TRAFFICKING IN PERSONS IN TUNISIA
LAW-61-2016
Regional perspective of IAWJ

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November, 2018
Campagne nationale contre la traite des personnes en Tunisie

الحملة الوطنية لمكافحة الإتجار بالأشخاص في تونس

#Pas_à_vendre #ليسوا للبيع

2016
Why did Tunisia legally enact a legislative text on the crime of human trafficking?

1. **The harmonization of our national legislation with our international obligations.**

2. **The realities**: In the period between 2012 and 2016 according to an IOM investigation 120 victims most of them were women from the subsahrian region and from ivory coast and 78 from nigeria most of the victims were employed in domestic chores.

3. **The legislative inadequacies before 2016** so to counter and to Brief this phenomon we will tack about

4. **The gravity of the crime:**

   The consequences of ratifying in 2003 the Protocol to Prevent, Suppress and Punish Trafficking of Persons in Tunisia are: Its obligation to take legislative, judicial and administrative measures to combat this phenomenon.

   For this reason the law number 61 for 2016 was issued to prevent and combat trafficking of persons.
The seriousness of the crime (the actual situation)

✓ Tunisia as an Embarkment country:
Some studies showed the existence of networks of cross border trafficking which are specialised in the exploitation of Tunisian female victims in forced prostitution in the gulf region, Lebanon, Turkey and West Africa.

✓ Tunisia as a destination country:
Internal trafficking:
• The exploitation of children in forced labor as well as in sexual abuse. Child exploitation in forced begging
• The exploitation of women in prostitution

✓ Tunisia is transit country:
The Tunisian territory and its territorial waters represent a transit country for subsaharian immigrants towards Europe.
Description of The situation before 2016

The legislative inadequacies in Briefing and addressing human trafficking was not regulated as far as human beings trafficking is concerned.

Although the fact of not regulating independent crime does not mean neglecting the cases where human trafficking were revealed according to the Palermo protocols.

The legislator has provided some laws that remain insufficient for the victims protection for instance:

- The Supreme Order issued on 29/5/90 prevented slavery.
- The law of 4/3/1958 has regulated the provisions of adoption.
- The law of 25/3/1991 has also regulating the taking and transplantation of human organs.

*Act of 14 May 1975 and supplementary or revised texts were related to passports and travel documents.*
A diagnostic of the Tunisian legislation

- Dispersion of legal texts.
- Its failure to address all forms of trafficking of persons in the twenty-first century, which has become cruel and exploitative.
- In some cases the legislator does not distinguish between the real offender and the victim (the trafficked person) in crimes like begging, prostitution or drug trafficking.
- Denying the statue of victim from the trafficked person, which means denial of the right to protection and assistance, which often causes the victim to be pushed back into the crime.
- One should n’t deal with the phenomenon of trafficking in human beings as a separate crime with its legal structure, but through other crimes that are nothing more than images of the original crime which is trafficking of persons.
The context by which Tunisia adopted the law

According to the 20th chapter of the constitution, the legislator has initiated the ratification of the United Nations Convention against Transnational Organized Crime.

Thus Transnational Organization in September 2002 and the Palermo Protocol in March 2003 have established an independent law on the crime of trafficking of persons whose provisions are in line with the international standards contained in the Palermo Protocol, namely Basic Law No. 61 of 2016 of 3 August 2016 and Combating the Trafficking of Persons.
What is the National Anti-Trafficking Authority will play?

- Developing a national strategy
- Strengthening the capacities of the various stakeholders in this area.
- Collecting data, and statistics related to trafficking of persons to create a database
- Proposing mechanisms and procedures to reduce the demand that stimulates all forms of human exploitation and social awareness of the dangers of trafficking of persons through awareness campaigns, cultural and educational programs, conferences, publications, guides, training courses and training programs at the national and international levels.
- Contributing in research and studies to update the legislation to regulate areas related to persons trafficking
- instructing the National Authority to Combat Trafficking of Persons to prepare an annual report on its activities, including its suggestions for the development of national mechanisms for the prevention and control of trafficking of persons, which shall be transmitted to the Prime Minister, and that shall be published publicly.
The 4 Ps

Prevention
preventing and combating the smuggling of migrants

Protection
Protecting the rights of victims of trafficking and of smuggled migrants;

Prosecution
prosecution and justice delivery

Partnership
Establishing partnership at both national and international level

The UN convention against organized crimes and the protocols against human trafficking aims at
The prosecution of traffickers

According to the philosophy that protection from crime comes from the implementation of intimidated sanctions. Our legislator has decided to adopt in his precautionary policy strict penal policies.

Starting from the principle that a person would give up committing a crime when he knows that the sanctions can be heavy.

So theses latters will deter the future to be criminals.
Special Investigation Methods

The legislator has allowed the use of special investigative means such as intercepting suspects or infiltrators through a secret security agent or an authorized informant by the officers of the judicial police, or the development of several techniques aimed at capturing, installing, transferring and recording the words and pictures of those suspected without knowledge of their personal purposes or private areas all this is done for a specific purpose.
The victim is a new concept in Tunisian law

- In the scope of the victim's protection and in line with the Palermo Protocol, the legislator recognized a number of rights to the victim which we briefly provide you with.
- The right to be exempt from punishment for crimes in which victims may be involved in by force.
- The right to physical and psychological integrity.
- The right to privacy.
- The right to guidance.
- The right to compensation for physical and psychological harm from the state treasury.
- The right to reside in the host country for foreign victims and to benefit from social and health care as well as to facilitate their voluntary repatriation without undue delay.
The most important victim's right

- No offence
- Physical and moral safety
- Privacy protection
- Guidance
- Legal representation
- Allowing a recovery period
- Residency in the destination country or voluntary return
- Compensation
What role did the World Association of Women Judges play in human trafficking in Tunisia

Before the enactment of the Prevention of Human Trafficking in Tunisia Law, this crime did not have a presence in the mind of civil society, as well as the judiciary, judges and lawyers.

For the first time, the World Assembly of Women Judges, in Tunisia, has organized training courses on this law and its definition by judges. The association has continued its work by conducting a course to teach specialists the components in the field of trafficking of human beings.

The courses have had an impact over the judges when they discovered the crime and its elements, conditions and methods of research, and the meaning of victims as well as their emotional shock and the way to protect them.

All these procedures do not come from the judges, the judicial officers or the investigating judges because of the lack of informations...
It is necessary today in the era of the democratic transformation of the Tunisian country to extend the help to all actors in society so that the mentality will change as soon as possible and awareness of the rights of human beings which will enable the judges and the judicial police to implement the procedures to promote the customary treatment of humanity suitable for the current century.
Finally I can say that the IAWJ may have a great role to play as far as:

1. Organizing training sessions for judges and lawyers and sensitizing civil society.

2 – also in organizing meetings between representatives of all countries that have a certain maturity in the subject to exchange experiences and benefit from good applications and help through active networks.

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needless to say it is a must to save the potential victims on time and change the methods and mentalities so that every one will have more humanity in this crazy world…..
THANK YOU FOR YOUR ATTENTION