

## Legal Opinion Paper

### Draft amendment Human Trafficking Prevention law

#### Introduction:

Based on the principles of justice and equality, and on the basis of our support and advocacy for all efforts to achieve and establish the highest principles of human rights, and seeking to ensure the correct application of the law and prevent the emergence of the challenges in the application of the law and believing that the crime of human trafficking is an explicit and clear violation of the principles of basic human rights and in the efforts to maintain the dignity of victims. The fight against this crime requires collaboration of all efforts to prevent, suppress and punish human trafficking in all its forms and manifestations and to keep Jordan free of all kinds of this global phenomenon. Through the discussion session that was held with the Combating Human Trafficking Unit, ARDD-Legal Aid makes some observations on the Draft amendment Human Trafficking Prevention law in accordance with international conventions, standards and principles of human rights, which are summarized in the following points:

#### Name of the Law:

The Name of the Law is not sufficient. The word **prevention** has been provided, however we suggest that it would be better to use the word **combating (Anti)**. This is because the concept of combating includes prevention, suppression and punishment. Importantly, the provisions of the Law, To be more reflective of the purpose and aim of the Law and to be in line with international conventions, including Prevention, Suppression, and Punishment of trafficking in persons especially women and children, we propose that the name of the law be amended to become **Anti-Human Trafficking Act**. We further propose that the word **prevention** be deleted and replaced with **combating** wherever it appears.

#### Article 2 of the Law:

We find that this Article includes some important definitions, which were mentioned in the body of law. Among which is the concept of **forced labor**, and also the definition of **compulsory labor**. We suggest adding the definition of forced or compulsory labor within the provisions of Article 2. We propose setting the following

definition of forced labor as stated in Convention No. 29, namely, ILO Convention on forced labor, where forced labor or compulsory labor is defined as: "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

#### **Article 2 of the Law:**

In the provisions of Article 2 the phrase " Exploitation of persons " appears. It can be inferred from the provisions that for a human trafficking crime to occur, and be considered a human trafficking crime under the provisions of the law, it must be committed against more than one person. This is understood from the word **people, indicating** two or more persons. Therefore, human trafficking is not an individual crime under Jordanian law. In other words, if the crime of human trafficking was committed against one person by some means outlined in the Article itself, this is not considered a human trafficking crime under the Law. Therefore, the law enforcement agencies will encounter an obstacle in the event of a human trafficking crime that has been committed against an individual. Accordingly, we propose to amend the Article provisions and replace the word **people** with the word **one or more persons** so as to read::

"luring, transfer, harboring or receipt of one or more persons for the purpose of exploitation through the threat or use of force or other forms of coercion, abduction, fraud, deception or exploitation of a position of vulnerability or the giving or receiving of payments or benefits to obtain the consent of a person who has control over these people or this person or ...etc"

#### **General observations on the law:**

- The crime of human trafficking can be a transnational one, and may be accompanied by smuggling of one or more persons, with the purpose of admitting them illegally into a particular country. However, by reviewing provisions of prevention of human trafficking Law and other related laws, such as the Penal Code Law, there is no provision or article that punishes those persons who undertake such acts with the purpose of trafficking and exploiting victims. Therefore, there must be present legal provisions that impose severe punishments if the offense of human trafficking is associated with illegal cross-border smuggling of victims at the same time as relieving the victims of any penalty for illegal entry, notwithstanding the

provisions of any other law.

- Within the provisions of the Law there is no mention of how to address attempts at committing the crime of human trafficking. Further, the Provisions of the Law do not provide for anything that indicates the application of any other legal provisions. To rectify this, it would be appropriate to clearly and expressly provide for attempted trafficking within the Law, as in the case of Article 5/2/a of the **Protocol for Prevention, Suppression and Punishment of trafficking in Persons Especially Women and Children.**
- We propose to amend the text of article 19 / a in terms of exemption of the accused in the case of reporting the crime after the knowledge of the authorities and led to the arrest of the rest of the perpetrators, we understand the purpose of this text is to provide protection to the victims and the detection of criminals in such kind of Crimes, which contribute to the further prevention and control and if we must propose to be given the power to reduce the punishment.

***Prepared by ARDD***

***Legal Aid Unit***