that has been taking part in the middle east since 2009 and this is to assure that foreign workers are not subjected to human trafficking. Additionally, to assure that if they are subjected to any of its forms, they should implement some policies to stop this phenomenon. Thus, the LAS started to strengthen the diplomatic relationships between its state parties to find a comprehensive strategy to tackle human trafficking. The first time this strategy came to light was in February 2012. The main aim of this strategy was to provide some guidelines to different states to develop national legislation to fight human trafficking on their territory.<sup>260</sup> This suggested strategy was based primarily on the Egyptian anti-trafficking law 64/2010. The strategy recommended the establishment of a specialized unit to record the different human trafficking crimes within the

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<sup>258</sup> UNODC ROMENA. "Egypt: A Step towards Ending Trafficking in Persons and Smuggling of Migrants by Strengthening Judicial Responses." *United Nations : UNODC ROMENA*, 16 Dec. 2020, [www.unodc.org/romena/en/Stories/2020/December/egypt\\_-a-step-towards-ending-trafficking-in-persons-and-smuggling-of-migrants-by-strengthening-judicial-responses.html#:~:text=The%20project%20consists%20of%20a](http://www.unodc.org/romena/en/Stories/2020/December/egypt_-a-step-towards-ending-trafficking-in-persons-and-smuggling-of-migrants-by-strengthening-judicial-responses.html#:~:text=The%20project%20consists%20of%20a). Accessed 15 May 2022.

<sup>259</sup> Daoud, Emad Guihad. *Trafficking of Eritreans in Egypt: facts and misconceptions*. 2015. American University in Cairo, Master's Thesis. *AUC Knowledge Fountain*. <https://fount.aucegypt.edu/etds/67>

<sup>260</sup> LEGAL AFFAIRS UNIT, TECHNICAL SECRETARIAT OF THE ARAB MINSTERS OF JUSTICE, ARAB COMPREHENSIVE STRATEGY FOR COMBATTING HUMAN TRAFFICKING. 2012.

member states, create a database to collect all the information gathered related to human trafficking, and hire ex-pats to fight human trafficking.<sup>261</sup> As such, a Memorandum of Understanding has been signed between the two organizations to focus jointly on advocating for access to safety and protection from refoulement, reinforcing registration and refugee status determination, promoting legislative frameworks, addressing the risks of statelessness, ensuring security from violence and exploitation, and working towards durable solutions, including increased resettlement efforts. UNHCR and LAS also organize regular meetings and capacity-building sessions at the sectoral, regional, ministerial, and expert levels. The purpose of these sessions is to enhance the dialogue with the concerned authorities on refugees and provide assistance in developing their policies.<sup>262</sup>

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<sup>261</sup> Ibid.

<sup>262</sup> ---. "Cooperation with League of Arab States." *UNHCR Egypt*, [www.unhcr.org/eg/what-we-do/las-cooperation](http://www.unhcr.org/eg/what-we-do/las-cooperation).



## **Chapter Four**

### **The main Egyptian actors in implementing the Anti-trafficking law**

With the increased number of irregular migrants, the trafficking crimes became more and more obvious, accordingly, Egypt has to reestablish the NCCPIM to fit its new international cooperation with the EU countries.

#### **4.1. The creation of the current National Coordinating Committee for Combating and Preventing Illegal Migration and Trafficking in Persons (herein after NCCPIM & TIP):**

As explained in the previous chapter that the anti-trafficking law was adopted by the Egyptian government to combat and fight against human trafficking, under which there is a committee should be created. The main role of this committee is to coordinate different national efforts to combat trafficking crime. However, this committee had passed through different shapes and forms to reach the current one which was established in 2017. The first committee was created in 2007 by a ministerial decree then it was re-established in 2010 by a new ministerial Decree (Decree 2353/2010). Later on, in 2012, the committee was reestablished again and had a new name which is the National Coordinating Committee for Combating and Preventing Trafficking in Persons and Illegal Migration. At that time, the committee was operating from the Ministry of Foreign Affairs, but it was reporting directly to the Prime Minister's Cabinet. Again, by the end of 2013, a new ministerial decree (Decree 1537/2013) reestablished the committee to be called the National Coordinating Committee for Combating and Preventing Trafficking in Persons. At that time, the head office moved to the Ministry of Justice, but it was still reporting directly to the Prime Minister's Cabinet. However, it should be noted that throughout these different stages, the Chairperson was always the Deputy Minister of Justice for the Human Rights sector. In 2014, a new committee was created by a ministerial decree (Decree 380/2014) called the National

Coordinating Committee for Combating and Preventing Illegal Migration (hereinafter NCCPIM). Lastly, the two committees were merged into only one committee which was established on 7 November 2016 according to law number 82/2016 and were created on 23 January 2017 by the ministerial decree (Decree 192/2017) to be called the National Coordinating Committee for Combating and Preventing Illegal Migration and Trafficking in Persons (NCCPIMTIP). Currently, the Committee's mandate is to lead government efforts to prevent and combat illegal migration in Egypt considering its position as a country of origin, transit, and destination. In addition, the committee is acting as the focal point for all policies, national guidelines, action plans, and programs related to illegal migration. It should be noted that the committee is still reporting directly to the Prime Minister's Cabinet.<sup>263</sup> It should be noted that before 2014, the committee did not have any effective role in combating either illegal migration or human trafficking.

#### **4.1.1. The NCCPIM & TIP's role:**

The NCCPIM&TIP is considered the major administrative institution assigned by the Egyptian government to implement anti-trafficking laws. In addition, the committee is responsible for ensuring the protection of victims of trafficking. For that reason, it is of crucial importance to examine in a detailed manner the role of the NCCPIM&TIP in the following part of the thesis.

The main goals that are set by the committee are the following:

1. To raise public awareness on the hazards/alternatives of Illegal Migration.
2. To mobilize the resources required to serve the fight against illegal Migration (participation of the private sector, capacity building of national entities working in the field).

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<sup>263</sup> NCCPIMTIP. "About Us | NCCPIM&TIP." *Www.nccpimandtip.gov.eg*, 23 Jan. 2017, [www.nccpimandtip.gov.eg/en/AboutUs/#overView](http://www.nccpimandtip.gov.eg/en/AboutUs/#overView). Accessed 12 Apr. 2022.

3. To support the development process in order to reduce illegal Migration
4. To promote legal/ regular tracks of Migration.
5. To protect the most vulnerable groups at risk of exploitation/smuggling.
6. To build a national capacity to collect/ analyze information on the illegal migration issue.
7. To build and operationalize the legislative framework necessary to support the efforts of combating illegal migration.
8. To reinforce regional cooperation through sharing of expertise, and interregional capacity building.<sup>264</sup>

NCCPIM&TIP is constituted of the collaboration of different ministries such as the Ministry of Interior, the Ministry of Defense, the Ministry of Foreign Affairs, the Ministry of Health, the Ministry of Justice, the Ministry of Manpower, the Ministry of Social Solidarity, the Ministry of Local Development, the Ministry of International Cooperation, the Ministry of Tourism, the Ministry of Youth and the Ministry of Education. In addition, some representatives from different national councils such as the National Council for Human Rights, the National Council for Women, the National Council for Childhood and Motherhood, and the Supreme Council for Journalism. Moreover, different civil society organizations were represented in the committee along with some representatives from the office of the General Prosecutor and the Specialized courts. Most of the challenges that were taking place due to the division in the committee into two different committees were resolved after the new law released the Decree to create the NCCPIM&TIP as the only legal institution to fight illegal migration and human trafficking at the same time.

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<sup>264</sup> NCCPIMTIP. "About Us | NCCPIM&TIP." *Www.nccpimandtip.gov.eg*, 23 Jan. 2017, [www.nccpimandtip.gov.eg/en/AboutUs/#overView](http://www.nccpimandtip.gov.eg/en/AboutUs/#overView). Accessed 12 Apr. 2022.

As explained earlier, after the EU-Egypt collaboration, the committee was reestablished in 2014 due to some political pressures explained earlier. Since then, Egypt made great efforts in the field of combating, preventing illegal migration and human trafficking to reduce this phenomenon. According to an interview conducted by Daily News in 2020 with Ambassador Naela Gabr, the head of the NCCPIM&TIP, she stated that Egypt has not captured a single boat departing from its shores for four years.<sup>265</sup> This massive decrease in the number of illegal migrations took place in Egypt through the integration of some legislative efforts along with some security and development efforts. As a result of this collaboration between the different law enforcement entities in Egypt, the first Anti-smuggling law was adopted in Egypt in 2015.

In addition, as a way to fight against irregular migration, the Egyptian government started to initiate a new national project to provide thousands of Egyptian youths with job opportunities. It can be understood that these national projects were initiated as unemployment and low living conditions can be considered as one of the main factors that instigate irregular migration.<sup>266</sup> Moreover, the Egyptian government with the help of the Ministry of Social Solidarity, the National Council for Childhood and Motherhood, and the Egyptian Red Crescent signed a new cooperation protocol in 2018 to create a shelter.<sup>267</sup> The shelter was created to welcome women and children who are considered victims of trafficking. And for the first time in Egypt, a complaints mechanism has been established to preserve the rights of domestic workers. This complaints mechanism is

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<sup>265</sup> Hegazi, Sami. "Egypt's Integrated Efforts See Success against Illegal Immigration: NCCPIM & TIP." *Dailynewsegypt.com*, 22 Nov. 2020, [dailynewsegypt.com/2020/11/22/egypts-integrated-efforts-see-success-against-illegal-immigration-nccpim-tip/](https://dailynewsegypt.com/2020/11/22/egypts-integrated-efforts-see-success-against-illegal-immigration-nccpim-tip/). Accessed 13 Apr. 2022.

<sup>266</sup> IOM. "Egypt Launches New National Strategy on Combating Illegal Migration." *International Organization for Migration*, 18 Oct. 2016, [www.iom.int/news/egypt-launches-new-national-strategy-combating-illegal-migration](http://www.iom.int/news/egypt-launches-new-national-strategy-combating-illegal-migration). Accessed 13 Apr. 2022.

<sup>267</sup> NCCPIM&TIP. "Inaugurating the First Dedicated Shelter for Victims of Trafficking in Persons | NCCPIM&TIP." *Www.nccpimandtip.gov.eg*, 5 Nov. 2020, [www.nccpimandtip.gov.eg/en/Article/82/inaugurating-the-first-dedicated-shelter-for-victims-of-trafficking-in-persons](http://www.nccpimandtip.gov.eg/en/Article/82/inaugurating-the-first-dedicated-shelter-for-victims-of-trafficking-in-persons). Accessed 13 Apr. 2022.

established by the collaboration of the National Councils for Childhood, Motherhood, Women, and Human rights.<sup>268</sup> In the same interview conducted with Ambassador Naela Gabr by Daily News, she confirmed that the NCCPIM&TIP launched the second part of the national campaign known as “Together against Human Trafficking”. She added that the main aim of this campaign is to encourage citizens to report that type of crime through hotlines linked to the National Council for Childhood and Motherhood (16000), the National Council for Women (15115), and the National Council for Human Rights (15508).<sup>269</sup>

According to the aforementioned role of the Committee, it can be concluded that the main deficit in its performance is that the Committee has no actual power. However, the power is in the hand of the representative actors who are members of the committee. For example, the committee on different occasions denied the fact that any African migrants or refugees were trafficked in Sinai as explained earlier in one of the interviews with Ambassador Naela Gabr. In the case of Egypt, the very first step to fight against human trafficking is to recognize that criminal groups will always have the capacity to cross their borders illegally without being caught or seized by law enforcement agencies. In several cases, the law enforcement agencies such as police forces and armed forces were involved in the crime itself. According to a report published by the US Department of States in 2020, five government officials were prosecuted for being involved in trafficking crimes. However, the Egyptian government did not provide any further details about this case or provided further details about the trials of these officials.<sup>270</sup> For that reason, it is

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<sup>268</sup> Hegazi, Sami. “Egypt’s Integrated Efforts See Success against Illegal Immigration: NCCPIM & TIP.” *Dailynewsegypt.com*, 22 Nov. 2020, [dailynewsegypt.com/2020/11/22/egypts-integrated-efforts-see-success-against-illegal-immigration-nccpim-tip/](https://dailynewsegypt.com/2020/11/22/egypts-integrated-efforts-see-success-against-illegal-immigration-nccpim-tip/). Accessed 13 Apr. 2022.

<sup>269</sup> Ibid

<sup>270</sup> US Department of State. “Egypt.” *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/egypt/](https://www.state.gov/reports/2020-trafficking-in-persons-report/egypt/).

assessed that the major involvement of the ministry of interior and the ministry of defense's representatives hurts the effectiveness of that committee. Additionally, this involvement played a huge role in shaping policy priorities.

#### **4.2. The role of the NGOs in implementing the anti-trafficking law in Egypt:**

NGOs have always played a crucial role in influencing society by focusing on different topics that are not considered a priority to the governments, and by providing some effective solutions to these topics.<sup>271</sup> NGOs also play a significant role in seeking better policies and solutions to help governments in implementing these policies and solving these problems. NGOs usually try to impact the governments' interests by outlining problems, recommending solutions, and suggesting relevant political actions.<sup>272</sup> In addition, NGOs fill in the gaps in some areas where national policies implemented by some governments are insufficient or ineffective. According to an article published by Henrik Secher Marcussen on the role of NGOs, the State, and Civil Society:

“NGO assistance is in particular expected to be sustainable, and the development activities supported through NGOs to supplement or complement bilateral or multilateral aid, most often provided on a government-to-government basis. In other words, the functions and roles played by NGOs are mainly as more efficient project implementers, particularly at a local level using participatory methods.

Another important role for NGOs is that some of them are considered service

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<sup>271</sup> Campbell, John L. “Institutional Analysis and the Role of Ideas in Political Economy.” *Theory and Society*, vol. 27, no. 3, 1998, pp. 377–409, <http://www.jstor.org/stable/657900>. Accessed 26 Apr. 2022.

<sup>272</sup> Joachim, Jutta. “Framing Issues and Seizing Opportunities: The UN, NGOs, and Women's Rights.” *International Studies Quarterly*, vol. 47, no. 2, 2003, pp. 247–74, <http://www.jstor.org/stable/3693544>. Accessed 26 Apr. 2022.

delivery agents (in health, education, etc.), substituting for the state, either resulting from effects of structural adjustment or as a result of state incapacity.”<sup>273</sup>

Accordingly, NGOs can reach easily marginalized people that the government did not pay much attention to through different projects. According to one of the World Bank Discussion papers on Nongovernmental Organizations and Local development, Michael M. Cernea explained that NGOs are much more effective in delivering better services to marginalized individuals due to their ability to provide services to different people at a low cost and to provide technical and financial support to the target group.<sup>274</sup>

In addition, according to article 35 of Model Law against Trafficking in Persons regarding the establishment of a national anti-trafficking and coordinating body inter-agency anti-trafficking task force, that state parties to the convention shall encourage state authorities and public officials to collaborate with NGOs, other relevant organizations, and member of civil society, to achieve the main aim of the convention.<sup>275</sup> According to the European Council, Civil Society, and NGOs play a crucial role in the implementation of the convention. They added that this will take place when Civil Society and NGOs provide awareness sessions, and relevant training to the law enforcement agencies and police forces, establish a mechanism to identify victims of trafficking

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<sup>273</sup> Marcussen, Henrik Secher. “NGOs, the State and Civil Society.” *Review of African Political Economy*, vol. 23, no. 69, 1996, pp. 405–23, <http://www.jstor.org/stable/4006380>. Accessed 26 Apr. 2022.

<sup>274</sup> Cernea, Michael. *Nongovernmental Organizations and Local Development*. 1988.

<sup>275</sup> ---. *Model Law against Trafficking in Persons*. 2009.

and provide them with suitable accommodation and any other type of assistance that they need. Moreover, NGOs as part of civil society might provide legal assistance to the victims.<sup>276</sup>

There are no national obligations to force the Egyptian government to collaborate with NGOs and Civil Society, however, in recent years, there is a noticeable interest from the Egyptian government in different Civil Societies and NGOs working on the human trafficking agenda. Egypt recognized the crucial role of these actors in the development process, as they can be considered the main link between international organizations, donors, and national governments. By identifying the role of important IGOs in implementing the anti-trafficking law in Egypt, the following section of this chapter will cover the role of NGOs and civil society as they are considered the link between the Egyptian government and international organizations.

#### **4.2.1. The different NGOs in Egypt:**

As explained earlier that the role of civil society was always found effective in addressing different societal problems. The main reason behind the effectiveness of civil society, in general, returned to its capabilities to mobilize communities by raising awareness among citizens, and monitoring closely the work of different governments. However, the role of the Egyptian civil society continued to be hindered by the Egyptian national laws which restrict its activities. Another main reason behind the ineffectiveness of civil society in Egypt is that in 2013, a proposed law came into force to regulate the operation of different NGOs in Egypt. This law controlled different NGOs operating in Egypt, especially the ones that criticize the Egyptian government.<sup>277</sup>

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<sup>276</sup> European Council. "Role of NGOs." *Action against Trafficking in Human Beings*, [www.coe.int/en/web/anti-human-trafficking/role-of-ngos](http://www.coe.int/en/web/anti-human-trafficking/role-of-ngos).

<sup>277</sup> ---. "Proposed Government Law Makes NGOs Subordinate to Security and Ministry Control | Egyptian Initiative for Personal Rights." *Eipr.org*, 9 July 2014, [eipr.org/en/press/2014/07/proposed-government-law-makes-ngos-subordinate-security-and-ministry-control](http://eipr.org/en/press/2014/07/proposed-government-law-makes-ngos-subordinate-security-and-ministry-control). Accessed 27 Apr. 2022.



It should be noted that the major civil society organizations (hereinafter CSOs) operating in Egypt and working closely on human trafficking are the following: Egyptian Initiative for Person Rights (hereinafter EIPR), Egyptian Foundation for Refugee Rights (hereinafter EFRR), Refugee Egypt, Hesham Mubarak Law Center, the Psycho-Social Services and Training Institute (hereinafter PSTIC), Saint Andrews (hereinafter StARS), and Caritas.<sup>278</sup> Each one of the aforementioned civil society organizations has a different scope of work. For example, an organization like PSTIC is providing psycho-social sessions to victims of trafficking and some training to the most affected migrant and refugee communities to explain to them the severity of this crime and how to report traffickers. In addition, PSTIC has a shelter that can accommodate victims of trafficking.

Additionally, Caritas and Refugee Egypt are providing victims of trafficking with all the medical assistance they need from generic assistance to specialized services such as services for reported cases of rape. As explained earlier, civil society organizations and NGOs as part of the CSOs can work in a more efficient way than different governments. The main reason behind this is that most NGOs do not suffer from the same bureaucratic issues that governments are suffering from which render most of their actions too slow. Accordingly, it should be noted that NGOs should be assigned to carry out investigations and provide protection for victims of trafficking. The flexibility of NGOs to diversify their sources of funding can make it an easy task for the Egyptian government to collaborate with different NGOs to identify victims and provide services that need the intervention of ex-pats who are not available at the government facilities, especially for human trafficking issues such as mental health evaluation as well as some reintegration efforts

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<sup>278</sup> Abdel Aziz, Nourhan Amr. *The governance of human trafficking in Egypt: The legal, policy, and institutional frameworks*. 2016. American University in Cairo, Master's Thesis. AUC Knowledge Fountain. <https://fount.aucegypt.edu/etds/344>

of victims.<sup>279</sup> The failure of the government to collaborate with the existent NGOs in Egypt will affect the entire process of protection, prosecution, and prevention. Thus, all the Egyptian efforts to tackle the human trafficking issue related to migrants and refugees will become ineffective.

According to the U.S State of Department's report published in 2020 on the trafficking of persons in Egypt, despite the great effort that is taking place by the Egyptian government and its law enforcement agencies in implementing the national anti-trafficking, Egypt will remain a Tier 2 as it was explained earlier. The main reason behind Egypt being categorized as Tier 2 is that the government does not fully meet the minimum standards for the elimination of trafficking.<sup>280</sup> One of the main points identified by the US State of Department that Egypt did not meet the minimum standards is that the government remained without effective victim identification and referral procedures. In addition, the government did not provide victims with protection services such as adequate shelters, and the state lack of funds for civil society organizations that are specialized in providing basic victim care.<sup>281</sup>

In Jan 2020, the NCCPIM & TIP collaborated with IOM as mentioned earlier to provide different training to around 20 to 25 judges on anti-trafficking mechanisms in Egypt. These judges were working primarily in 8 specialized judicial circuits in the court of appeal under the Ministry of Justice. However, the Ministry of Justice did not report during the year 2020, to use these specialized courts. Additionally, the Ministry of Justice did not provide any clear or detailed information on the resources, staffing, or responsibilities of these courts.<sup>282</sup> In the same reporting

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<sup>279</sup> Daoud, Emad Guihad. *Trafficking of Eritreans in Egypt: facts and misconceptions*. 2015. American University in Cairo, Master's Thesis. *AUC Knowledge Fountain*.<https://fount.aucegypt.edu/etds/67>

<sup>280</sup> US Department of State. "Egypt." *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/egypt/](http://www.state.gov/reports/2020-trafficking-in-persons-report/egypt/).

<sup>281</sup> US Department of State. "Egypt." *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/egypt/](http://www.state.gov/reports/2020-trafficking-in-persons-report/egypt/).

<sup>282</sup> Ibid

period in 2020, IOM facilitated training for Egyptian police officers working under the ministry of interior on human trafficking and the regulating laws. It can be understood that the Egyptian government has marginalized the role of NGOs in providing some generic training only to the law enforcement bodies, however, if these NGOs were more involved in evaluating, and providing clear guidance to these bodies, they would be able to implement the laws properly. In addition, NGOs will be able to have an accurate number of the human trafficking processes that are held by the governmental personnel.

According to the same report by the US State Department, Egypt remained without an effective victim identification and referral system. The main reason behind this is that the authorities rely heavily on NGO's referrals and the self-identification of victims. Despite the several pieces of training provided by NGOs to the law enforcement bodies, however, relevant authorities are still punishing, and prosecuting identified and unidentified victims for illegal acts that the traffickers forced them to commit. For example, illegal migration-related issues or any related prostitution activities. Accordingly, most migrants and refugees prefer not to report the trafficking crime or to file a criminal offense against traffickers fearing the punishment that they might face at the hands of the law enforcement bodies. It can be understood that if the NGOs were more involved in the identification mechanism to ensure that the law enforcement bodies are applying the proper laws, more specifically, through informing public by the different awareness sessions that they can organize, which will in fact create public pressure to apply proper laws. As such, victims will be more encouraged to report their traffickers in addition to the harm that they were subjected to.

The Egyptian government continued to implement the 2016-2021 National Strategy for Combating and Preventing Trafficking in Persons, however, the government did not provide

detailed information on the number of resources designed to serve this strategy. In addition, the NCCPIM & TIP coordinated continuous anti-trafficking efforts among different ministries involved in the process. However, the NCCPIM & TIP did not seek NGO's help in assigning trafficking ex-pats to provide efficient training to the law enforcement bodies, which delayed a huge number of training that was scheduled for police, judicial officials, and prosecutors.<sup>283</sup> During the reporting period in 2020, the US Department of State explained that one of the NGOs provided some training to the personnel working in one of the hotlines run by the National Council for Women (hereinafter NCW), however, the hotline never reported back if they received or identified any potential victims of trafficking. As such, it can be understood that the lack of involvement of NGOs and civil society organizations with the law enforcement bodies assigned to work on human trafficking cases will render the Egyptian anti-trafficking from working effectively.

#### **4.3.Conclusion:**

It can be concluded that despite the great efforts that were made by different international organizations and civil society organizations working on human trafficking in Egypt, most of these efforts do not have an effective role in protecting migrants and refugees living in the Egyptian territories. As explained in the previous chapter, several gaps in the Egyptian anti-trafficking law render the law ineffective in protecting victims of trafficking, identifying the traffickers, and prosecuting them. Most International Organizations and civil society organizations – due to the several restrictions imposed by the Egyptian authorities – did not have the freedom to address human trafficking by their capabilities. However, their scope of work is limited only to the specific tasks assigned to them based on the recommendations of the Egyptian government and law

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<sup>283</sup> US Department of State. "Egypt." *United States Department of State*, 2020, [www.state.gov/reports/2020-trafficking-in-persons-report/egypt/](https://www.state.gov/reports/2020-trafficking-in-persons-report/egypt/).

enforcement bodies. In addition, the Egyptian anti-trafficking law was not concerned about the non-nationals living on its territory including migrants and refugees. More specifically, when migrants and refugees were denied access to the victims' shelters, most of the hotlines assigned by the Egyptian government are serving victims in the Arabic language only, which prevents them from getting the help they need. With all the restrictions that were enforced by the Egyptian government regarding the work of civil society organizations, the Egyptian anti-trafficking law became ineffective in protecting the migrants and refugees living in Egypt by leaving them without any effective legal framework. As such, they lack access to any services or assistance to ensure they provide and that they are benefiting from their basic rights.

## **Conclusion:**

Human trafficking crime can be considered one of the main threats that menace the security and stability of every state around the globe. Due to the severity of this crime, it can be assessed that it deters the state's development process and exposes its economic, social, and security structure at risk. As such, this crime is considered one of the severe human rights violations, for that reason, the international community started to address this crime in different international conventions and treaties that their main aim is to fight against this phenomenon. As explained throughout this research that this crime has a transnational aspect, accordingly, no country is immune from this phenomenon taking place on its territory. In addition, to the absence of accurate and reliable statistics on the exact number of cases of trafficking due to the sensitivity of this crime, as such, it was really hard to take actual steps toward its elimination. Human rights are granted to all individuals despite their race, nationality, or religion, as these rights are the core of human dignity. However, the influence of this crime would affect the entire community not only the state where it is taking part.

In Egypt, human trafficking has existed for a very long time and different reasons. Egypt is a state party to the Convention against Transnational Organized Crime and its Protocols, which is the first reason that forces Egypt to fight human trafficking on its territory. Secondly, as explained in the previous Chapter, Egypt is a state party to different international conventions that address human trafficking such as ICCPR, CEDAW, RCR, and its optional protocol, ICESCR, CAT, ICRMW, the 1930 Forced Labour Convention, the 1957 Abolition of Forced Labour Convention, and the 1999 Worst Forms of Child Labour Convention. It can be seen that Egypt is a party to all the different treaties mentioned above, which have different provisions that oblige Egypt to fight human trafficking. Additionally, Egypt is a party to the African Charter on Human

and Peoples' Rights. Accordingly, Egypt has a clear legal responsibility to combat human trafficking that is taking place on its territory. As such, the Egyptian government adopted the anti-trafficking law in 2010 to counter this phenomenon. However, the Egyptian anti-trafficking law has shown different gaps which were examined sorely throughout this research, accordingly, it can be concluded that this law is unable to provide complete protection for victims of trafficking or prevent crime. While the Anti-trafficking law was found to be effective in some of its provisions, however, due to the lack of different clear definitions and clear provisions as mentioned earlier, prosecutors are having the freedom to deal with human trafficking cases on their interpretations.

With the continuous fear of the EU countries from uncontrolled migration flows coming from the Southern Mediterranean. The Egyptian government with its geographic location and the existence of refugees and irregular migrants on its territory played a significant role to create a channel of international cooperation between the Egyptian government and the EU countries. The main trigger of this cooperation is controlling the migration flows stepping into the EU countries. This trigger affected the human trafficking policies in Egypt in a very clear way. Egypt has been keen on creating mechanisms to counter human trafficking on its territories, especially after the EU pressure. For example, Egypt established the NCCPIM & TIP to enhance its implementation policies, plan, and programs, at both the national and international levels.

While it can be considered that Egypt made great efforts in combating human trafficking on its territory, however, there is still more to be done. For example, the Egyptian government should fill in the gaps in the anti-trafficking laws with the help of the EU, IGOs, and NGOs. In addition, Egypt should organize more awareness campaigns to the public to explain the severity of human trafficking crime and let the public gain its trust in the criminal justice system. In Egypt, law enforcement bodies are known for their mistreatment of people who might be at risk of

trafficking like street children, sex workers, and migrants. Lastly, the Egyptian government should ensure the inclusion of civil society organizations in fighting against human trafficking by increasing their capacities, knowledge, and their involvement in the process of protecting victims of trafficking.

While the problem of human trafficking is great, however, its official recognition in Egypt lacks conceptual clarity. The recognition of the human trafficking as a separate offense is crucial in order to facilitate the prosecution of different cases of trafficking. As prosecution is a great step for traffickers, however, the Egyptian government should also address the conditions of vulnerability that contribute to trafficking and to recognize victims of trafficking as a victim who is entitled to basic human rights, such as protection and assistance.



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