

Iraq's Next Battle: Combating Sexual Slavery in Post-Conflict Iraq

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“Modern slavery – be it bonded labor, involuntary servitude, or sexual slavery – is a crime and cannot be tolerated in any culture, community, or country ... [It] is an affront to our values and our commitment to human rights.”

Hillary Rodham Clinton, U.S. Secretary of State

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Part I: Introduction

The price of a human being is at a historic low. In the early 1800s, a slave bought in the American South cost, in today's equivalent, about \$40,000. Due to huge population growth, especially in the developing world, a slave today costs, on average, only \$90.¹ It is not surprising, then, that trafficking in humans is the fastest growing criminal enterprise in the world.² Declared a “crime against humanity” by the Statute of the International Criminal Court, no country is unaffected by this crime, but in many it is a relatively new phenomenon.³ Iraq is one such country where trafficking has been able to grow rapidly, due to political and economic instability and lack of security and law enforcement.

This research will focus on the most gender-biased of trafficking crimes – the forced prostitution and trafficking into the sex trade of impoverished Iraqi girls and women. The demand for sexual services is growing all over the world, especially in developed countries, and the conditions in Iraq have allowed traffickers to thrive. Part I of this discussion will give an introduction to human trafficking as both a crime and a profitable business. A brief history of the sex industry and human trafficking in Iraq is presented in Part II, followed by a more detailed discussion of the conditions that allow for trafficking in Part III. Part IV explores both domestic and international laws about sex trafficking and how they are implemented in Iraq, as well as the failures of Iraqi law enforcement with regards to this issue. Finally, solutions will be discussed in Part V, including the role of non-governmental organizations (NGOs), the Iraqi government, and the international community.

¹ Kevin Bales and Ron Soodalter, *The Slave Next Door: Human Trafficking and Slavery in America Today* (Berkeley: University of California Press, 2009).

² Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* (New York: Columbia University Press, 2009).

³ Raffaella Di Chio, “The International Protection of Victims of Trafficking in Human Beings and the Geneva Convention Relating to the Status of Refugees,” *Pakistan Journal of Women's Studies* 16 (2009): 99 – 119.

Human Trafficking: Defined and Distinguished

Adopted in 2003, the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, defines trafficking as:

The recruitment, transportation, transfer, harboring or receipt of person by means of 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 for the purposes of exploitation, which includes: 1) exploitation of prostitution or other forms of sexual exploitation; 2) forced labor or services; 3) slavery or practices similar to slavery; 4) servitude; and 5) the removal of organs.⁴

Conservative estimates put the number of new human trafficking victims at 800,000 to 900,000 annually.⁵ However, 1.5 to 1.8 million is considered a more accurate assessment and is the statistic accepted by the International Labor Organization (ILO).⁶ Of this, approximately 500,000 to 600,000 are trafficked into the commercial sex industry, which may include stripping, pornography, live sex shows, prostitution, mail-order brides, military prostitution, and sex tourism.⁷ The United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) reports that at any given time, approximately 2.5 million people, male and female, are in situations of forced labor and sexual exploitation as a result of human trafficking practices; 9.2% of these people – about 230,000 – are in the Middle East and North Africa.⁸ There are over 18 million other people in situations of debt bondage labor who do not fit into the United Nations' definition of trafficking.⁹ Debt bondage labor occurs when someone must work to pay off a

⁴ UN General Assembly, Resolution 55/25, "United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children," Nov. 15, 2000.

⁵ Sherizaan Minwalla and Scott Portman, *Human Trafficking in Iraq: Patterns and Practices in Forced Labor and Sexual Exploitation* (Chicago: Heartland Alliance, 2007).

⁶ Kara, *Sex Trafficking*.

⁷ "The Campaign to Rescue & Restore Victims of Human Trafficking," U.S. State Department, accessed March 11, 2011, www.acf.hhs.gov/trafficking.

⁸ United Nations Global Initiative to Fight Human Trafficking, *Human Trafficking: The Facts* (Dec. 23, 2010).

⁹ Kara, *Sex Trafficking*.

loan, often for an undisclosed period of time; in many cases, family members must also work to repay the debt, and the debt is passed down through generations.¹⁰

It is necessary to distinguish human trafficking from human smuggling, which is defined by the United States' State Department as "the facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border, in violation of one or more countries laws, either clandestinely or through deception, such as the use of fraudulent documents."¹¹ Human trafficking, on the other hand, does not require the crossing of international borders; many victims are trafficked within their own country or community.

Many Iraqis enter into human smuggling rings by choice, often paying between \$8,000 and \$15,000 per person for counterfeit visas in order to flee the country;¹² this research, however, will focus on instances in which victims are trafficked according to the United Nations' definition, either involuntarily or under false pretenses. Nevertheless, it is important to note that some individuals who are voluntarily smuggled do fall victim to trafficking, due to threats by the smuggler to report their illegal status, the withholding of travel documents, debt bondage, or other means.¹³

The Business of Sex Trafficking

According to the ILO, the human trafficking industry generates profits of \$31.7 billion every year.¹⁴ 2006 estimates put the average profit for a sex trafficker in the Middle East at \$54,293 per trafficked sex slave. This makes it one of the most profitable regions in the world

¹⁰ Kevin Bales, *New Slavery: a reference handbook* (Santa Barbara: ABC-CLIO, 2004).

¹¹ US State Department, Human Smuggling and Trafficking Center, *Fact Sheet: Distinctions between Human Smuggling and Human Trafficking* (Apr. 2006).

¹² Phil Williams, *Criminals, Militias, and Insurgents: Organized Crime in Iraq* (Strategic Studies Institute, June 2009).

¹³ Minwalla and Portman, *Human Trafficking in Iraq*.

¹⁴ Kara, *Sex Trafficking*.

for traffickers; only Western Europe and North America generate more earnings per slave.¹⁵ It is not surprising, then, that the Middle East has the fastest growing demand for sex slaves in the world.¹⁶

After the sale of illegal drugs and weapons, human trafficking is the most profitable criminal activity today. Sex is an especially lucrative business – although trafficked sex slaves make up only 4.2% of all slaves, they produce 39.1% of slaveholders’ earnings.¹⁷ In fact, according to Siddharth Kara, author of *Sex Trafficking: Inside the Business of Modern Slavery*, a “global weighted average net profit margin of almost 70 percent makes it one of the most profitable enterprises in the world.”¹⁸

Methods of Trafficking

In the aftermath of the U.S. invasion and subsequent occupation of Iraq, many Iraqis are facing dire financial situations. As seen after the fall of the Soviet Union, many Eastern European countries such as Ukraine and Moldova became hotspots for traffickers known to exploit times of economic hardships through offering foreign employment and other means.¹⁹ Common methods of luring potential victims include newspaper advertisements, which often offer girls and women opportunities abroad as maids or domestic servants in wealthier countries. Once a victim contacts the advertiser, they are taken abroad and forced into sexual slavery. In many instances, traffickers arrange for them to travel with forged documentation or seize their passports after they have crossed the border; they then use fear of deportation to keep victims from attempting escape. Refugee camps are frequently the most effective settings for traffickers

¹⁵ Kara, *Sex Trafficking*.

¹⁶ Kara, *Sex Trafficking*.

¹⁷ Kara, *Sex Trafficking*.

¹⁸ Kara, *Sex Trafficking*.

¹⁹ Kara, *Sex Trafficking*.

to find victims in this manner. Often, refugees are not allowed to seek employment in their host country, and the opportunity to work abroad is irresistible.²⁰

Unfortunately, the same economic state that allows for trafficking by deceit also creates a situation in which some families sell their children into slavery for as much as \$30,000.²¹ In Iraq, this is usually accomplished through temporary or forced marriage. Child marriage is still a common practice in the Middle East; when these marriages involve financial compensation, they fall under the definition of commercial sexual exploitation of children.²² Although the minimum age for marriage in Iraq is 18 for both men and women, a 2008 UNICEF report found that 17% of women ages 20 to 24 were married before the age of 18.²³ This tradition makes trafficking much easier throughout the Middle East, as a young girl traveling with her older “husband” does not raise much suspicion.

Although abduction is not a popular method of acquisition among traffickers worldwide, it has become increasingly prevalent in Iraq given the current security situation.²⁴ In the summer months following the 2003 U.S. invasion, the capital city of Baghdad saw such an influx of abductions that many women feared to leave their homes; some even began to call the city a “no-woman zone.”²⁵ In May 2003, Save the Children U.K. assessed three schools in Baghdad; overall attendance was less than 50%, and fear of kidnapping and lack of security were the most common reasons given by girls for their non-attendance.²⁶

Once trafficked, these women are subjected to numerous hardships in order to keep them from attempting escape, “including starvation, confinement, beatings, physical abuse, rape, gang

²⁰ Kara, *Sex Trafficking*.

²¹ ECPAT International, *Sex Trafficking of Children in the Middle East* (2009).

²² ECPAT International, *Sex Trafficking*.

²³ UNICEF, *Iraq Statistics* (2008).

²⁴ Kara, *Sex Trafficking*.

²⁵ Sonja Wolte, *Armed Conflict and Trafficking in Women* (Sector Project against Trafficking in Women, Jan. 2004).

²⁶ Human Rights Watch, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad* (July 2003).

rape, threats of violence to the victims and the victims' family, forced drug use and the threat of shaming their victims by revealing their activities to their family and their families' friends."²⁷

In conditions like this, it is not surprising that many women do not survive their captivity. The sheer number of impoverished people in the world makes women, in the eyes of the trafficker, expendable; if one of their victims becomes sick and unable to work or grows too old to be of use in the sex industry (in most cases, around the age of twenty), it is often easier to kill her and purchase a new slave to take her place rather than to see medical attention or to set her free and risk prosecution.²⁸

²⁷ "The Campaign to Rescue & Restore Victims of Human Trafficking."

²⁸ Kara, *Sex Trafficking*.

Part II: History of the Sex Industry and Sex Trafficking in Iraq

The legality of prostitution and frequency of human trafficking in Iraq has evolved dramatically since the overthrow of the Hashemite monarchy in 1958. As is often the case, there is more information available about prostitution than of trafficking, as it is generally much more visible. However, studying patterns and prevalence of prostitution can offer insights into sex trafficking, because they are both known to increase in frequency under similar conditions and are often very tightly linked. The following section will briefly outline these changes from the time Brigadier General Abdul Karim Qassim came to power, throughout the Ba’athist regimes of Ahmed Hassan al-Bakr and then Saddam Hussein, until the present-day U.S. occupation.

A.K. Qassim Regime (1958 – 1963)

Although there is little research on trafficking and prostitution under the A.K. Qassim regime, ruling from 1958 to 1963, it is known that prostitution was legal and even regulated. Before the Ba’athist coup, the government considered creating a special zone for prostitution that would allow for medical services to be provided to the women in the industry.²⁹

Ba’athist Regime (1963 – 2003)

Prostitution became illegal under the Ba’ath regime, although adult entertainment and night clubs remained legal, often employing women from Egypt and the Philippines. Brokerage, or pimping, was punishable by a six-month prison sentence; a first offense for prostitution resulted in a three-month imprisonment, and in repeat convictions imprisonment extended to one year.³⁰ The relative prosperity of Iraq during Ba’athist rule, prior to international sanctions imposed on the country in the 1990s, made it difficult for traffickers to flourish. The federal government maintained rehabilitation houses for prostitutes; in areas where prostitution was

²⁹ Organization of Women’s Freedom in Iraq, *Prostitution and Trafficking of Women and Girls in Iraq* (2010).

³⁰OWFI, *Prostitution and Trafficking*.

more common, they built schools in the hopes that education would allow women to enter more desirable professions.³¹

The situation changed, however, in 1991. Following Hussein's invasion of Kuwait, the United Nations imposed severe international sanctions on Iraq.³² The intense poverty that followed made the practice of trafficking much easier in Iraq. Additionally, the number of women turning to prostitution skyrocketed in the nineties, and it is likely that some of them were victims of trafficking. In October 2000, a so-called "faith campaign" was launched by the *Fedayeen Saddam*, a Ba'athist paramilitary organization, who publically beheaded over 200 prostitutes.³³

Post-2003 U.S. Invasion

The incidence of human trafficking in Iraq has increased rapidly in the eight years of war following the 2003 invasion by U.S. forces. Iraq is considered to be both a source and destination country, but is not a known transit country; that is, traffickers are known to take people out of the country or to bring them in, but do not generally travel through Iraq when transporting victims from one place to another. The most common destinations for trafficked Iraqis are Syria, Lebanon, Jordan, Kuwait, the United Arab Emirates, Turkey, Iran, and Yemen, although many are trafficked within Iraq's thirteen provinces.³⁴ Field research performed by the Organization of Women's Freedom in Iraq found that most of the traffickers they encountered belonged to trafficking rings connected to Erbil and Suleimania provinces in Iraqi Kurdistan, the

³¹ OWFI, *Prostitution and Trafficking*.

³² Abbas Alnasrawi, "Iraq: economic sanctions and consequences, 1990 – 2000," *Third World Quarterly* 22 (2001): 205 – 218.

³³ OWFI, *Prostitution and Trafficking*.

³⁴ US State Department, *Trafficking in Persons Report 2010*, (June 14, 2010.)

UAE (especially Dubai), Syria, and Jordan, as well as the Iraqi cities of Mosul in the north and Basra in the south.³⁵

In addition to sex trafficking, Iraq has become a huge destination country for labor trafficking. In 2009, it was discovered that 14 Ugandan women who had been told that they would be working on U.S. military bases were brought to Iraq to work for families, receiving substantially lower wages than promised. According to a report published by the State Department, “some of the women were locked in rooms, had their passports stolen, and were physically or sexually abused by either the recruitment agent or the employer.”³⁶ This is just one instance of many that have been documented since the war began. Organ trafficking has also become increasingly prevalent, particularly of young Iraqi boys.³⁷ It is this general state of lawlessness that synergizes with sex trafficking.

Discussion

Legal and regulated under the A.K. Qassim regime, prostitution became illegal after the Ba’athist coup. Initially, rehabilitation and education were promoted in the hopes that these women would choose a better way of life if given the opportunity. This approach, considered very liberal in the Middle East, could have proven very effective in curbing the sex industry of Iraq; international sanctions, however, ended these policies and brought changes to the society. Smuggling became a common occurrence and prostitution increased, indicating that trafficking was probably taking place during this time. Sex workers were persecuted by paramilitary forces in an effort by Saddam Hussein to garner the support of his more conservative, religious citizens. After the 2003 invasion, trafficking skyrocketed, especially for sex, labor, and organs, and since then Iraq has become a known origin and destination country for trafficking victims.

³⁵ OWFI, *Prostitution and Trafficking*.

³⁶ US State Department, *Trafficking in Persons*.

³⁷ US State Department, *Trafficking in Persons*.

Part III: Sex Trafficking in Post-Conflict Iraq

The U.S. invasion of Iraq in 2003 has had enormous implications in terms of human trafficking both to, from, and within the country. This section will explore consequences of war that have allowed for trafficking networks to thrive in Iraq, including a massive number of refugees and internally displaced persons (IDPs), the lawlessness that has allowed for organized crime to grow rapidly, and the presence of military troops and peacekeeping forces.

Vulnerable Populations

Refugees and IDPs are extremely vulnerable to trafficking; as of January 2010, there were 1,785,212 documented Iraqi refugees throughout the world, a population second in number only to the Palestinians, despite the spontaneous return of 80,000 refugees to Iraq in 2008 and 2009.³⁸ Many of these refugees reside in camps in Jordan and Syria. There are also a reported 1,552,003 IDPs within the borders of Iraq.³⁹

It is not a coincidence that women and children, the most frequent victims of human trafficking and the huge majority of sex trafficking victims, make up over 75% of the 27 million refugees worldwide.⁴⁰ According to a 2008 report by the Organization of Women's Freedom in Iraq, "an estimated 4,000 Iraqi women, one-fifth of whom are under 18, have disappeared [in broad daylight] since the 2003 invasion; many are believed to have been trafficked."⁴¹ Over 50,000 Iraqi women and girls have been forced into the sex trade in Syria alone.⁴²

Unfortunately, women trafficked, kidnapped, or raped during times of conflict are usually most vulnerable to being trafficked in the post-conflict period as well. Often separated from their families and economically vulnerable, they are the ideal victims of sex traffickers and

³⁸ UN High Commission for Refugees, *2010 UNHCR Country Operations Profile: Iraq*, (2010).

³⁹ UNHCR, *Country Operations*.

⁴⁰ United Nations. Refugee Agency Division of Programme Support and Management, *2009 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons* (June 15, 2010).

⁴¹ Reproductive Health Resources in Crises Consortium. Women's Commission for Refugee Women & Children, *Women, Children and Youth in the Iraq Crisis: A Fact Sheet* (2008).

⁴² RHRC, *Women, Children*.

organized crime rings due to political instability, criminal activities, and violence where law enforcement institutions are still debilitated.⁴³ Studies of post-conflict regions have found that violence, particularly sexual, against women spikes dramatically in the period immediately following war; rates of domestic violence also rise substantially when soldiers and fighters return home.⁴⁴ Women do not usually report such instances, and if they do, shattered legal systems and weak law enforcement bodies do not prioritize their cases.⁴⁵

The large populations of migrant workers from Jordan, Pakistan, India, Bangladesh, Nepal, Sri Lanka, Indonesia, Thailand, the Philippines, Georgia, and Uganda are also frequent victims of human trafficking.⁴⁶ Some employers seize the passports of these workers in order to keep them as forced laborers. Although statistics are difficult to find, this has become enough of a problem that some countries have passed laws forbidding their citizens from being employed in Iraq. These laws, however, have proven futile, as many are told that they will be working in different countries but are brought to Iraq instead.⁴⁷

Corruption and the Rise of Organized Crime

Post-war countries create the ideal environment for trafficking rings, largely due to high levels of corruption and lack of accountability amongst officials; for instance, customs officials are often willing to turn a blind eye for a price, allowing for abducted women to be transported easily without identity papers or with forged documents.⁴⁸ The U.S. State Department's 2010 *Trafficking in Persons Report* found evidence of "complicity in trafficking by officials" in Iraq.⁴⁹ Corruption is not limited to the state, however; multiple employees in Iraq's orphanages have

⁴³ Wolte, *Armed Conflict*.

⁴⁴ Wolte, *Armed Conflict*.

⁴⁵ Wolte, *Armed Conflict*.

⁴⁶ US State Department, *Trafficking in Persons*.

⁴⁷ US State Department, *Trafficking in Persons*.

⁴⁸ Christina Fisanick, ed., *Current Controversies: Human Trafficking* (Farmington Hills: Greenhaven Press, 2010).

⁴⁹ US State Department, *Trafficking in Persons*.

been stopped at the Iraqi-Syrian border as they tried to transport young girls across to be sold in Syria's booming nightclubs and brothels.⁵⁰

Organized crime also increases dramatically in post-conflict countries, and Iraq is no exception. Some former militia and criminals, who profited through illegal weapons sales and other wartime black market activities, turn to sex trafficking to make up for revenue losses due to a cease-fire.⁵¹ In fact, it is not uncommon for humans to be trafficked along the same routes used to traffic drugs and illegal arms; "the triple play of trafficking drugs, humans, and weapons in the same shipment has become increasingly popular, especially in war-torn regions," such as Iraq.⁵²

Under international sanctions in the 1990s, a type of underground economy formed, and organized crime in Iraq was largely sponsored by the Saddam Hussein regime in order to generate income and obtain supplies. Continued high levels of corruption in the post-invasion transitional government sustained these crime networks and allowed them to thrive even without direct government sponsorship; if anything, they were able to operate more openly once sanctions were lifted due to the complete lack of law enforcement and dissolution of the military following Hussein's overthrow. Ultimately, over a decade of sanctions created tolerance of smuggling within Iraqi society.⁵³

Presence of Military and Peacekeepers

Foreign troops and peacekeeping missions have historically created a spike in demand for sex workers. Unfortunately, access to these workers has always been considered an integral part of conflict and necessary for the military performance of armies.⁵⁴ From the 1950s through the

⁵⁰ US State Department, *Trafficking in Persons*.

⁵¹ Williams, *Criminals, Militias, and Insurgents*.

⁵² Kara, *Sex Trafficking*.

⁵³ Peter Andreas, "Criminalizing Consequences of Sanctions: Embargo Busting and Its Legacy," *International Studies Quarterly* 49 (June, 2005): 335 – 360.

⁵⁴ Wolte, *Armed Conflict*.

1980s, the American military made arrangements with numerous Asian governments that allowed for the creation of red-light districts in which soldiers could visit without interference by local law enforcement. Although these agreements are not so openly practiced anymore, foreign troops are rarely reprimanded for involvement in prostitution and trafficking; on the contrary, if anyone is punished for the crime it is generally the woman for participating in prostitution.⁵⁵

Peacekeepers enjoy relative de facto immunity in the country in which they serve, allowing sexual misconduct to spread rapidly around bases. When nations deploy peacekeeping troops, they enter into a Memorandum of Agreement with the United Nations, in which each nation retains the right to discipline its own soldiers. The United Nations and the host country then sign a Status of Forces Agreement, in which the host nation relinquishes authority over peacekeeping troops for violations of its law.⁵⁶ The same is true for NATO peacekeeping missions. Although the United States Uniform Code of Military Justice (UCMJ) set the maximum penalty for patronization of a prostitute at “dishonorable discharge, forfeiture of all pay and allowances, and confinement for 1 year”⁵⁷ in 2005, patronization, rape, and other acts of sexual violence are generally covered up rather than punished.⁵⁸ As for UN officials involved in these missions, they are granted formal immunity under Article 105 of the UN Charter.⁵⁹

Discussion

Huge numbers of refugees and IDPs, lawlessness that allowed for the rise of organized crime, a society tolerant of smuggling, and the presence of military and peacekeeping forces have created a perfect storm in Iraq that has allowed for trafficking to increase dramatically.

⁵⁵ Wolte, *Armed Conflict*.

⁵⁶ Keith J. Allred, "Peacekeepers and Prostitutes: How Deployed Forces Fuel the Demand for Trafficked Women and New Hope for Stopping It." *Armed Forces & Society* 33.1 (2006): 120-30.

⁵⁷ Manual for Courts-Martial, United States pt. IV-135, 4c, 2008.

⁵⁸ Allred, "Peacekeepers and Prostitutes."

⁵⁹ Allred, "Peacekeepers and Prostitutes."

Unfortunately, NATO forces did not plan for a prolonged occupation and were thus unprepared to deal with these issues and keep instances of trafficking to a minimum, and international negotiators failed to address gender violence and similar crimes, including trafficking.⁶⁰

⁶⁰ Wolte, *Armed Conflict*.

Part IV: Legal Recourses

The Iraqi government and its law enforcement officials have both domestic and international laws to implement with regards to human trafficking. This chapter seeks to briefly review these laws, as well as failures within the judicial system to enforce them.

Iraqi Law

In 2005, Iraqis ratified a new constitution which prohibits slavery, forced labor, trafficking, and the sex trade, making it the only Middle Eastern country that has criminalized trafficking in women and children, although they have yet to implement specific punishments for these crimes.⁶¹ The U.S. State Department classified Iraq as a Tier 2 Watch List country in its 2010 *Trafficking in Persons Report*, meaning that “the Government of Iraq does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so in spite of resource and capability constraints.”⁶²

The Iraqi government has created the Supreme Committee to Combat Human Trafficking; however, it does not have any real power to implement its recommendations.⁶³ Legislators have drafted anti-trafficking legislation, but it has not yet been passed; the future of this bill currently lies with the Sharia Council, a panel of clerics charged with flagging bills that are considered un-Islamic.⁶⁴ This bill, if passed, will set the sentence for human trafficking at life in prison and a fine of up to 25 million dinars if the victim is female, under the age of fifteen, or has special needs. It does not, however, outlaw the use of temporary marriage as a means of

⁶¹ ECPAT International, *Sex Trafficking*.

⁶² US State Department, *Trafficking in Persons*.

⁶³ US State Department, *Trafficking in Persons*.

⁶⁴ US State Department, *Trafficking in Persons*.

trafficking internationally.⁶⁵ A bill which hopes to address violence against women is also in the drafting phase.⁶⁶

International Law

Although Iraq approved the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in August 1986, it expressed reservations about three articles within the Convention and is thus not held accountable for them.⁶⁷ Within Article 2, Iraq has rejected two paragraphs which require countries “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women” and “to repeal all national penal provisions which constitute discrimination against women.”⁶⁸ Article 9, also rejected by the Iraqi government, “shall grant women equal rights with men to acquire, change, or retain their nationality;” the same equal rights apply “with respect to the nationality of their children.”⁶⁹ Article 16, vetoed in its entirety, states that women shall have the same rights as men in marriage, including “the same right freely to choose a spouse and to enter into marriage only with their free and full consent.”⁷⁰ These provisions were deemed un-Islamic by the Iraqi government at the time, but should be reconsidered and rectified by the new administration.

In addition to CEDAW, Iraq has ratified or signed onto several international conventions that address the rights of women and girls, including the Universal Declaration of Human Rights; the International Covenant on Economic, Social, and Cultural Rights; the International Covenant

⁶⁵ Protection Project, *A Human Rights Report on Trafficking in Persons, Especially Women and Children: Iraq*, Washington, D.C. (2010).

⁶⁶ "Violence Against Women in Iraq Factsheet," Inter-Agency Information and Analysis Unit, accessed March 12, 2011, www.iauiraq.org.

⁶⁷ Ali Allawi, "Human Trafficking: Iraq - A Case Study" (University of New Hampshire School of Law, 2010).

⁶⁸ UN Committee on the Elimination of Discrimination against Women, "CEDAW General Recommendations Nos. 19 and 20, adopted at the Eleventh Session," 1992.

⁶⁹ CEDAW.

⁷⁰ CEDAW.

on Civil and Political Rights; the Convention on the Rights of the Child; the Declaration on the Elimination of Violence against Women; and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.⁷¹ While these all represent positive steps for Iraq, they must be fully implemented in order to achieve full equality for all citizens.

Failure of Iraqi Law Enforcement and Judicial System

Iraq's legal system fails to protect victims of trafficking. Trafficked women have been tried and convicted of prostitution, as Iraqi law does not recognize coercion as a legal defense.⁷² Additionally, fear of social stigma or even honor killing prevent many women and girls in Iraq from reporting sexual assault. According to Human Rights Watch:

Women and girls [in Iraq] live in an atmosphere where, if they are raped or even believed to have been raped, they have poor legal recourse and have well-grounded fears of social ostracism, rejection by their families, and even physical violence. Although rape and abduction are serious crimes under Iraqi law, there is a long-standing cultural stigma and shame attached to rape that positions victims as the wrongdoer and too frequently excuses or treats leniently the perpetrator.⁷³

Additionally, Iraqi law fails to protect the victims of sexual assault, rape, and trafficking after the fact; for example, a man convicted of rape or abduction can avoid punishment by marrying his victim and remaining married for at least three years, thus forcing the victim to undergo daily emotional, and likely physical, trauma. Many women, fearing this fate, do not even file a complaint against their assaulters, who often threaten violence to ensure their silence.⁷⁴ Most cases of sexual assault and trafficking do not even reach the trial phase, however.

⁷¹ "Violence Against Women in Iraq Factsheet."

⁷² US State Department, *Trafficking in Persons*.

⁷³ Human Rights Watch, *Climate of Fear*.

⁷⁴ Human Rights Watch, *Climate of Fear*.

Dr. Kevin Bales, president of international NGO Free the Slaves and modern slavery expert, wrote that of all trafficking cases filed worldwide, only one percent are ever prosecuted.⁷⁵

The police force in Iraq remains untrained in identifying and investigating these types of crimes. In June 2003, Human Rights Watch visited a number of police stations in the Baghdad area and found that “police downplayed reports of rape, at times indicating that women and girls provoked rape by venturing out of the house before the city was safe...Police officers also frequently downplayed the importance of the criminal justice system in resolving such cases, noting that families ‘resolve’ such cases between themselves.”⁷⁶ These attitudes disrupt the criminal justice system and must be addressed through sensitivity training and awareness campaigns.

Discussion

The Iraqi government, though it is taking some steps to address the issue of human trafficking, fails on both a domestic and international level to provide adequate protection and legal recourse for trafficked women. Anti-trafficking and anti-violence legislation has been drafted, but the parliament has not made any real attempts to pass these bills quickly as these issues are still not considered a priority. Iraqi authorities must address this shortfall if they are serious about meeting international standards with regards to anti-trafficking programs. Likewise, international conventions that concern women’s issues should be ratified, in full, and enforced immediately.

Iraq’s legal system also tends to shy away from certain issues that it believes should be resolved within families. This has proven to be ineffective and at times even dangerous for the woman involved. Archaic, gender-biased laws, such as that which allow for a perpetrator to

⁷⁵ Bales and Soodalter, *The Slave Next Door*.

⁷⁶ Human Rights Watch, *Climate of Fear*.

serve a reduced sentence if he marries his victim, must be abolished immediately and replaced with laws that better protect the victim of the crime rather than the offender. Additionally, training programs for Iraq's police and military forces should be developed and implemented as soon as possible.

Part V: What Can Be Done?

Prevention of Trafficking,
Protection of Victims, and
Prosecution of Traffickers

The eradication or, more realistically, the extreme reduction of human trafficking, is a huge undertaking. It is necessary that NGOs, the Iraqi government, and the international community work together if the problem is to be tackled from all sides. Although slavery and trafficking is illegal almost everywhere in the world, all countries must adopt and enforce strict laws against these practices as well as facilitate communication and cooperation internationally to prevent criminal transnational networks from being able to function. Problems of funding, treatment of victims, inadequate law enforcement, legislation, international cooperation, and prosecution of traffickers will be discussed in this section and recommendations for improvement will be made.

The Role of NGOs

Trafficked women and children face enormous health risks, both physical and psychological. According to the U.S. Department of Health and Human Services, these issues can include “drug and alcohol addiction; physical injuries...traumatic brain injury...sexually transmitted diseases...sterility, miscarriages, menstrual problems; other diseases...forced or coerced abortions...mind/body separation/disassociated ego states, shame, grief, fear, distrust, hatred of men, self-hatred, suicide, and suicidal thoughts,” as well as Post-traumatic Stress Disorder.⁷⁷ The task of addressing these issues and minimizing the harmful effects usually falls on the shoulders of local NGOs.

Most NGOs in origin countries, such as Iraq, focus on assisting survivors after their return home. Upon repatriation, trafficked women are referred to local NGOs that offer social services, such as emergency housing, first aid and medical care, food and supplies, and

⁷⁷ "The Campaign to Rescue & Restore Victims of Human Trafficking," U.S. Department of Health and Human Services, accessed March 11, 2011, www.acf.hhs.gov/trafficking

immediate psychological care.⁷⁸ However, most of these organizations are extremely underfunded and face great difficulty providing all of the necessary services to trafficked women. They are also understaffed; some services, such as medical and counseling assistance, require special education and training, and many NGOs cannot afford to employ doctors and psychologists fulltime.⁷⁹

As Iraq is a destination country for victims of trafficking as well, NGOs in Iraq must also attempt to provide assistance for women who have escaped but not yet returned to their home country. This may include reaching out to sex workers in order to determine if they have been trafficked, providing shelter for those who escape, and offering legal assistance. Legal assistance is paramount at this stage, as trafficked women are generally considered to be illegal immigrants and do not receive help from the destination country's government. More often than not, they are treated as criminals due to their illegal status and/or involvement in illegal prostitution,⁸⁰ in the Kadthimiya women's prison in Baghdad, almost half of the prisoners had been convicted of prostitution.⁸¹ For this reason, outreach is a critical part of an NGO's work; many trafficked women are unaware that these social services are available to them, or are too afraid to seek them out⁸².

Besides offering social services, prevention campaigns are another important aspect of an NGO's work. These activities may include lobbying for anti-trafficking legislation as well as vocational training, information and education campaigns, gender education in schools, training

⁷⁸ Marina Tzvetkoca, "NGO Responses to Trafficking in Women." *Gender and Development* (March 10, 2002): 60 – 68.

⁷⁹ Tzvetkoca, "NGO Responses," 60 – 68.

⁸⁰ Tzvetkoca, "NGO Responses," 60 – 68.

⁸¹ OWFI, *Prostitution and Trafficking*.

⁸² Tzvetkoca, "NGO Responses," 60 – 68.

for teachers and school officials to identify those at risk, and assistance for women at risk who wish to access employment and career advancement activities.⁸³

The Role of the Iraqi Government

European governments have taken the most active approaches to regulating the sex industry, and thus these models will be explored as possible future solutions for Iraq with regards to sex trafficking. Several different legislative measures have been taken throughout Europe to address trafficking, including legalization of prostitution, decriminalization of prostitution, and criminalization of brokerage and solicitation. One must consider societal differences between Europe and the Middle East when discussing the likelihood of these implementations, as well as government resources. Additionally, domestic laws regarding temporary marriage, violence against women, and domestic violence, as well as education campaigns, are crucial in the eradication of sexual slavery.

Some have suggested that by legalizing and regulating prostitution, governments can at least eliminate the trafficking of minors for sexual services. However, countries such as the Netherlands, which has regulated prostitution since 2000, continue to see the number of trafficking victims increase. Additionally, only 4% of sex workers have registered with the government, leaving a vast majority undocumented, many of whom were likely trafficked; Greece, Austria, Denmark, and Australia have experienced similar failures in their registration programs. There are not enough native, “legal” prostitutes to meet the demand for sexual services, so foreign, illegal sex workers must be trafficked into the countries. Although these policies were intended to improve the situations of prostitutes, they have in fact done the opposite and instead benefited pimps and traffickers by legitimizing their work; the sex industry

⁸³ Tzvetkoca, “NGO Responses,” 60 – 68.

in the Netherlands has grown 25% since 2000, and illegal brothels far outnumber legal brothels.⁸⁴

In a conservative society such as Iraq, it is unlikely that prostitution will be legalized; at any rate, the government and law enforcement agencies do not currently possess the resources necessary to regulate the sex industry effectively. A more appropriate response to the growth of sex trafficking in Iraq would be a system mirroring that of Sweden, which has decriminalized acts of prostitution but criminalized brokerage and patronage of a prostitute. Passed in 1999, this system has proven to be the most effective in the world; estimates put the number of prostitutes in Sweden at only 100, and the number of patrons has decreased by 80%.⁸⁵ Implementing similar legislation in Iraq would not only decrease the number of women trafficked into the country for the purpose of sexual exploitation, but would also help to eliminate the unfair punishment and imprisonment of trafficking victims for crimes of prostitution.

Iraq must also, both in the cultural realm and in law enforcement, take the necessary steps towards ending practices of temporary marriage and child marriage. Laws setting the age of marriage at 18 are already in place but remain unenforced, putting children – who make up 50% of all trafficking victims – at risk for exploitation.⁸⁶ Stricter laws must be created to minimize the use of temporary, or *muta 'a*, marriages, which have gained popularity amongst the Shia majority in Iraq since the U.S. invasion; traffickers in the Middle East are known to abuse this tradition in order to transport trafficked women across borders without arising suspicion. Iraq can most easily achieve this by ratifying CEDAW in its entirety, particularly Article 16 which addresses a woman's right to enter freely into marriage. By ratifying and enforcing this

⁸⁴ Fisanick, *Current Controversies*.

⁸⁵ Fisanick, *Current Controversies*.

⁸⁶ Fisanick, *Current Controversies*.

convention, instances in which families force women and children into marriages in order to benefit financially or pay off a debt can be reduced and eventually eradicated.

Violence against women, one of the major catalysts to sex trafficking, continues to plague Iraqi society. Defined by the 1993 Declaration on the Elimination of Violence Against Women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life,” a study by the Inter-Agency Information and Analysis Unit (IAU) in Iraq found that of women ages 15 to 49, 21% had experienced physical violence by their husband; 14% of these women were pregnant at the time of an assault. 33% of all women surveyed had experienced emotional violence, and 83% reported controlling behavior by their husbands. Additionally, it was found that 68% of young Iraqi men believe that honor killings are tolerable if a girl has shamed her family, and 50% believe that it is acceptable for a man to beat his wife.⁸⁷ Iraq cannot begin to address the issue of sex trafficking without also addressing these attitudes that allow for such crimes to occur.

These disturbing statistics explain an array of problems that Iraq must address with regards to sex trafficking. In many cases, women are rightly afraid of repatriation after they have been trafficked, fearing retribution for the perceived shame they have brought upon their families. Legislation must be passed and enforced by the Iraqi government to end violence against women; this will, at the very least, play a large role in the elimination of trafficking that occurs by families selling wives and daughters. By establishing and enforcing laws that make trafficking in Iraq a risky business, it will undoubtedly decrease. Along the same lines, the Iraqi judicial system must make a commitment to do everything in its power to investigate and prosecute traffickers.

⁸⁷ “Violence Against Women in Iraq Factsheet.”

The Iraqi government must also work with local and international NGOs to disseminate education campaigns. The same study by the IAU in Iraq found that women and girls are often unaware that they have rights in terms of gender-based violence; 59% believe that under certain circumstances a man may beat his wife. Many do not realize that there are services available to them if they have been abused or trafficked. Iraq will continue to lose the fight against sex trafficking if women remain uninformed of their rights and do not feel safe reporting these crimes to law enforcement officers.

The Role of the International Community

The United States of America leads the world in anti-trafficking legislation, and will thus be discussed in this section as a model that other countries should follow. It is important to note, however, that the United States remains one of the largest destination countries for trafficking victims and has a long road ahead of it with regards to this issue. Many law enforcement officials remain untrained in identifying and protecting victims, and in far too many cases women trafficked across international borders with forged documentation, or none at all, are treated as criminals rather than victims.

The U.S. Victims of Trafficking and Violence Protection Act of 2000 (VTVPA) created the Office to Monitor and Combat Trafficking in Persons under the U.S. State Department. This office created a plan to deal with trafficking in humans based on the “3P” model – prevention, protection, and prosecution. A fourth “P” was later added – Partnership – in order to address transnational trafficking networks and facilitate communication and cooperation worldwide.⁸⁸

⁸⁸ “Office to Monitor and Combat Trafficking in Persons,” U.S. State Department, accessed March 11, 2011, www.state.gov/g/tip.

Prevention

Since its creation, the Office to Monitor and Combat Trafficking in Persons has provided more than \$295 million to anti-trafficking initiatives in over 120 countries. More importantly, however, is the pressure that the VTPA has put on governments to crackdown on trafficking operations. It created a system in which countries are ranked based on compliance with international standards with regards to human trafficking legislation and efforts to eliminate trafficking; the United States ends non-humanitarian aid to countries that fail to meet the minimum standards (Tier 3). Overall, this system has been effective in forcing governments to allot more resources towards anti-trafficking initiatives. Threat of losing American aid has led most countries designated as Tier 3 to create special offices to focus on human trafficking in their country and take steps towards implementing international conventions.⁸⁹ As previously mentioned, Iraq was placed on the Tier 2 Watch List in the 2010 *Trafficking in Persons Report*.

More governments in developed countries must follow suit and reduce government aid to countries that fail to take positive steps towards the elimination of trafficking. These governments must also realize, however, that demand for sexual services is highest in Western countries; trafficking rings begin in undeveloped, impoverished countries and end in the most advanced regions, including Western Europe and North America.⁹⁰ Programs must be implemented within these borders to reduce demand and place harsher punishment upon those who participate in trafficking, while providing necessary services for the victims.

⁸⁹ Melissa Holman, “The Modern-Day Slave Trade: How the United States Should Alter the Victims of Trafficking and Violence Protection Act in Order to Combat International Sex Trafficking More Effectively,” *Texas International Law Journal* 44 (October 1, 2008): 99 – 121.

⁹⁰ Fisanick, *Current Controversies*.

Protection

Victims trafficked to the United States, if identified and certified as such, are eligible for the same benefits as refugees on the condition that they “be willing to assist with the investigation and prosecution of trafficking cases, or be unable to cooperate due to physical or psychological trauma.”⁹¹ Most countries only provide short-term visas to trafficked women if they agree to testify against their traffickers; if they refuse, as is often the case for fear of retribution, they are deported immediately. Once they have returned to their home countries, these women often fall back into the same economic, familial, and social situations that made them vulnerable to trafficking in the first place.⁹²

Many women, especially from conservative societies such as Iraq, risk being socially ostracized upon repatriation; often unable to return to their family home, they are left with nowhere to go. Since women are generally trafficked from poorer countries to wealthier areas, their destination countries are usually better prepared and able to assist them than their home countries. Studies have shown that trafficked women are more willing to testify against their traffickers in countries where they are eligible for long-term residence visas and work visas.⁹³ By adopting these practices, countries will not only be able to increase the rate of prosecution for trafficking crimes, but will also be better able to protect victims of these crimes.

The larger problem remains, however, that these victims often go uncertified as such because law enforcement officials are undertrained in identifying cases of trafficking. Victims arrested in brothel raids or on the street are often treated as illegal immigrants and deported. All countries, especially those which have been classified as source, transit, or destination countries,

⁹¹ “Office to Monitor and Combat Trafficking in Persons.”

⁹² Tzvetkoca, *NGO Responses*.

⁹³ “Operation for Security and Cooperation in Europe, Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, *Combating Trafficking as Modern-Day Slavery: A Matter of Rights, Freedoms and Security* (Dec. 2010).

must take an active role in training police, military, and other law enforcement officials in identifying and responding to these cases; only then will governments be able to prosecute traffickers and slowly begin to eradicate this heinous crime.

Prosecution

Prosecution of traffickers continues to be rare throughout the world. Even if a trafficking ring is discovered and taken to trial, it is generally only the final trafficker who is prosecuted, rather than the extensive network of people involved, and profits generated from the crime are not usually seized. Prosecution is difficult because trafficking rings are often transnational; there is a huge lack of international cooperation between law enforcement and criminal justice systems with regards to this issue.⁹⁴

One of the most important tools for prosecuting traffickers is financial investigations. Used extensively in investigations of drug and weapons trafficking, it is extremely underutilized with regards to trafficking in humans. In order to reduce the frequency of sex trafficking, a “profit-driven crime,” the international community must locate and seize the earnings from the crime.⁹⁵ Financial investigations will not only make sex trafficking more risky, and thus less appealing to organized crime rings, but it will also allow for law enforcement officials to follow the money trail and apprehend those involved in the kidnapping and transportation of women before they reach their final destination. Additionally, this will allow for investigators to target customers of commercial sex, as traffickers are increasingly using the internet to attract potential clients and allow for online credit card payments in exchange for services; increasing

⁹⁴ Operation for Security and Cooperation in Europe.

⁹⁵ Operation for Security and Cooperation in Europe.

prosecution of clientele will reduce the demand for commercial sexual services, and thus the need to traffic women to meet this demand.⁹⁶

Concluding Remarks

Sex trafficking is, first and foremost, a gross violation of human rights. It remains so profitable because high population growth makes women and girls, in the eyes of traffickers, an expendable resource. As Kara wrote, “These sex slaves are forced to service hundreds, often thousands of men before they are discarded...Unlike a drug, a human female does not have to be grown, cultivated, distilled, or packaged. Unlike a drug, a human female can be used by the customer again and again.”⁹⁷ It is impossible to eradicate sex trafficking without addressing this mindset and the mindset of the customers who create such a demand for sexual services; they must begin to see these women for who they are – mothers, daughters, sisters, and wives.

Additionally, sex trafficking cannot be addressed without also taking measures to end all forms of human trafficking. Although slavery is illegal almost everywhere in the world, people continue to support the slave trade everyday due to ignorance of the issue. Almost all of the food humans eat, the clothes they wear, and the appliances and electronics they use have been touched, at some stage, by the hands of a slave.⁹⁸ This issue cannot fall on the shoulders of politicians alone; all human beings must take a stand against these injustices and demand that consumer goods be created without the use of inexpensive slave labor.

Politicians, however, do play a crucial role in the eradication of human trafficking. Laws must be created and enforced in every country banning the practice of slavery in all of its forms. Loopholes in current laws must be closed. Training programs must be developed for law

⁹⁶ Operation for Security and Cooperation in Europe.

⁹⁷ Kara, Siddharth, *Sex Trafficking*.

⁹⁸ Department of Labor, *Testimony of Margaret Ellen Roggensack, Policy Director of Free the Slaves, before the Bureau of International Labor Affairs*, Margaret Ellen Roggensack (Washington D.C.: April 23, 2008).

enforcement officials so that they are better prepared to identify and respond to situations of trafficking. Laws pertaining to the rights of the victims should be reformed, allowing trafficked people access to benefits available to refugees. Governments must realize that, in many instances, repatriation is not what is best for the victim and other options should be explored. For the services that governments are unable to provide, money must be allocated to NGOs specializing in trafficking so that they are able to build shelters, provide counseling and medical services, and play an active role in assisting the victim in the legal process, both in the destination country as well as the country of origin.

Only when NGOs receive adequate funding, governments pass strict anti-trafficking and anti-violence laws, and the international community adopts a concrete anti-trafficking plan can this crime against humanity be eradicated. Victims must be treated with compassion by trained authorities, and trafficking rings must be traced to the source and prosecuted to the fullest extent of the law. Gender-biased laws, such as those in Iraq which allow for perpetrators to escape punishment by marrying their victims, must be ended immediately, and education campaigns should be widespread to end practices that make women vulnerable to trafficking and make women who have been trafficked aware of their rights and the services available to them. As Dr. Kevin Bales wrote, “We could eradicate slavery. The laws are in place. The multi-nationals, the world trade organizations, the United Nations, they could end slavery; but they’re not going to do it until and unless we demand it.”⁹⁹

⁹⁹ Kevin Bales, *Ending Slavery: How We Free Today’s Slaves*[Berkeley: University of California Press, 2007].

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