

HUMAN TRAFFICKING: THE BAHRAIN EXPERIENCE

Ali Al JABAL*

“Everyone has a right to peaceful coexistence, the basic personal freedoms, the alleviation of suffering, and the opportunity to lead a productive life...”

Jimmy Carter

ABSTRACT: *Drug smuggling may top the list of the world’s most profitable and headline-grabbing illegal activities, but second to that—in a close tie with the illegal arms trade—is human trafficking, the recruitment or coercion of people who are held captive as laborers in everything from the sex industry to domestic servitude. More than 12 million people worldwide are currently victims, according to the United Nations’ International Labor Organization. The \$9 billion industry is the 21st century’s fastest-growing criminal enterprise.*

And some of it takes place right here in our own backyard, an audience attending a May 29 conference at Coval Commons on human trafficking found out. In fact, according to experts who provide victims with shelter and other services, human trafficking is on the rise because of the economic downturn.¹

KEYWORDS: *human trafficking, illegal activities, sex industry, commercial sexual exploitation, forced labor.*

JEL CLASSIFICATION: *K 14*

WHAT IS HUMAN TRAFFICKING?

☐ is the illegal trade of human beings for the purposes of commercial sexual exploitation or forced labor: a modern-day form of slavery

☐ Human Trafficking is a crime against humanity. It involves an act of recruiting, transporting, transferring, harboring or receiving a person through a use of force, coercion or other means, for the purpose of exploiting them (UNODC)

* AL JABAL & Associates Lawyer Office, BAHRAIN.

¹ <http://www.today.ucla.edu/portal/ut/trafficking-93715.aspx>

☐ Article 3, paragraph (a) of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons* defines Trafficking in Persons as 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs

ELEMENTS OF HUMAN TRAFFICKING

On the basis of the definition given in the Trafficking in Persons Protocol, it is evident that trafficking in persons has three constituent elements;

1. The Act (What is done)

Recruitment, transportation, transfer, harbouring or receipt of persons

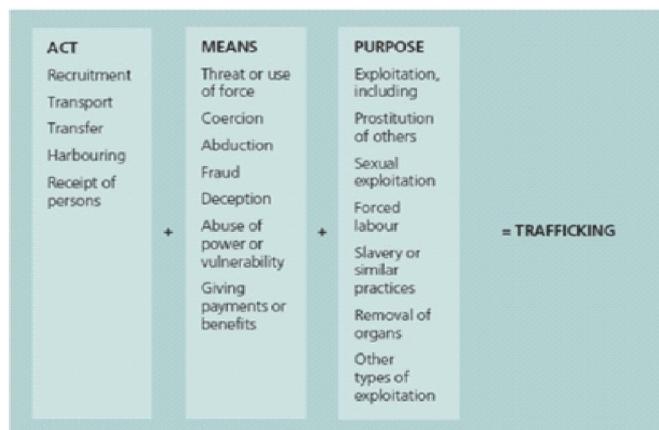
2. The Means (How it is done)

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

3. The Purpose (Why it is done)

For the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices and the removal of organs?

To ascertain whether a particular circumstance constitutes trafficking in persons, consider the definition of trafficking in the Trafficking in Persons Protocol and the constituent elements of the offense, as defined by relevant domestic legislation.²



Source: UNODC

²<http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

FORMS OF TRAFFICKING

- ☐ Sexual exploitation, including prostitution and pornography
- ☐ Forced Labor, including agriculture, manufacturing (sweatshops), domestic servitude, fishing
- ☐ Forced marriage and illegal adoption
- ☐ Child Soldiers
- ☐ Organ trafficking

FACTS ABOUT HUMAN TRAFFICKING

1. The average cost of a slave around the world is \$90.
2. Trafficking primarily involves exploitation which comes in many forms, including:
 - Forcing victims into prostitution
 - Subjecting victims to slavery or involuntary servitude
 - Compelling victims to commit sex acts for the purpose of creating pornography
 - Misleading victims into debt bondage
3. According to some estimates, approximately 80% of trafficking involves sexual exploitation, and 19% involves labor exploitation.
4. It is estimated that there are approximately 27 million slaves around the world.
5. Between 2001 and 2005, 140 defendants have been convicted of human trafficking in the U.S. which is a 109% increase from 1996-2000.
6. Around half of trafficking victims in the world are under the age of 18.
7. More than 2/3 of sex trafficked children suffer additional abuse at the hands of their traffickers.
8. Trafficked children are significantly more likely to develop mental health problems, abuse substances, engage in prostitution as adults, and either commit or be victimized by violent crimes later in life.
9. Women who have been trafficked for the purpose of sexual exploitation experience a significantly higher rate of HIV and other STDs, tuberculosis, and permanent damage to their reproductive systems.
10. There is only one shelter in the U.S. designed specifically to meet the needs of trafficking victims, and it currently only houses a total of seven to nine victims.
11. Trafficking victims normally don't get help because they think that they or their families will be hurt by their traffickers, or that they will be deported.³

HUMAN TRAFFICKING IN THE MIDDLE EAST

- ☐ some Middle Eastern laws and cultures do not recognize certain forms of human trafficking as being, in fact, trafficking
- ☐ Victims of human trafficking are often punished because they are viewed as illegal immigrants. Forms of human trafficking in the Middle East include domestic servitude and forced labor, child trafficking for camel jockeys, and sex trafficking

³ Initiative Against sexual trafficking: National Coalition Against Domestic Violence U.S Dept of State Free the Slaves

☐ One Middle Eastern state that has seen extensive slave trading, both historically and in the present day, is Sudan.

HUMAN TRAFFICKING THE BAHRAIN EXPERIENCE

· Bahrain adopts the sponsorship system in issuing visas to expats, in which the working visa of an expat will be under the name of the Bahraini host. One cannot legally work without a Bahraini sponsoring your visa

· Because the visa of an expat employee is dependent on the Bahraini sponsor, this becomes an avenue for the sponsors to abuse the expat employees subjecting them to force labor through use of such practices as unlawful withholding of passports, restrictions on movement, contract substitution, non-payment of wages, threats, and physical or sexual abuse.

· Men and women from India, Pakistan, Nepal, Sri Lanka, Bangladesh, Indonesia, Thailand, the Philippines, Ethiopia, and Eritrea migrate voluntarily to Bahrain to work as domestic workers or as unskilled laborers in the construction and service industries.

· A study by the Bahrain Government's Labor Market Regulatory Authority (LMRA) found that:

a) 65 % of migrant workers had not seen their employment contract

b) 89 % were unaware of their terms of employment upon arrival in Bahrain

c) 70 % of foreign workers borrowed money or sold property in their home countries in order to secure a job in Bahrain.

d) 10 % of migrant workers were in Bahrain under illegal "free visa"- which is to remain in Bahrain to work for third-party employers in which some employers illegally charge workers exorbitant fees

e) Women from Thailand, the Philippines, Morocco, Jordan, Syria, Lebanon, Russia, China, Vietnam and Eastern European States are subjected to forced prostitution in Bahrain.

· The only action of the Bahraini Government in its fight against human trafficking is the passage of the Anti Human trafficking law on 2008.

FACTORS THAT CONTRIBUTE TO THE TRAFFICKING INFRASTRUCTURE OF BAHRAIN

The structure of the Bahrain economy creates favorable conditions for the increasing activity of human trafficking in the country. Many economic sectors utilize a large number of migrant workers, who later frequently fall prey to exploitation. According to some estimates, more than 30 percent of the Bahrain work force is made up of foreign employees.⁴

FORMS OF TRAFFICKING IN BAHRAIN

A large portion of trafficking victims in Bahrain are domestic workers. It is known from a variety of reports that a large number of migrant workers who are employed in the

⁴ <http://www.today.ucla.edu/portal/ut/trafficking-93715.aspx>

construction industry are at a high risk of exploitation when they enter Bahrain. According to the 2010 US anti trafficking report 3 out of 3 reports of trafficking at the time the study was conducted involved sex trafficking.⁵

INSTANCES OF MIGRANT ABUSE IN BAHRAIN

- Violence against domestic helpers particularly female migrants
- workers passports and papers being confiscated and locked away leaving them unable to leave the country
- Sexual abuse and exploitation
- Not giving the salaries of the workers as per contract or working without any contract at all
- Illegal detention of workers until their debt has been paid

BAHRAIN GOVERNMENT RESPONSE TO HUMAN TRAFFICKING

1. A comprehensive law on trafficking in persons was approved by the Shura Council, the parliament and promulgated by King Hamad Bin Issa Al-Khalifa in January 9, 2008 - The anti-trafficking law provides for the establishment of a Committee for the Assessment of the Status of Foreigners Who Are Victims of Trafficking in Persons. The committee is charged with coordinating the repatriation of victims and making recommendations to the Minister of Interior if the victim needs to remain in the country, this includes an adjustment of the victim's legal status if need be to secure them employment.

2. The old Bahrain sponsorship system was replaced by alternative legislation in 2009- A new law (Related to the LMRA Law 2006) went into effect in August 2009 and is appraised by migrant rights activists as an improvement of the work conditions of foreign employees, especially those involved in domestic work. The law allows domestic workers to leave employers much easier than the sponsorship program allowed, thus diminishing the likelihood of abuse and exploitation.

Based on the new legislation, foreign workers no longer have to seek the permission of their sponsors in order to switch jobs; they can now do so on their own and before the contract with their current employer expires.⁶

3. The Aliens Act (Immigration and Residence) of 1965 denies entry of a foreigner into Bahrain if the immigration officer believes the alien has been convicted in Bahrain or elsewhere of a crime that makes entry into Bahrain undesirable

4. The Labor Market Regulatory Authority (LMRA) was promulgated on 2006 and monitors the status of foreign workers in Bahrain. In September 2007, the LMRA put pressure on employers and obtained more than 1,300 passports of runaway workers in their efforts to "clean up the labor market and make the amnesty process smooth and successful.

⁵ 2010 U.S report on Human trafficking

⁶ http://bahrain.usembassy.gov/news_from_washington/bahrain-trafficking-in-persons-report.html

THE 2008 LAW AGAINST TRAFFICKING PERSONS

☐ *Article 1* of the given law states that trafficking is to recruit a person or transfer or harboring or receipt of the purpose of abuse, and through coercion, threats or deception or by taking advantage of employment or influence or abuse of authority to that person or any other means illegal, whether directly or indirectly.

Include the misuse, the exploitation of that person in prostitution or any form of sexual exploitation or abuse, or forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.⁷

☐ Prohibits all forms of trafficking in persons and prescribes penalties ranging from three to 15 years' imprisonment, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, such as rape.⁸

☐ In that same law, human trafficking is regarded as a penal offence and every complaint will be subjected to investigation and a formal criminal proceeding

PROSECUTION OF OFFENDERS

☐ Anti-trafficking law states that any person found guilty of trafficking in persons shall be subject to imprisonment and a fine ranging from 2,000 Bahraini dinars to 10,000 dinars.⁹

☐ The offender will also be charged the costs of the trial, including repatriation expenses when the victim is a foreigner and must be returned to his or her home country. It is specified that the provisions apply without prejudice to any harsher penalty prescribed by the penal code

NON-GOVERNMENTAL ORGANIZATION RESPONSE

☐ The Bahrain Centre for Human Rights, Bahrain human rights society which engages in advocacy, workshops, and media campaigns in order to promote human rights issues and frequently reports on the treatment of foreign workers

☐ Another nongovernmental organization monitoring issues affecting abused migrant workers is the Bahrain Human Rights Watch Society (created by the government).

☐ The Migrant Workers Protection Society is engaged in assisting migrant domestic helpers and laborers who are victims of abuse. The society has rented an apartment and is using it as a temporary shelter for these victims

☐ The Information Centre for Women and Children, a regional information network center for Bahrain and neighboring countries, researches and provides information about the living conditions of women and children in the region¹⁰

⁷ 2008 Law against trafficking Persons Kingdom Of Bahrain

⁸ <http://www.du.edu/korbel/hrhw/researchdigest/trafficking/MiddleEast.pdf>

⁹ Ibid

¹⁰ http://bahrain.usembassy.gov/news_from_washington/bahrain-trafficking-in-persons-report.html

☐ The global nonprofit organization Education Development Center is working on the Labor Market Reform Initiative. The project is sponsored by USAID and aims to support the government of Bahrain in its effort to reform the labor market and reduce the trafficking and exploitation of foreign workers

☐ Some other efforts by embassies in Bahrain in order to protect their citizens, such as the Indian and Philippine embassies.

MULTILATERAL INITIATIVES

☐ In March 2009, the Kingdom of Bahrain hosted a regional conference on the trafficking of persons, entitled Human Trafficking at the Crossroads

☐ One of the main achievements of the conference was the signing of the *Manama Declaration, which reiterated the participants' resolve to combat trafficking in persons and urged countries to continue education on the subject, to adopt a more comprehensive legal framework related to human trafficking, and to implement the U.N. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*¹¹

PROBLEM AREAS IN CURTAILING HUMAN TRAFFICKING IN BAHRAIN (U.S TRAFFICKING REPORT: 2010)

☐ The government made limited progress in preventing human trafficking. While Bahrain's Ministry of Labor has pledged to end the sponsorship (*kafala*) system, foreign workers remain tied to a Bahraini sponsor. The government implemented reforms in August 2009 which designated the LMRA as the lead agency for granting work permits to foreign workers, and expanding labor mobility for expatriate workers, under certain conditions. These reforms do not cover Bahrain's approximately 70,000 domestic workers - the group that is most vulnerable to trafficking.

☐ The practice against withholding workers' passports - a common practice that restricts the mobility of migrant workers and contributes to forced labor - was not enforced effectively, and the practice remained widespread

☐ The government continued to lack a formal procedure to identify victims among vulnerable groups, such as migrant domestic workers who have left their employers or women arrested for prostitution. As a result, potential trafficking victims may have been charged with employment or immigration violations, detained, and deported without adequate protection

☐ The government does not ensure that victims receive access to essential protective services, except for the very small number referred to the government's primary shelter

☐ There is some indication that government officials may be involved in human trafficking. NGOs and laborers assert that Bahraini officials provide Bahrainis with authorization to sponsor more expatriate workers than they could reasonably employ, and that in their private capacities, some officials illegally engage in "free visa" arrangements and withhold employees' passports and salaries

¹¹ Ibid

SUGGESTED IMPROVEMENTS

- End the sponsorship or “Kafala system”
- expand labor mobility for expatriate workers, under certain conditions
- A law that prohibits an employer to withhold the passport of the migrant worker must be issued and enforced properly
- LMRA must be more stringent in its information drive regarding workers rights
- The authorities must be more vigilant in prosecuting Human trafficking Violators

REFERENCES

2010 U.S report on human trafficking

<http://www.protectionproject.org/wp-content/uploads/2010/09/Bahrain.pdf>

<http://www.today.ucla.edu/portal/ut/trafficking-93715.aspx>

<http://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html>

http://bahrain.usembassy.gov/news_from_washington/bahrain-trafficking-in-persons-report.html

www.freetheslaves.net

<http://www.du.edu/korbel/hrhw/researchdigest/trafficking/MiddleEast.pdf>