



This document is submitted by Geneva International Centre for Justice (GICJ) and Advocating Opportunity (AO) for consideration by the Committee on the Elimination of Discrimination against Women (CEDAW) during the development of its General Recommendation on the suppression of trafficking of women and girls.

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## Introduction

1. Geneva International Centre for Justice (GICJ) and Advocating Opportunity (AO) are pleased to offer this submission to the Committee for the Elimination of Discrimination Against Women (Committee or CEDAW) as a contribution toward the general discussion on trafficking of women and girls in the context of global migration, held on 22 February 2019, during the Committee's 72nd session. We hope the information will prove useful to the Committee in the development of its proposed General Recommendation on this topic.
2. As noted by the Committee in its Concept Note, the world is experiencing massive global migration and major problem of human trafficking. Based on historical data, human trafficking has disproportionately impacted women and girls, although recent data show men and boys now make up approximately half of all reported victims.<sup>1</sup> Trafficking of human beings is one of the main and most insidious form of contemporary slavery. Unfortunately, it is extremely challenging to address because it usually results from a complex interaction of different factors. Therefore, states must develop integrated and multidisciplinary approaches to address the problem using many different tools, including cooperation between the government and civil society organizations.

## Human Trafficking Issues and Examples

3. In this submission, we briefly present some information and examples focused on the issues of prevention, legal status of victims, and states facing or recovering from armed conflict. Although the examples come from specific states, we believe they offer insights that are broadly applicable and could help other states in satisfying the obligation to suppress all forms of trafficking of women and girls.

## Prevention Through Education and Coordination

4. In order to assist the States parties to the Convention on the Elimination of All Forms of Discrimination against Women (Convention) in suppressing trafficking, we would like to begin with the importance of establishing successful prevention mechanisms.
5. We believe that global action against the crime of human trafficking must begin with prevention. Prevention tackles the crime at its roots and addresses the main push and pull factors, such as conditions leading to migration, that give rise to human trafficking. However, any prevention strategies must include the following to be effective: research

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<sup>1</sup> Counter Trafficking Data Collaborative, *Human Trafficking and Gender: Differences, Similarities and Trends*, CTDC, <https://www.ctdatacollaborative.org/story/human-trafficking-and-gender-differences-similarities-and-trends>.

and study of the local conditions, information collection and sharing mechanisms to better understand the phenomenon (for example, a centralized database), and cooperation protocols between entities. Without these, there will not be proper understanding of the problem within the local context or an ability to coordinate prevention efforts among the various authorities and civil society organizations involved.

6. Studies of local conditions usually reveal that trafficking attributable to a complex interaction of different factors. For example, poverty is not the single root cause of human trafficking. Here the example of Nepal is instructive. In Nepal, human trafficking is caused not only by economic conditions, such as poverty or lack of working opportunities, but also by the social context, such as lack of education and false expectations and beliefs about the outside world, both of which are exacerbated by the isolation of some communities in remote areas. For instance, in 2018 human traffickers have increasingly enticed young Nepalese women into going to Lebanon by playing on their desire to emigrate to the United States. Traffickers tell the women it will be easier to reach the U.S. from Lebanon, but once the women reach Lebanon the traffickers introduce them into the local sex industry.<sup>2</sup> Because of the social tradition of paying a dowry for a daughter's marriage, many girls are trafficked under the false promise of a dowry-free marriage abroad. Traffickers visit the poorest villages and entice parents into unwittingly delivering daughters into trafficking by offering the dowry-free marriage, which is a relief to poor families who might otherwise go into extreme debt to pay for the marriage.<sup>3</sup>
7. These examples also point out the importance of considering the age of the potential victim and the misconceptions people may have about the world when developing prevention strategies. Young victims are often easier to recruit; children can be more easily lured with false promises and can be dominated more easily once trafficked. Thus child-focused approaches are needed. They also reveal that it is parents who are often responsible for unwittingly giving their own children to traffickers. Traffickers often prey on the ignorance of individuals and families to obtain willing victims who honestly believe the false promises of a better future.
8. Since traffickers often prey on people's ignorance, we believe that education plays a crucial role in any trafficking prevention strategy. Education focused on potential victims must address all age categories and include elements such as human rights education, skill development, and techniques to reduce isolation of families in remote communities. Education must also include appropriate training for educators and other school personnel. Specific approaches to raise awareness of trafficking might include interactive activities, workshops, and posted information inside school buildings. In addition, the development of an anonymous and straightforward reporting systems in schools could help prevent trafficking by encouraging students to alert trusted school personnel of possible trafficking situations. Finally, raising awareness through community-based projects is critical to

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<sup>2</sup> National Human Rights Commission, *Trafficking in Persons in Nepal: National Report 76* (Sept. 2018), [http://www.nhrcnepal.org/nhrc\\_new/doc/newsletter/NHRC\\_National\\_Report\\_TIP\\_in\\_Nepal\\_September\\_2018.pdf](http://www.nhrcnepal.org/nhrc_new/doc/newsletter/NHRC_National_Report_TIP_in_Nepal_September_2018.pdf).

<sup>3</sup> *See id.* at xiii; Christopher Sharma, *Nepal, Taken from School and Given in Marriage: The Plight of Child Brides*, AsiaNews (19 Mar. 2016), <http://www.asianews.it/news-en/Nepal,-taken-from-school-and-given-in-marriage:-the-plight-of-child-brides-36991.html>.

ensure the general population, especially parents, understand the local nature of human trafficking and are able to recognize and respond to instances of trafficking.

9. It bears repeating that an education strategy must be supported by information sharing and cooperation protocols to be effective. Traffickers experiment with different recruitment practices according to the specific vulnerability of the inhabitants in their operating area. This makes trafficking a dynamic phenomenon, constantly changing, evolving and assuming new and different forms. Therefore, it is essential to create flexible prevention mechanisms that can adapt to different situations. While Nepal has well-developed legislation criminalizing trafficking, it lacks the information sharing and coordination among entities that is required for effective implementation of the law. Again, a central database of trafficking situations and cooperation between authorities and NGOs working on the issue could improve the success of strategies to prevent this crime.

### Legal Processes and Status of Victims

10. Some countries not only face trafficking of its own citizens but also large flows of foreigners being trafficked through the country. In these situations, the status of victims and legal processes available to them become a critical factor in addressing human trafficking. Difficult living conditions sometimes lead individuals to make the choice of cross-border migration, either regular or irregular, alone or by means of criminal networks. Regardless of the method, migrants are at increased risk of exploitation once they arrive at the foreign destination. Tunisia has become a country with big flows of migrants coming from Libya and Syria after the outbreak of conflict in those countries. In general, the geographical position of Tunisia between Europe and Sub-Saharan Africa makes the country a destination for trafficking from Africa and the Arab world.
11. The main forms of human trafficking that affecting women in Tunisia are domestic servitude and sexual exploitation. Some migrants are already victims of trafficking when they enter the country. Others migrate to Tunisia without a legal status, mainly from Sub-Saharan Africa, to find better living conditions. Due to their illegal presence, they become particularly vulnerable to trafficking. If migrants want to return to their country, the lack of money to afford the return trip puts them in a situation of increased risk of human trafficking because they often borrow money from a third party to afford the trip.
12. Some migrants and trafficking victims are fleeing conflicts or disasters in their home countries. In these cases, many may qualify as refugees. Therefore, it is particularly important to develop a solid legal framework to regulate migration and process claims for asylum in order to guarantee the access to fundamental rights and fundamental living conditions for migrants. Without this, along with institutions providing support to refugees, these migrants become more vulnerable to human trafficking practices. Unfortunately, although Tunisia's constitution recognizes the right of people to seek asylum, and the country is a party to the 1951 Convention Relating to the Status of Refugees, there is no law or administrative procedure to apply for asylum, which makes it very difficult for migrants to seek international protection.
13. If migrants cannot satisfy criteria for legally remaining in the country, it is important for countries to have arrangements for documentation and voluntary repatriation of the migrant. In the case of Tunisia, asylum-seekers who are refused asylum usually are sent to

retention centers because they are not legally in Tunisia, but they cannot afford to return to their own country (and the Tunisian government does not provide assistance to return). This situation increases the risk of trafficking. Detained migrants may become desperate to leave the center and return to their country, thereby becoming more likely to accept money from traffickers and ending up in debt bondage or a similar situation.

14. The retention centers, which do not have a maximum period of stay, host people who are illegally in the territory even though they have been forcibly transported to the country, detained against their will, or deprived of their identity papers and travel documents by a trafficker. This situation puts people at risk as they become desperate to leave the country. Some migrants are forced by traffickers to violate laws, such as prostitution, which results in trafficking victims being prosecuted as criminals and ending up in prison.
15. Therefore, it is extremely important that the government carefully identifies at-risk groups to ensure trafficking victims are not further victimized by detention or imprisonment. Unfortunately, in Tunisia the government does not have a standard procedure for victim identification or coordination across government agencies in dealing with trafficking situations. As a result, migrants who lack legal status in Tunisia are often unable to be identified as a trafficking victim. Also, not only is close coordination necessary within the country, since many migrants are foreign nationals, government agencies should coordinate with other countries and international organizations to identify and address cases of human trafficking and assist the victims.
16. Since the 2011 revolution, Tunisia is a society experiencing a historical transition. Institutions are being changed and fundamental societal questions are being debated, such as the role and rights of women. However, traditional attitudes about women and foreigners are often acted upon by the population. So even when migrant women are able to legalize their situation in Tunisia, they remain potential victims of human trafficking because of discrimination based on gender and race.

### Armed Conflict and U.N. Missions

17. The risk of trafficking due to migration is exacerbated in societies experiencing armed conflict. When a conflict or post-conflict situation includes a U.N. mission or other lasting presence,<sup>4</sup> there are opportunities for the host state to benefit from the resources and expertise offered by the U.N. However, the situation in Iraq has shown that this does not necessarily happen. We believe Iraq's example is informative of how states can better benefit from a U.N. presence to suppress trafficking of women and girls.
18. Armed conflict creates a broad context of violence and instability that drives people to migrate in large numbers, including both international and internal migration. In addition, even those not directly affected by violence are often impacted by a collapse in the economic and social structures, resulting in economic migration as well. Even after an armed conflict is more or less over, a post-conflict society continues to suffer severe impacts. The state's ability to enforce the rule of law is hampered during the transition

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<sup>4</sup> There are several countries currently hosting a long-standing U.N. presence with significant resources and personnel, for example: Afghanistan, Haiti, Iraq, Kosovo, Libya, Somalia, and South Sudan. *See* United Nations, *United Nations Peace Operations*, <https://www.unmissions.org/>.

back to normalcy. Where political upheaval has accompanied the conflict, rule of law may be difficult to re-establish, especially if the upheaval has created a power vacuum that is filled by local bosses and mercenary groups. This also creates a situation ripe for corruption to spread and create an additional major barrier to the rule of law.

19. This is the situation facing Iraq ever since the 2003 invasion and subsequent occupation. The military authorities dismantled Iraqi institutions leaving a power vacuum that was filled by many competing political and military factions. Almost immediately, incidents of violence against women, including trafficking, skyrocketed. Since the conflict with ISIS, the number of internally displaced persons has also grown to staggering levels putting hundreds of thousands more women at higher risk of becoming victims of trafficking.<sup>5</sup> Following the occupation, subsequent Iraqi governments have failed to combat this horrific situation, so millions of Iraqi women and girls have become victims of trafficking and other violence.
20. Iraq is a society burdened by years of armed conflict, arguably now post-conflict, that continues to face governance failures due to an inability to re-establish security and rule of law coupled with an environment of rampant corruption. One might expect the presence of a dedicated U.N. office to have a stabilizing influence, especially given the U.N.'s capability to offer technical assistance, global expertise and financial resources, particularly with humanitarian and human rights issues such as human trafficking. Unfortunately, this has not been the case in Iraq with the U.N. Assistance Mission for Iraq (UNAMI), a problem that appears to result from the behavior or limitations of both parties.
21. When it comes to human trafficking, UNAMI has repeatedly identified it as an issue in its human rights reports since 2006.<sup>6</sup> In 2008, UNAMI specifically mentioned human trafficking of migrants,<sup>7</sup> and in 2009, UNAMI noted “[c]ontinuous reports show that women and children are victims of sexual violence, forced marriages, “honour crimes” and trafficking.”<sup>8</sup> Although there have been general references to particular situations of trafficking,<sup>9</sup> the UNAMI reports typically do no more than repeat that trafficking is a problem and occasionally point out efforts to address the problem.<sup>10</sup>
22. Surprisingly, this is as far as the reports go. Although UNAMI apparently has information on human trafficking, it has not reported (and perhaps did not investigate) the extent,

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<sup>5</sup> According to the U.N., less than a year ago there were 1,920,456 internally displaced people dispersed across Iraq. *Iraq: Internally Displaced People/Returnee Population by Governorate (as of 31 August 2018)*, ReliefWeb (31 Aug. 2018), <https://reliefweb.int/map/iraq/iraq-internally-displaced-peoplereturnee-population-governorate-31-august-2018>.

<sup>6</sup> “Violence against women, including sexual violence, and trafficking are identified as growing problems by women’s groups.” UN Assistance Mission for Iraq, *Human Rights Report: 1 May – 30 June 2006*, para. 43.

<sup>7</sup> UN Assistance Mission for Iraq, *Human Rights Report: 1 July – 31 December 2008*, para. 52.

<sup>8</sup> UN Assistance Mission for Iraq, *Human Rights Report: 1 January – 30 June 2009*, para. 39.

<sup>9</sup> “According to the Organization of Women’s Freedom in Iraq, at least 200 Iraqi women are sold into sexual slavery each year, many trafficked internally and to neighbouring countries including Syria and the Gulf states. The UNAMI office in Kirkuk followed up three reports of women trafficked internally into Kirkuk from central and southern Iraqi provinces.” UN Assistance Mission for Iraq, *Human Rights Report: 1 July – 31 December 2009*, para. 34 (internal footnote omitted).

<sup>10</sup> For example, efforts (still unsuccessful) by the Kurdistan regional government to pass anti-trafficking legislation, and NGO-run shelters for women and girls who are victims of trafficking and other violence. UN Assistance Mission for Iraq, *Report on Human Rights in Iraq: July to December 2017*, at 10, 13.

characteristics, or severity of the trafficking. UNAMI seems to have the capability to do more and truly help Iraq better understand the scope of the trafficking problem.<sup>11</sup> Why would it not do so, especially if it would allow the government of Iraq to commit resources to other urgent needs?

23. It is possible that politics and national pride factor into such situations. In Iraq's case, the U.N. presence was forced on it by the international community – a circumstance that may understandably generate resentment on the part of the Iraqi government. However, it is hard to escape the sense that the U.N. presence is an opportunity that Iraq has failed to fully utilize.
24. Iraq's obligations under the Convention are independent of the reasons for the U.N.'s presence in the country.<sup>12</sup> So, when faced with such severe circumstances and obstacles to the implementation of its obligations, why not use the U.N. presence to its benefit? While the government of Iraq tackles such major issues as rebuilding the national infrastructure, providing basic services to its population, and creating security for the return of displaced people and economic activity, it could use U.N. assistance in investigating, documenting and reporting human rights issues like human trafficking.
25. Based on Iraq's situation, we therefore suggest that states having a substantial U.N. presence should proactively make use of U.N. resources to help satisfy their international obligations. By the same token, the U.N. should ensure that its assistance is flexible and substantive enough to be both acceptable and useful to its host country.

## Conclusion and Recommendations

26. The situations in the countries mentioned above offer insight on addressing different aspects of the problem of human trafficking: prevention, legal status, and post-conflict societies. Our observations and suggestions based on these examples are reiterated below. As previously mentioned, trafficking is a multi-faceted issue resulting from the interaction of many factors. Based on a state's obligations under the Convention to "take all appropriate measures" to suppress trafficking, our suggestions would inform only one subset of a state's complete strategy to combat human trafficking.
27. GICJ and AO recommend the following:
  - Trafficking prevention strategies must begin with proper research into the local conditions.
  - Prevention strategies must include education and messaging appropriate for both the potential victims and their families and communities.
  - States must establish information collection and sharing mechanisms and cooperation protocols among government entities and with civil society organizations, that are grounded in international human rights and humanitarian law.

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<sup>11</sup> This situation is especially puzzling considering UNAMI, unlike some missions, has a dedicated Human Rights Office. *Human Rights Office*, United Nations Iraq, [http://www.uniraq.org/index.php?option=com\\_k2&view=item&layout=item&id=1111&Itemid=652&lang=en](http://www.uniraq.org/index.php?option=com_k2&view=item&layout=item&id=1111&Itemid=652&lang=en).

<sup>12</sup> Iraq acceded to the Convention in 1986 before the U.N. presence was established in the 1990s.

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- States must have clear procedures for migrants seeking international protection, followed by resources to support them during the application process.
  - States should review laws and administrative practices to eliminate discriminatory bias that adds barriers for trafficking victims who are women or racial minorities.
  - The U.N. should ensure that its ongoing missions provide meaningful assistance to the host states to prevent human trafficking.
  - States having a substantial U.N. presence should proactively make use of U.N. resources to help satisfy their international obligations, especially if resources can be used to address root concerns such as economic assistance and local security issues.

**Geneva International Centre *for* Justice (GICJ)**

is an international, independent, non-profit, non-governmental organisation based in Geneva. GICJ observes and documents human rights violations and seeks justice for the victims through all legal means available.

**Advocating Opportunity (AO)** provides direct, holistic legal services and advocacy for trafficked and exploited persons under a legal and human rights-based framework. AO provides policy advocacy and analysis to governments and non-governmental organizations regarding policies and protocols to effectively serve all victims and end human trafficking.

