



Initiators Organization for Human Rights & Democracy

## **Libya Human Trafficking Bill is a Great Step Toward the Right Way**

The interim Libyan government agreed on human trafficking Bill and they sent it to the parliament to legislate a law. Undoubtedly, Libya is a country that has different forms of human trafficking crimes such as children smuggling, illegal immigrants, human organ trade, women and children exploitation. There is a serious need to adopt a legislation that ends the crime of human trafficking and eliminates it, to become Libya one of the neighbor regional Arab and non Arab countries that adopt such legislation. IOHRD blesses this step and supports all national and international efforts to accomplish the legislation process, to identify the weakness and strength of this Bill to the extent of providing advisory consultation to the Libyan legislatures in their future discussion; encourage the Libyan authority to benefit from the civil society experience in highlighting the positive articles of the Bill and identify the missing subjects that did not included in it, and suggest amendment or addition if needed.

Libyan human trafficking Bill has thirty(30) articles classified into six (6) chapters includes the definitions, scope, jurisdiction, criminalization and punishments, liability of natural and legal persons, and victims protection. Noticeably, Libya adopted other Arab and non Arab states, regional and international organizations best legislation and legal practice to fight human trafficking crim. Also this Bill includes articles that criminalize all forms of human trafficking, exploitation, initiate and participate in such crimes, and criminalize the membership in any human trafficking group or gang.

In addition, this Bill includes deterrence articles, liability articles of the natural and legal persons for smuggling and committing human trafficking crime. Moreover, this Bill gives special consideration to the victims' protection and secure their rights with an active mechanism to fund all institutions that are working to stop and eliminate human trafficking crime.

According to the Bill, Libya has to establish , by the prime minister's decision, a national security committee from competent authorities to combat human trafficking crime. The function of this committee is to formulate the general policy to fight human trafficking crime, protect the victims, secure their rights, and coordinate with other national, regional, and international entities in regards to the human trafficking crime.

### **Below are IOHRD's positive feedback on the Bill:**

- 1. Definitions:** Libyan Bill, in article (1), successfully defined the organized crime, transnational organized criminal group. This definition is consistent with definition that was adopted by the United Nation Convention against Transnational organized Crime ( Palermo/ Italy/ 2000/). Also, this Bill, in article(2), defined the human trafficking crime in consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 2000, article(3).
- 2. Disregard victims' or their guardians' agreement Principle:** The legislatures were successful in adopting article (3), disregard victims' or their guardians' participation as a mitigating excuse for penalty or impunity. Moreover, this Bill in article(4) expressed clearly



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the consideration of any other articles or laws that strength the punishment because the human trafficking crime might lead to other crimes such as sexual exploitation and others.

**3. Criminalization and penalty:** Libyan Bill( articles 5,6,7,8,9,10,16) is consistent with the international measures to describe the main criminal acts that consider fundamental elements of the human trafficking crime, special trafficking provisions, penalty aggravating circumstances, pardon, offenses, criminal acts related to the human trafficking crime, participation in the crime, guide and organize the crime, and initiate the crime.

**4. Liability of The legal Person:** This Bill addresses the legal persons( other entities than the natural persons) liability in case of engaging their employees, managers, administrators in the crime of human trafficking. The Libyan legislatures in article (11) of the Bill discussed this issue in consistent with the international liability and responsibility measures.

**5. Preventive measures:** Libyan legislatures address the preventive procedures which prevent or facilitate the arrest of the offenders through either scrutiny or report the crime in consistent with what was addressed in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime adopted and opened for signature, ratification and accession by General Assembly resolution 55/25 of 15 November 200, articles (12&13).

**6. No limitation of the criminal proceeding:** Libyan legislatures, in article (14) of the Bill, were very successful in adopting no limitation principle in the criminal proceeding in the human trafficking crime in consistent with the international measures.

**7. Jurisdiction:** Libyan Bill in articles (17,18,19,20,& 21) positively expands Libya jurisdiction to include any crime that has Libyan citizen as a party, or the crime at any stages happened in Libya, or the criminal organization targeted any interest of Libya or its citizens and resident.

**8. No liability Principle:** Libyan legislatures successfully address the immunity and no liability principle in consistent with the international measures; when this Bill in article (22) approved the principle of no criminal or civil liability as long as the person is a victim of human trafficking crime. Moreover, Libyan legislators grant immunity to the victims of human trafficking crime from any penalties or legal consequences of breaking Libya immigration and residency law.

**9. Victims Protection and Support Principle:** Libyan Legislatures address this principle in consistent with the international measures. Fulfilling this principle requires the participation of government, non governmental, and civil society collaboration and coordination to provide legal aids, guidance, information, health support, financial aid, and communication with the victims' families (if there is any) or their countries if they are citizens of other foreign countries. This Bill is also provides protection to the victims and help then readjust to the society by keeping all their information confidential, find them temporary shelter, engage them in physical and mental rehabilitation programs, help them develop their skills and capacities, provide education and work opportunities, and help then return to their countries ( if they are from other countries). In addition, if the victim file a civil complaint to seek compensation, this



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Bill gives him the fee waiver eligibility to waive any fees and expenses. Articles( 23,24,25,& 28)

**10. Provide financial resources to the victims' support programs and activities:** Article (26) of this bill is a very positive step because it adopted the project of creating a financial resources funded by fines, confiscated money and transportation to fund victims' support programs.

**11. National Coordination Mechanism:** Libyan legislatures were harmonized with the international measures by establishing the National Committee For Human Trafficking Combate. Article (27) of the Bill gives this committee divers representation, duties, and goals.

### **Recommendations:**

1. IOHRD noticed that the Bill did not address providing training programs to the police personnel, immigration staff, judicial staff, therapists, civil society partners, professional specialists, and others who are working in the human trafficking field to be consistent with article (10) of the Protocol which obligate its parties to support and provide human trafficking training programs to all law enforcement staff, immigration staff, professional specialist including government employees, social workers. Also, encourage the collaboration and coordination with the non governmental institutions realizing the needs of such collaboration among the national and international organizations to raise human trafficking awareness and training programs. In regards to the human trafficking young( children) witnesses and victims, it is very important to provide a special and comprehensive training, choose suitable professional trainers, have appropriate procedures to protect such victims, and meet their needs because the effect of such horrible crime on the children would have different effect than on the adult; it would cause severe damage to the young victims such as the crime of children sexual exploitation , especially the female victims.
2. IOHRD recommends that it would be much beneficial for Libya to have a national monitoring and reporting mechanisms by creating the National Rapporteur position which will work independently, and has to give a clear assignment. Also, has to give him the authority to collect and access any information and communicate directly with the non governmental and civil society organizations for that purpose. The mission of collecting the information must be distinguished and different from the other executive and public policies coordination duties which should be handled by other entities. In addition, this national rapporteur has to have the ability to communicate directly with the government, parliament, and the representatives to submit his reports and recommendations to develop and enhance the public policies and the national action plan; even though his committee is not a committee that formulates the public policies.

In conclusion, IOHRD would like to express its continuous support to the Libyan efforts to legislate this Bill. In addition, IOHRD, in coordination with other Libyan civil society and non governmental organizations, supports the necessary training programs to create ideal environment for implementing such law by providing professional training programs targeting people who will implement this new law.