

Practical Guide on

**Combating the Crime of Trafficking
In Persons**

DRAFTING COMMITTEE

This guide was developed at the initiative of the Institute for Human Rights of the Beirut Bar Association and with the support of the British Embassy in Lebanon. It was drafted by a committee composed of representatives from:

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INTRODUCTION

In 2005, Lebanon joined the United Nations Convention against Transnational Organized Crime (CTOC), the Protocol against the Smuggling of Migrants by Land, Sea and Air supplementing it and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children attached to the Convention.

In 2002, Lebanon had ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography attached to the Convention on the Rights of the Child.

On August 24th, 2011, the Law No 164/2011 on the “Punishment for the crime of Trafficking in persons” was passed (and published in the Official Gazette on September 1st, 2011), as a first step in the path of fighting the human trafficking phenomenon.

At the initiative of the Human Rights Institute of the Beirut Bar Association and the Division of Diakonia and Social Justice in the Middle East Churches Council, and as a result of the National Conference on “Human Trafficking Crime: from legislation to implementation”, held on June 14-15, 2012 at the Lawyer’s House, a general strategy was developed to combat the crime of trafficking in persons.

This strategy included the four following axes:

- 1- Prevention
- 2- Pursuit, investigation procedures and punishment
- 3- Assistance and protection of the victim
- 4- Continuous monitoring, follow-up

This practical guide has been issued as a first executive step of the general strategy in its first axis.

GUIDE GOALS

- 1- Increase awareness and disseminate knowledge of the human trafficking concept as well as the cases in which it takes place.
- 2- Promote the anti-human trafficking culture.
- 3- Develop the sense of responsibility of each individual in the society, in order to contribute to the process of combating the human trafficking phenomenon.

1- WHAT IS TRAFFICKING IN PERSONS?

Trafficking in persons is a crime punished by the Lebanese Law and, according to the definition mentioned in Law No 164/2011, it is:

To attract, transfer, receive, detain a person or find him a shelter,

By means of:

- The threat or use of force
- Abduction
- Deception
- The abuse of power or of a position of vulnerability
- The giving or receiving of sums of money or benefits
- Or the use of these means on a person having authority over another person

For the purpose of exploiting him or facilitating his exploitation by others.

The consent of the victim shall be deemed insignificant if any of the abovementioned means is used.

2- What is exploitation?

Exploitation is to **force** a person to engage in any of the following acts:

- Reprehensible acts
- Prostitution or exploitation of the prostitution of others
- Sexual exploitation
- Begging
- Slavery or practices similar to slavery
- Forced or compulsory labor
- Recruitment of children for use in armed conflicts¹
- Forced involvement in terrorist acts
- Removal of organs or tissue from the victim's body

¹ A child is any human being under the age of eighteen, according to what is mentioned in the first article of the Convention on the Rights of the Child issued by the UN General Assembly on November 20th, 1989.

3- Who are trafficking victims?

Any natural person, whatever his gender, nationality or age, found in any of the cases considered by the Law as human trafficking².

The mere attraction, transfer, receipt, detention or sheltering of child victims for the purpose of **exploitation**³ constitutes trafficking in persons, even if it is not accompanied by any of the means enumerated in the Law⁴.

² Article 586/1 of Law No 164/2011

³ Review page 11 of the Guide

⁴ Such as the threat of force, abduction, deception...

4. WHERE DOES HUMAN TRAFFICKING TAKE PLACE?

Trafficking in persons is a transnational organized crime that begins in the victim's country of origin, continues in the transit country and is completed in the receiving country.

But trafficking in persons can happen and its elements can be completed in the country to which the victim belongs or on whose territory he/she lives.

5- WHO ARE HUMAN TRAFFICKERS?

Human traffickers are those who:

- Recruit or transfer the trafficked victim
- Dominate him/her
- Keep him/her under exploitation
- Or benefit directly or indirectly from trafficking him/her⁵.

⁵ Review the definition of the United Nation High Commissioner for Human Rights contained in the brochure about Recommended Principles and Guidelines on Human Rights and Human Trafficking.

6. WHAT IS THE PENALTY FOR THE CRIME OF HUMAN TRAFFICKING

Human trafficking is a crime whose punishment, by virtue of the Lebanese Law, is detention for a term of between five to fifteen years with a fine of between one hundred to six hundred times the official minimum wage.

The penalty shall be increased:

- If the perpetrator, the accomplice, the accessory or the instigator of the crime is a public servant, a person in charge of a public service, the director of or an employee in a recruiting office, or one of the victim's ancestors
- If the crime was committed by a group of two or more persons committing criminal acts in Lebanon or in more than one country
- If the crime involves more than one victim
- If the crime implies serious harm to the victim or leads to the exposure of the victim to a life-threatening disease or to death, including committing suicide, or if the crime involves a child, a vulnerable person such as pregnant women or physically or mentally disabled.

7. SHOULD HUMAN TRAFFICKING BE REPORTED?

Anyone who is aware of a case of human trafficking should notify the competent authorities:

- Public Prosecutor's Department in each province
 - Directorate General of Internal Security Forces 112
 - Directorate General of General Security 1717
 - Ministry of Social Affairs 1714
 - Ministry of Labor 1740
- (01) 540 114

8. IS THE VICTIM HELD RESPONSIBLE FOR VIOLATING THE LAW?

Shall not be punished the victim that is proven to have been forced to commit reprehensible acts, or to have violated the residence or work conditions if he/she is a foreign.

It is up to the Investigating Judge or to the judge in the case to authorize the foreign victim to reside in Lebanon throughout the period required by the investigation procedures⁶.

⁶ Article 586/8 of Law No 164/2011

9. DOES THE VICTIM BENEFIT FROM ANY HELP?

The victim benefits from help and protection provided by specialized institutions and organizations to which he/she is referred by virtue of a judicial decision⁷.

Funds derived from human trafficking shall be confiscated and deposited in a special account at the Ministry of Social Affairs to help the victims⁸.

⁷ Article 586/9 of Law 164/2011

⁸ Article 586/10 of Law 164/2011

10- DOES HUMAN TRAFFICKING EXIST IN LEBANON?

According to the tables issued by the Directorate General of Internal Security Forces, 24 human traffickers have been persecuted in 2013 and there were 27 victims of different nationalities or without identification documents. Most of these victims are women and underage girls.

ADDENDUM

LAW 164/2011

**"PUNISHMENT FOR THE CRIME OF
TRAFFICKING IN PERSONS"**

Article 1

The following new chapter is to be added to Chapter Eight of Book Two of the Penal Code.

Chapter 3: Trafficking in persons

Article 586 (1):

- “Trafficking in persons” is:

To attract, transfer, receive, detain a person or find him a shelter:

- a) By means of the threat or use of force, abduction, deception, the abuse of power or of a position of vulnerability, the giving or receiving of sums of money or benefits, or the use of these means on a person having authority over another person.
- b) For the purpose of exploiting him or facilitating his exploitation by others.

The consent of the victim shall be deemed insignificant if any of the means mentioned in the present article is used.

- “The human trafficking victim”:

For the purposes of the present Law, “the human trafficking victim” shall mean any natural person that was the subject of trafficking in persons, or that competent authorities consider reasonably as human trafficking victim, regardless of whether the crime’s perpetrator has been identified, arrested, tried or convicted.

According to the provisions of the present article, shall be considered as exploitation the fact of forcing a person to participate in any of the following acts:

- a) Reprehensible acts.
- b) Prostitution or exploitation of the prostitution of others

- c) Sexual exploitation
 - d) Begging
 - e) Slavery or practices similar to slavery
 - f) Forced or compulsory labor
 - g) Including the recruitment of children for use in armed conflicts
 - h) Forced involvement in terrorist acts
 - i) Removal of organs or tissue from the victim's body
- Shall not be taken into consideration the consent of the victim, any of his/her ancestors, his/her legal guardian or any other person having legitimate or actual authority over him/her, to the exploitation intended to be committed and mentioned in the present article.
 - The attraction, transfer, receipt, detention or sheltering of the victim for the purpose of exploitation, for those who are under the age of eighteen, shall be considered as trafficking in persons, even if it is not accompanied by the use of any of the means enumerated in paragraph (1) (b) of the present article.

Article 586 (2):

The crime stipulated in Article 586 (1) shall be punished according to the following:

- 1- By detention for a period of five years with a fine of between one hundred to two hundred times the official minimum wage, in case these acts were committed in exchange for giving, promising to give or receiving sums of money or any other benefits.
- 2- By detention for a period of seven years with a fine of between one hundred fifty to three hundred times the official minimum wage, in case these acts were committed by the means of deception, violence, acts of force, threat or by exercising influence over the victim or any of his/her family members.

Article 586 (3):

The penalty shall be detention for a period of ten years with a fine of between two hundred to four hundred times the official minimum wage, in case the perpetrator, the accomplice, the accessory or the instigator of the crime stipulated in Article 586 (1) is:

- 1- A public servant, any person in charge of a public service, or the director of or an employee in a recruiting office.
- 2- One of the victim's legitimate or illegitimate ancestors, one of his/her family members or any person having direct or indirect, legitimate or actual authority over him/her.

Article 586 (4):

The penalty shall be detention for a period of fifteen years with a fine of between three hundred to six hundred times the official minimum wage, in case the crime stipulated in Article 586 (1) was committed:

- 1- By a group of two or more persons committing criminal acts in Lebanon or in more than one country
- 2- If the crime involves more than one victim.

Article 586 (5):

In the case of any of the following circumstances, the criminal acts mentioned in Article 586 (1) shall be punished by imprisonment of between ten to twelve years with a fine of between two hundred to four hundred times the official minimum wage:

- a) When the crime implies serious harm to the victim or to any other person or leads to the death of the victim or any other person, including death resulting from suicide.
- b) When the crime is related to a person in a position of vulnerability in particular, including the pregnant woman.

- c) When the crime exposes the victim to a life-threatening disease, including infection with HIV/AIDS.
- d) When the victim is physically or mentally disabled.
- e) When the victim is under the age of eighteen.

Article 586 (6):

Shall be exempt from penalties any person who notifies the judicial or administrative authority of the crimes stipulated in this Chapter and provides it with information allowing either to detect the crime before it is committed or to arrest its perpetrators, accomplices, accessories or instigators if the notifying person is not responsible as perpetrator of the crime set forth in Article 586 (1).

Article 586 (7):

Shall benefit from the extenuating excuse any person that provides the competent authorities, after the crimes stipulated in the present Chapter are committed, with information allowing them to prevent their persistence.

Article 586 (8):

Shall be exempt from penalties the victim who proves that he/she was forced to commit reprehensible acts, or to violate the residence or work conditions.

The Investigating Judge or the judge in the case shall be entitled, by virtue of a decision he renders, to authorize the victim to reside in Lebanon throughout the period required by the investigation procedures.

Article 586 (9):

The Minister of Justice shall be entitled to conclude agreements with specialized institutions and organizations to provide assistance and protection to the victims of the crimes stipulated in the present chapter.

The conditions to be fulfilled in these institutions and organizations as well as the procedures of providing assistance and protection shall be determined by virtue of a decree taken in the Council of Ministers based on the proposal of the Minister of Justice.

Article 586 (10):

Funds derived from the crimes stipulated in the present Chapter shall be confiscated and deposited in a special account at the Ministry of Social Affairs to help the victims of these crimes.

The regulations of the account shall be determined by virtue of a decree taken in the Council of Ministers based on the proposal of the Minister of Social Affairs.

Article 586 (11):

The Lebanese tribunals shall be competent in case of committing any of the acts constituent of the crime on the Lebanese territory.

Article Two

The texts of Articles 524 and 525 of the Penal Code are repealed and superseded by the following texts:

“Article 524 (the new):

Shall be punished by imprisonment, for a minimum term of one year and a fine of not less than half the value of the official minimum wage, anyone who seduces, attracts or deports a person with his consent, to gratify the sexual needs of others.”

“Article 525 (the new):

Shall be punished by imprisonment for a term of two months to two years and a fine of between tenth to the value of the official minimum wage, anyone who retains a person in a bawdyhouse against his will because of a debt that the latter owes him.”

Article Three:

- 1- The phrase, “or making him commit it”, shall be deleted from the text of Articles 508 and 509 of the Penal Code.
- 2- The phrase, “or making him commit it”, shall be deleted from the text of Article 510 of the Penal Code.

Article Four:

Persons who are being persecuted before this Law goes into effect, shall be punished pursuant to the provisions of Articles 524 and 525 of the Penal

Code by imposing upon them the penalties that are stipulated in these two Articles before they were amended pursuant to this Law.

Article Five:

The following new section is added after the Seventh Section of the Criminal Procedure Law:

Section Seven bis: “Protection Procedures in the crime of trafficking in persons”.

Article 370 (2):

The Investigating Judge shall be entitled to decide to hear the statement of a person who possesses information, as a witness, without including the heard person’s identity in the record if the following two conditions are fulfilled:

- 1- The crime of trafficking in persons, subject of the investigation, is punished by criminal penalties of not less than detention for a period of five years.
- 2- Fearing that providing information about the crime threatens the life or safety of the heard person, his family or one of his relatives.

The decision should be justified and must include the practical and material grounds on which he relied to render it.

The person’s identity and address shall be written in a special record, not to be joined to the case file, deposited and kept with the Public Prosecutor at the Court of Cassation.

Article 370 (3):

The defendant shall be entitled to ask the judge in the case to disclose the identity of the heard person according to the provisions of the previous

article, if he considers that this procedure is essential to exercise the rights of defense.

The judge may decide, if he finds that the conditions of the request are met, whether to disclose the identity provided that the concerned person gives his consent to it or to abolish the organized record according to the provisions of Article 370 (2).

Article 370 (4):

The defendant shall be entitled to ask to face the heard person according to the provisions of Article 370 (2), and in this case, the judge may decide to use techniques that make the voice of this person unidentifiable.

The details of applying the provisions of the present article shall be determined by virtue of a decree taken in the Council of Ministers, based on the proposal of the Minister of Justice.

Article 370 (5):

Incrimination cannot be limited to the statement of the heard person according to the provisions of Article 370 (2).

Article 370 (6):

Anyone who disclosed information about the procedures of protection stipulated in this Section shall be punished by imprisonment of between two to three years with a fine of between twenty million to thirty million Lebanese Pounds.

Article Six:

The present Law shall enter into force upon its publication in the Official Gazette.

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