

International Trafficking In Persons

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Course Description

Trafficking in women and children is a global human rights violation that constitutes a grave case of human exploitation. This course is designed to examine the various issues related to trafficking in women and children from both an international and comparative perspective. While the course primarily focuses on commercial sexual exploitation and trafficking for the purpose of prostitution, trafficking for other slave-like practices will also be fully addressed. Such practices include forced labor, the exploitation of migrants for domestic service, the sale of children for irregular inter-country adoption, and the sale of wives legalized by transnational marriages.

The course will study the trafficking prohibitions of the various international and regional conventions including the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children; the Convention of Suppression of the Trafficking in Persons and the Exploitation of the Prostitution of Others; the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child.. The course will also study the regional instruments of Europe and the Middle East in addition to the conventions of the International Labour Organization (ILO).

The course will analyze legislative texts of the domestic trafficking laws of selected jurisdictions worldwide, whether these laws are enacted as a part of the penal code or as a special act related to protection of women and children. Regional case studies will include discussion of the problems of trafficking in women and children in the Middle East, combating trafficking in persons in accordance with the principles of Islamic Law, the role of the government and its judiciary in protecting and providing for victims, national and international monitoring mechanisms, and harmful cultural practices that contribute to the vulnerability of women and girls to trafficking.

The course will also analyze the U.S. statutes prohibiting trafficking in human beings, including those related to alien smuggling, the importation of an alien for immoral purposes, the establishment of commercial enterprises for the purpose of evading immigration, involuntary servitude, the transportation of a person in interstate or foreign commerce for the purpose of prostitution under the Mann Act and the 2000 Trafficking Victims Protection Act, as amended in 2003, 2005, 2008 and 2013. The course will also cover the 2003 Protect Act, especially Section 105 that provides penalties in cases of child sex tourism, as well as the 2005 International Marriage Broker Regulation Act. The course will specifically address trafficking in persons as a foreign policy objective of the U.S. and sanctions imposed on foreign countries that do not comply with the minimum standards for the elimination of trafficking.

The course will emphasize the human rights based approach to trafficking in persons and the recognition of the trafficked person as a victim of a crime. The course will also inquire into the role of government corruption in facilitating the crime of trafficking. A Model Law will form the basis of discussion on drafting a comprehensive anti-trafficking legislation that covers prevention of the act of trafficking, protection of the trafficking victim and prosecution of the trafficker. The course will conclude with a comprehensive exploration of best practices in combating trafficking in persons.

Course Requirements

Class discussions will focus on particular projects. Students are encouraged to participate in class discussions by preparing for each of these projects. You may contact my teaching assistant, Jennifer Litvak at jlitvak1@jhu.edu with any inquiries.

Students may choose a take-home examination or write a research paper in lieu of the examination. Final grades will be based on class participation (40%) and the final exam/paper (60%).

1. Overview of Course Materials, Requirements, and Objectives: Shifting the Focus from Slavery to Exploitation: A New Definition of Human Trafficking (Jan. 30)

Assigned Materials:

- a. Mohamed Y. Mattar, *Trafficking in Persons, an Annotated Bibliography Delineating Five Years of Development 2005-2009*, 2 PROTECTION PROJECT J. HUM. RTS. & CIV. SOC'Y 153 (2009)
- b. Mohamed Y. Mattar, *Trafficking in Persons, an Annotated Bibliography*, 96 LAW LIB. J. 669 (2004)
- c. Mohamed Y. Mattar, *Comprehensive Legal Approaches to Combating Trafficking in Persons: an International and Comparative Perspective*. The Protection Project at The Johns Hopkins University School of Advanced International Studies
http://www.protectionproject.org/wp-content/uploads/2010/09/PP_Chartbook_English.pdf (8-13)

Key Concepts: slavery (ownership), exploitation (control), forms of exploitation, sexual exploitation, forced labor, removal of human organs, an international definition of trafficking in persons, establishing A 20+ formula constituting the elements of human trafficking (5 Acts 8 Illegal Means and 7 Illicit Purposes), the distinction between trafficking in persons and smuggling of migrants, forms of sex trafficking, forms of labor trafficking, forms of trafficking in children, routes of trafficking

Handouts: Definitions of Trafficking in Persons: The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the UN Convention against Transnational Organized Crime, the Expanded Anti-Trafficking in Persons Act of 2012 of the Philippines, and the Egypt's People's Assembly Law No. (64) of 2010 Regarding Combating Human Trafficking

Project: Based upon your study of the various definitions of human trafficking, make a list of forms of exploitation that you may consider to constitute trafficking in human beings.

2. The U.S. Legal Approach: From the Mann Act to the Trafficking Victims Protection Act (Feb. 6)

Assigned Materials:

- a. The White Slave Traffic Act of 1910 [The Mann Act] and amendments thereto, 18 U.S.C. §§ 2421-2424
- b. Victims of Trafficking and Violence Protection Act of 2000 [TVPA], Pub. L. No. 106-386 (2000)
- c. Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193
- d. Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 (2005)
- e. William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. No. 110-457 (2008)
- f. The Trafficking Victims Protection Reauthorization Act of 2013, officially passed as Title XII of the Violence Against Women Reauthorization Act of 2013, Pub. L. No. 134-4 (2013)

Key Concepts: the history and development of the Trafficking Victims Protection Act of 2000, as amended in 2003, 2005, 2008 and 2013, human trafficking as a foreign policy objective, human rights and public policy

Handouts: The Protection Project, "TVPA in 5 colors", 2013, which may be accessed at: http://www.ifsnetwork.org/Portals/4/docs/TVPA-in-5-Colors_2013_FINAL.pdf

Project: Describe how the Trafficking Victims Protection Act, upon each reauthorization, further enhances protection for victims.

3. The United States Courts: Prosecuting Cases of Human Trafficking (Feb. 13)

Assigned Materials:

- a. Mohamed Y. Mattar, *Interpreting Judicial Interpretations of the Criminal Statutes of the Trafficking Victims Protection Act: Ten Years Later*, 19 AM. U. J. GENDER SOC. POL'Y & L. 1247 (2011).
- b. United States v. Marcus, 487 F. Supp. 2d 289 (2007) (Defining a "commercial sex act" under the TVPA)
- c. United States v. Paris, U.S. Dist. LEXIS 78418 (2007) (Interstate commerce nexus for sex trafficking).
- d. United States v. Veerapol, 312 F.3d 1128 (2002) (Conviction of holding another to involuntary servitude, mail fraud, and harboring aliens)
- e. United States v. Castaneda, 239 F. 3d 978 (Court of Appeals for the 9th Circuit 2001) (Filipino women were recruited to work in a night club where they performed sexual services)
- f. United States v. Kozminski, 487 U.S. 931 (1988) (The definition of forced labor: the defendant holds the victim in servitude by placing him or her in fear of such physical restraint or injury or legal coercion – excludes psychological coercion)

Key Concepts: challenging the constitutionality of the Trafficking Victims Protection Act, the clash between the Foreign Sovereign Immunities Act and the Trafficking Victims Protection Act, shifting the focus from territoriality to extraterritoriality, incorporating international law on trafficking in persons into US courts

Handouts: The case of *United States v. Veerapol*, 312 F.3d 1128 (2002), the case of *United States v. Castaneda*, 239 F. 3d 978

Project: Define the vulnerable victim enhancement doctrine and discuss how it may apply to victims of human trafficking.

4. The Scope of the Problem and the Appropriate Government Responses including Prevention, Protection, Provision, Prosecution and Participation (Feb. 20)

Assigned Materials:

- a. Mohamed Y. Mattar, Comprehensive Legal Approaches to Combating Trafficking in Persons: an International and Comparative Perspective. The Protection Project at The Johns Hopkins University School of Advanced International Studies http://www.protectionproject.org/wp-content/uploads/2010/09/PP_Chartbook_English.pdf (Pages 15-18)

Key Concepts: Elements of an Action Plan to Combat Trafficking based upon the 5Ps: Prevention, Protection, Provision, Prosecution and Participation, a human rights approach focusing on the victim of trafficking, the types of preventive measures which must be taken to protect the potential victim, types of services a victim of trafficking would need for recovery and rehabilitation, appropriate punishment that are comparable with the gravity of the crime, the role of civil society, the role of the ordinary citizen

Handouts: The Comprehensive Arab Strategy for Combating Trafficking in Human Being

Project: Draft a Bill of Rights on behalf of victims of trafficking that constitutes the basis of a national action plan to combat human trafficking.

5. The Immigration Policy of the United States As it Applies to Victims of Human Trafficking (Feb. 27)

Assigned Materials:

- a. Mohamed Y. Mattar, Comprehensive Legal Approaches to Combating Trafficking in Persons: an International and Comparative Perspective. The Protection Project at The Johns Hopkins University School of Advanced International Studies

http://www.protectionproject.org/wp-content/uploads/2010/09/PP_Chartbook_English.pdf (Pages 36-43)

- b. T-Visa Application Form: <http://www.protectionproject.org/wp-content/uploads/2010/09/i-914.pdf>

Key Concepts: From deportation to a residency status, the requirements for obtaining a T-Visa for victims of trafficking, an examination of the T-Visa application process, the distinction between asylum and residency status under the TVPA, defining ‘extreme hardship’ in immigration cases which involve victims of trafficking, the recovery and reflection period in European Law, the residency status in Article 7 of the UN Trafficking Protocol, domestic workers, migrant workers, smuggling, *kefala*, remittances, non-criminalization

Handouts: Victims of Trafficking Bill of Rights, T-Visa application

Project: Write a memo on behalf of a victim of trafficking justifying the reasons for granting her/him a residency status in the US.

6. Monitoring the Status of Human Trafficking: National and International Reporting Mechanisms (Mar. 6)

Assigned Materials:

- a. Mohamed Y. Mattar, Comparative Models of Reporting Mechanisms on the Status of Trafficking in Human Beings, 41 VAND. J. OF TRANSNAT’L L. 1355 (2008)
- b. Mohamed Y. Mattar, Monitoring the Status of Severe Forms of Trafficking in Foreign Countries: Sanctions Mandated Under the U.S. Trafficking Victims Protection Act, 10 BROWN J. OF WORLD AFFAIRS 1 (2003)
- c. U.S. Department of State, TRAFFICKING IN PERSONS REPORT 2013
- d. The Protection Project Review of the Trafficking in Persons Report 2013
- e. The Protection Project, "Reporting on the Status of Trafficking in Women in Accordance with Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women: Guidelines on the Interpretation of the Text of Article 6 of the Convention," (2012) http://www.protectionproject.org/wp-content/uploads/2012/07/Guidelines-Art-6-CEDAW_Final1.pdf
- f. Mohamed Y. Mattar, “The Status of Human Trafficking in the Arab World,” International Human Trafficking and Forced Labor, Tom Lantos Human Rights Commission, United States Congress (November 28, 2012)

Key Concepts: an introduction to reporting mechanisms as a means of enforcing national and international laws, reporting on the status of human trafficking in accordance with the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, United States State Department Trafficking in Persons Report 2013, Enforcement of the UN Protocol and the Trafficking Victims Protection Act, the appropriateness

of sanctions in the context of human trafficking, congressional hearings on the status of human trafficking in the United States, implications for foreign parliamentarians, the right to safety

Handouts: Mohamed Y. Mattar, Comprehensive Legal Approaches to Combating Trafficking in Persons: an International and Comparative Perspective. The Protection Project at The Johns Hopkins University School of Advanced International Studies http://www.protectionproject.org/wp-content/uploads/2010/09/PP_Chartbook_English.pdf (Pages 41-42), "Reporting on the Status of Trafficking in Women in Accordance with Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women: Guidelines on the Interpretation of the Text of Article 6 of the Convention"

Project: Select a country and address how it is discussed in the Trafficking in Persons Report 2013.

7. The International Legal Approach: The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime and Regional Conventions in Europe and the Arab World (Mar. 13)

Assigned Materials:

- a. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000)
- b. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)
- c. Council of Europe Convention on Action against Trafficking in Human Beings (2005)
- d. Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.
- e. Mohamed Mattar, "Article 43 of the Arab Charter on Human Rights: Reconciling National, Regional, and International Standards," *26 Harvard Human Rights Journal* 91 (2013)
- f. Mohamed Y. Mattar, Corporate Criminal Liability: Article 10 of Convention against Transnational Organized Crime, *66 Columbia J. Int'l Affairs* 107 (2012)

Key Concepts: the necessity of an international legal document to combat human trafficking, the study of the 20 provisions of the UN Protocol on Trafficking, the Council of Europe's enhanced approach to protecting victims of trafficking, nuanced elements of the Council of Europe Directive in combating human trafficking, an interpretation of Articles 9 and 10 of the Arab Charter on Human Rights in light of international law as stipulated in Article 43 of the Charter, the interrelation between the UN Protocol and the UN Convention on Transnational Organized Crime

Handouts: Provisions of the UN Protocol, the Council of Europe Convention on Action against Trafficking in Human Beings, Directive 2011/36/EU of the European Parliament, and the Arab Charter on Human Rights

Project: Compare how the UN Protocol and the Council of Europe Convention address the issue of human trafficking, identifying omissions and gaps in both.

8. Tourism without Child Sex Tourism (Mar. 27)

Assigned Materials:

- a. Child Sexual Abuse Prevention Act 1994 2423
- b. Convention on the Rights of the Child (1989), Articles 34 and 35
- c. Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (2000)
- d. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)
- e. United States v. Clark, 315 F. Supp. 2d 1127 (2003)

Key Concepts: the history of the prohibition of child sex tourism in the United States, the United States v. Thomas and the debate on territoriality and extraterritoriality application of the US Sex Tourism Act, international standards on the prohibition of child sex tourism under Article 10 of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000), elements of a model extraterritoriality (ET) legislation

Handouts: United States v. Clark, 315 F. Supp. 2d 1127 (2003)

Project: Design an action plan for combating child sex tourism in the country or region of your choice.

9. Harmful Cultural Practices Contributing to the Human Trafficking Infrastructure (Apr. 3)

Assigned Materials:

- a. International Marriage Broker Regulation Act of 2005 [IMBRA], Pub. L. 109-162. Subtitle D of Title VIII (Sec.831-834)
- b. US Inter-Country Adoption Act of 2000
- c. Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)
- d. Convention on Protection of Children and Co-operation in Respect of Inter-Country Adoption (1993)
- e. Mohamed Y. Mattar, Comprehensive Legal Approaches to Combating Trafficking in Persons: an International and Comparative Perspective. The Protection Project at The Johns Hopkins University School of Advanced International Studies
http://www.protectionproject.org/wp-content/uploads/2010/09/PP_Chartbook_English.pdf (Pages 52-55)

Key Concepts: international family law, arranged marriage, temporary marriage, seasonal marriage, same-sex marriage, child marriage, forced marriage, marriage by catalogue, the problem of mail-order brides in the United States and beyond, age of consent, regulating matchmaking organizations under the International Marriage Broker Regulation Act, the institution of inter-country adoption in Muslim countries, the culture of adoption in the United States: lifting children from poverty and providing them with a better life

Handouts: *European Connections & Tours, Inc v Gonzales*, 480 F. Supp. 2d 1355 (2007)

Project: Explain when marriage becomes a form of human trafficking **or** Write a memo in support of inter country adoption and suggest means to eliminate abuse in the adoption process.

10. Trafficking for the Purpose of Forced Labor and Domestic Servitude (Apr. 10)

Assigned Materials:

- a. ILO Convention No. 189 concerning decent work for domestic workers (2011)
- b. *United States v. Kozminski*, 108 S. Ct. 2751 (1988) (Two mentally retarded men were found laboring on his farm. The term involuntary servitude means a condition of servitude in which the victim is forced to work by the use or threat of physical force, threat, or coercion).
- c. Mohamed Y. Mattar, *Comprehensive Legal Approaches to Combating Trafficking in Persons: an International and Comparative Perspective*. The Protection Project at The Johns Hopkins University School of Advanced International Studies
http://www.protectionproject.org/wp-content/uploads/2010/09/PP_Chartbook_English.pdf (Pages 56-57)
- d. *Ramos & Castro v. Hoyle & Perales*, U.S. Dist. Lexis 102677 (2008)
- e. *United States v. Djoumessi*, U.S. App. Lexis 17689 FED App. 0306P (6th Cir.) (2008)

Key Concepts: domestic work as a form of trafficking, diplomatic immunity, production of goods through child labor and forced labor, a review of the Department of Labor Report 2013

Handouts: ILO Convention No. 189 concerning decent work for domestic workers (2011)

Project: Draft a law regarding the rights of domestic workers in accordance with the ILO Convention No. 189 concerning decent work for domestic workers.

11. Comparative Legal Analysis of the Domestic Trafficking Laws of the Various Countries of the World: Drafting a Model Law (Apr. 17)

Assigned Materials:

- a. Mohamed Y. Mattar, *Human Rights Legislation in the Arab World: The Case of Human Trafficking*, 33 MICH. J. INT'L L. 1 (2011)

- b. Mohamed Y. Mattar, COMBATING TRAFFICKING IN PERSONS: A HANDBOOK FOR PARLIAMENTARIANS, Inter-Parliamentary Union and UNODC (2009)
- c. Mohamed Y. Mattar, Remarks on the Anti-Trafficking Law of Mexico, Testimony before the Senate of Mexico, October 17, 2005
- d. Mohamed Y. Mattar, A Comparative Analysis of the Anti-Trafficking Legislation in Foreign Countries: Towards a Comprehensive and Effective Legal Response to Combating Trafficking in Persons, Testimony before House Committee on International Relations, Subcommittee on International Terrorism, Nonproliferation and Human Rights, 108th Congress, 1st Session, June 25, 2003
- e. Mohamed Y. Mattar, International Human Trafficking and Forced Labor, Testimony before the Tom Lantos Human Rights Commission, November 28, 2012

Key Concepts: Elements of a model law on combating human trafficking in light of international standards and comparative models, how different legal systems address protection, provision, prosecution, participation and prevention (the 5 Ps), omissions and gaps in anti-trafficking legislation

Handouts: Mohamed Y. Mattar, Human Rights Legislation in the Arab World: The Case of Human Trafficking, 33 MICH. J. INT'L L. 1 (2011)

Project: Draft a section in a model law that addresses the role of civil society in combating human trafficking.

12. Using Religion to Combat Human Trafficking: The Case Study of Islamic Law (Apr. 24)

Assigned Materials

- a. Mohamed Y. Mattar, COMBATING TRAFFICKING IN PERSONS IN ACCORDANCE WITH THE PRINCIPLES OF ISLAMIC LAW, UNODC (2009)
- b. Mohamed Y. Mattar, *Trafficking in Persons, Especially Women and Children in Countries of the Middle East: The Scope of the Problem and the Appropriate Legislative Responses*, 26 FORDHAM INT'L L. J. 721 (2003)
- c. The Protection Project, "Human Rights in Islam with references to the Cairo Declaration of Human Rights in Islam and the Arab Charter on Human Rights", 2013

Key Concepts: the principle of prevention of prostitution, begging and other forms of exploitation, the principle of criminalization of an unlawful act (*tazir* v. *hadud*), the principle of positive discrimination in favor of women, the principle of no injury and no inflicting of injury and injury shall be removed, the principle of societal participation in accordance with enjoining the good and forbidding the evil (*Al-Amr Bi'l-Ma'ruf Wa Nabi 'An Al-Munka*), the role of religious fatwas in changing behavior and attitudes

Handouts: Cairo Declaration on Human Rights (1990)

Project: Describe how religion can be utilized in combating human trafficking.

13. Best Practices in Combating Trafficking in Persons (May 1)

Assigned Materials:

- a. California Supply Chains Transparency Act of 2010
- b. The Protection Project, 100 Best Practices in Combating Trafficking in Persons: The Role of Civil Society, A Series of 100 Best Practices: Volume 1, 2012
- c. The Protection Project, 100 Best Practices in the Protection of Migrant Workers, A Series of 100 Best Practices: Volume II, 2013
- d. The Protection Project, 100 Best Practices in Child Protection: Volume 3, 2013
- e. Report of the SAIS International Human Rights Clinic 2013 on The Protection of the Rights of Migrant Domestic Workers in a Country of Origin and a Country of Destination: Case Studies of the Philippines and Kuwait

Key Concepts: public-private partnerships, supply chain transparency, labor trafficking, anti-corruption policies, John Ruggie and the Ruggie Framework, illicit markets

Handouts: End Trafficking in Government Contracting Act of 2012

Project: Draft 10 Best Practices on Combating Human Trafficking based upon your study of the course.