BEYOND THE “TIERS” OF HUMAN TRAFFICKING VICTIMS: ISLAMIC LAW’S ABILITY TO PUSH THE MUSLIM WORLD TO THE TOP OF THE UNITED STATES TRAFFICKING TIER PLACEMENTS AND INTO COMPLIANCE WITH INTERNATIONAL LAW

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I. INTRODUCTION

Human trafficking is one of the fastest growing criminal activities today and has been deemed the slavery of our modern age.\(^1\) No corner of the world is immune\(^2\) from the estimated 700,000 men, women, and children who are herded every year across international borders and sold into "sexual exploitation and forced labor."\(^3\) Despite international recognition of this crime against humanity, human traffickers continue their involvement in this approximately $7 billion worldwide enterprise.\(^4\) In direct response to this rapidly growing problem, the 2000 United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Protocol or Palermo Protocol),\(^5\) urges state parties to work toward aiding victims\(^6\) and criminalizing all trafficking.\(^7\) The Protocol sets forth a "comprehensive international approach" to preventing trafficking within the global community.\(^8\)

Despite the global scope of human trafficking, Muslim countries disproportionately cope with the most severe violations of human trafficking and also struggle to enforce international standards prohibiting human trafficking.\(^9\) According to the 2010 U.S. Department of State's \textit{Trafficking in Persons Report}, almost half of the countries experiencing the most severe

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\(^1\) Mohamed Y. Mattar, \textit{Trafficking in Persons, Especially Women and Children, in Countries of the Middle East}, 26 \textit{Fordham Int'l L.J.} 721, 721 n.2 (2003) (citing Rome Statute of the International Criminal Court art. 7, July 17, 1998, 2187 U.N.T.S. 90) (defining enslavement as "the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children").


\(^4\) \textit{Id.} at 880.


\(^6\) Protocol, supra note 5, art. 6.

\(^7\) \textit{Id.} art. 5.

\(^8\) \textit{Id.} pmbl.

\(^9\) \textit{See TIP REPORT 2010, supra note 5, at 47-48} (providing the tier rankings determined by identifying which countries had the most violations of the Trafficking Victim's Protection Act).
violations of trafficking are Muslim countries. Critics argue that the human trafficking violations in the region demonstrate that slavery is permissible and even encouraged by the Quran, the holy book of Islam. This Note demonstrates not only that the Quran is antithetical to slavery, in the traditional sense and in its modern manifestation, but also that Islamic law can combat human trafficking through its prohibition of other forms of exploitation, protection of victims' rights, and protection of vulnerable groups, such as women and children. Arguing from the plain meaning of the Quran, this Note contends that the Islamic religion and Islamic law are in compliance with international law on the issue of human trafficking.

Focusing specifically on the Protocol, Part II of this Note discusses the global human trafficking problem and the current international framework addressing its prevention. Part III analyzes the foundation and interpretation of Islamic law to explain Islam's position on slavery and other issues related to human trafficking in order to support the view that the Quran does not endorse slavery. Part IV discusses Islam's prohibition on exploitation, including sexual and domestic exploitation, which are two main purposes of human trafficking. Parts V and VI further demonstrate the connection between severe violations of human trafficking in Muslim countries and Islamic law. These sections argue that victims' rights under Islamic law and the Islamic perspective concerning the punishment of traffickers can serve as avenues for combating human trafficking in the Middle East and Persian Gulf. If struggling Muslim countries can fully comply with the Islamic teachings or Islamic legal system, they will come closer to complying with international standards concerning human trafficking. Part VII discusses factors other than Islam that contribute to trafficking in Muslim countries. Part VIII concludes by addressing various Muslim countries' modern legislative actions aimed at combating human trafficking and detailing the progress each country has made.

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10 Id.
11 See infra text accompanying notes 44-45 (arguing that Muslim women are deemed subservient to men and therefore concluding that Islam permits exploitation against women, including forms of slavery or sex trafficking).
12 The specific countries addressed in this section include the United Arab Emirates, Jordan, Syria, and Saudi Arabia.
II. HUMAN TRAFFICKING UNDER INTERNATIONAL LAW: PREVENTION, PROSECUTION, AND PROTECTION

A. Trafficking in Persons: A Global Issue

The international community grapples with the evils of human trafficking, facing a problem that is both more subtle and more expansive than traditional notions of slavery. In response, as a voice for the international community, the United Nations enacted a Protocol specifically aimed at combating human trafficking.

The United States adopted a similar stratagem through Congress’s enactment of the Trafficking Victims Protection Act (TVPA). The following subsections elaborate on the substantive design of these two systems and their attempts to halt the problem of human trafficking.

B. The International Response: The UN Protocol on Trafficking in Persons

The Protocol, adopted in November 2000 and entered into force in September 2003, was in response to the increasing concern for the human rights of trafficking victims. The Protocol provides the following definition of human trafficking:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of

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13 UNODC, supra note 2, at 5 (stating that human trafficking “does not necessarily entail “ownership” of a person, but rather allows the perpetrators to exert control by insidious means, such as threats, coercion and deception”).
15 See discussion infra Part II.B (detailing the Protocol’s requirements and goals).
payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.\textsuperscript{19}

The Protocol built a system known as the “three P” approach, now known as the “‘3P’ paradigm,”\textsuperscript{20} to combat trafficking.\textsuperscript{21} This system, which was influenced by U.S. legislation, represents the goals of the Protocol: prevention, prosecution,\textsuperscript{22} and protection.\textsuperscript{23} The Protocol, therefore, combats future trafficking by strengthening prevention measures and programs, punishing traffickers through criminalization of their offenses, and protecting and assisting victims.\textsuperscript{24}

The Protocol requires a ratifying state party to adopt legislation that establishes criminal offenses for trafficking behavior and to ensure that victims are protected under the state’s domestic legal or administrative system.\textsuperscript{25} A ratifying party must also establish policies and other measures to prevent and combat human trafficking, train its law enforcement, strengthen its border control, and cooperate and exchange information with other ratifying parties regarding travel documents and border control, including verification of travel or identity documents.\textsuperscript{26} The requirements set forth above represent a few of the many that the Protocol requires of its ratifying parties.\textsuperscript{27}

The international community has also joined these anti-trafficking efforts through other means aside from accepting the Protocol’s exact initiatives or introducing national legislation. International organizations, states, and non-governmental organizations (NGOs) sketched their own definitions of trafficking, many of which focus on exploitative labor and transport.\textsuperscript{28} For example, the International Organization for Migration formulated its definition around the concept of illegal or fraudulent entry that generates

\textsuperscript{19} Protocol, supra note 5, art. 3; see also Anne Gallagher, Human Rights and the New UN Protocols on Trafficking and Migrant Smuggling: A Preliminary Analysis, 23 HUM. RTS. Q. 975, 986 (2001) (explaining that following debate, the final draft of the Protocol provided that the consent of a victim is irrelevant if any of the means mentioned in the definition above were used).

\textsuperscript{20} TIP REPORT 2010, supra note 5, at 12.


\textsuperscript{22} Also referred to as “punishment.” Protocol, supra note 5, pmbl.

\textsuperscript{23} Potts, supra note 21, at 239 (citation omitted).

\textsuperscript{24} Id.; see also Protocol, supra note 5, art. 2 (“paying particular attention to women and children” and “promot[ing] cooperation among States Parties in order to meet [its] objectives”).

\textsuperscript{25} Protocol, supra note 5, arts. 5–6.

\textsuperscript{26} Id. arts. 9–13.

\textsuperscript{27} See id. arts. 5–13 (setting forth all of the general requirements for compliance).

profit from the activity involving the trafficked victim.\textsuperscript{29} By comparison, the Human Rights Caucus, a coalition of NGOs, does not rely on the illegality of border migration in its definition.\textsuperscript{30} Other organizations or coalitions, such as the Coalition Against Trafficking in Women, focus particularly on sexual exploitation when defining human trafficking.\textsuperscript{31} Then there are countries, such as the United States, that have taken independent action to participate in the human trafficking fight.\textsuperscript{32}

\section*{C. The United States' Initiative: The Trafficking Victims Protection Act}

The United States has taken its own measures to combat the trafficking problem both domestically and globally. In 2000 it enacted the TVPA,\textsuperscript{33} which sets forth the minimum standards for the elimination of human trafficking.\textsuperscript{34} Those minimum standards include the following: (1) the government should forbid and punish severe violations of trafficking, (2) punishment should be equivalent to that of a grave crime, such as sexual assault, where sex trafficking involves force or fraud, where the victim is a child, or where the trafficking involves rape, kidnapping, or causes death (3) the government should prescribe a penalty that is stringent enough to deter further violations and that reflects the odious nature of the offense, and (4) "[t]he government . . . should make serious and sustained efforts to eliminate severe forms of trafficking in persons."\textsuperscript{35}

Furthermore, the U.S. Department of State publishes an annual \textit{Trafficking in Persons Report} that contains a tier placement system that categorizes the trafficking violations in countries around the world with compliance measures that those countries have taken.\textsuperscript{36} Tier one consists of countries whose governments currently comply with the minimum standards of the TVPA.\textsuperscript{37} Countries in the second tier are only partially complying with the TVPA minimum standards but are at least making significant efforts to comply with the standards.\textsuperscript{38} Tier two "watch list" countries are making efforts to come into compliance with TVPA standards, and: (1) the number of victims is significant or increasing, (2)
there has been no evidence of efforts to prevent human trafficking in the previous year, or (3) the determination that the country is making efforts to reduce its trafficking violations is based on its promise to make such efforts over the next year.\textsuperscript{39} Countries in the third tier are not fully complying with the TVPA minimum standards and are not actively taking steps to do so.\textsuperscript{40}

Of the twelve countries classified within the third tier, six\textsuperscript{41} of them are predominately Muslim countries.\textsuperscript{42} Almost half of the second tier “watch list” countries are also predominately Muslim.\textsuperscript{43} These facts manifest a connection between Muslim countries and severe human trafficking violations and issues of compliance with preventing such trafficking.

Some have argued that Islam permits and even endorses the slavery of individuals.\textsuperscript{44} These critics argue that because of the “low status” of women within Islam, the religion condones exploitative acts against women including forms of slavery or sex trafficking.\textsuperscript{45} With this implication, if Islam accepts slavery, the religion may explain the trafficking violations in predominately Muslim countries.

Despite these arguments, the Quran expresses Islam’s prohibition of slavery and many elements of trafficking without explicitly addressing human trafficking itself.\textsuperscript{46} With an understanding of the Quran and Islamic law’s position on slavery and issues relating to slavery, it becomes apparent that Islam is not the primary reason for the severe trafficking violations in Muslim nations currently on the second tier “watch list” and third tier list. To the contrary, Islam and Islamic law (for those Muslim countries that have an Islamic legal system in place) should serve as the basis for achieving compliance with the Protocol.

\textsuperscript{39} Id.

\textsuperscript{40} Id.

\textsuperscript{41} These countries include: Eritrea, Iran, Kuwait, Mauritania, Saudi Arabia, and Sudan. Id. at 48.


\textsuperscript{43} Out of the fifty-eight second “watch list” countries, twenty-three are predominately Muslim: Afghanistan, Algeria, Azerbaijan, Bangladesh, Chad, Cote d’Ivoire, Guinea, Guinea-Bissau, Iraq, Kazakhstan, Lebanon, Libya, Maldives, Mali, Niger, Qatar, Senegal, Syria, Tajikistan, Tunisia, Turkmenistan, Uzbekistan, and Yemen. TIP REPORT 2010, supra note 5, at 48; see also CIA, supra note 42 (select “Country,” then expand “People” tab for information on each country’s religious demographic) (providing religious demographics, which illustrates that Islam is the majority religion in each of the above-listed countries).

\textsuperscript{44} Kendra Bakerink & Caitlin Hawes, Oppression and Exploitation: Sex Trafficking in Islam, UMASS DARTMOUTH (Dec. 16, 2004), http://www.umassd.edu/eportfolio/wms/u_chawes/islam.htm.

\textsuperscript{45} Id.

\textsuperscript{46} UNODC, supra note 2, at 2.
III. DOES ISLAM ENCOURAGE SLAVERY? THE TIE BETWEEN ISLAM AND CONTEMPORARY SLAVERY

A. The Islamic Legal System: A Basic Understanding of Islamic Law and Its Interpretation

The Islamic legal system principally differs from traditional common and civil law systems because it derives its authority from Islam's divine nature, as compared to court decisions or statutes. The Arabic word "Islam" means "submission" or "surrender" to the will of God. Islamic law, also referred to as Shariah (meaning "the 'way to be followed'"), is considered "perfect law" because its validity is certain and represents absolute truth, unlike "positive law" which only has a presumptive effect.

Islamic law is derived from four sources: (1) the Holy Quran; (2) Hadith, which is comprised of the Prophet Muhammad's declarations and explains verses of the Quran according to the Prophet's traditions; (3) the Ijma, which is the concordance of Islamic scholars; and (4) the Qiyas, which uses reasoning by analogy to apply Islamic texts to contemporary issues. Muslim jurists textually analyze and rely on the Quran and Hadith, rather than personal judgment, to interpret Islamic law—a process called ijtihad.

"Positive laws" of other legal systems are still present in Muslim countries, but Islamic jurisprudence governs the areas of law prevalent to human trafficking, including family law, which touches upon marriage and child custody. Using the four sources of Islamic law outlined above, the following sections interpret and analyze the principles surrounding human trafficking in Muslim countries.

B. Islam and Slavery

In the Islamic community, slavery is everywhere denounced, yet the practice prevails. One explanation of this duality is based on an Islamic
The canon of textual interpretation, namely that the Quran or Sunnah\(^5\) governs where either has contemplated a question, despite consensus (ijma)\(^5\) to the contrary.\(^5\) Thus, the explanation for the continued existence of slavery is that Islam was born into a society where slavery was common practice:

Like the Hebrew Bible and the New Testament, the previously revealed texts of the Abrahamic faiths, the Qur'an accepted the institution of slavery as an established part of the lives of believers. It sought to humanize and regulate the practice of slavery rather than seek its outright and immediate abolition.\(^5\)

Therefore, the existence of slavery was a question that the Quran contemplated.\(^5\) However, what the Quran does not address—either explicitly or implicitly—is the slaveless society that expert Islamic jurists and Muslim governmental officials exhort as a new ijma. This new ijma was developed in response to twentieth century Muslim rulers' actions and scholars' writings that condemn slavery.\(^6\) Islamic scholars recognize “that slavery is now obsolete and an anathema in modern Muslim society.”\(^6\) The ijma was also developed from the abolitionist verses of the Quran, Sunnah, and Hadith.\(^6\) Islam rewarded the freeing of slaves, and such an act was encouraged as a way to make up for one's wrongdoings because “[t]o free a slave [was] an act of worship.”\(^6\) An American Islamic jurist explains by stating:

> [T]he institution of slavery is “a system of ownership that Islam did not invent but found fully established and not possible to instantly abolish, so it rather encouraged its

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\(^5\) The Sunnah (“precedent” or “tradition”) consists of the Prophet Muhammad’s words, actions, and opinion of the actions and statements of others. *Id.* at 19, 19 n.71. Through the Sunnah, the Prophet explained the principles of the Quran. *Id.* at 19.

\(^6\) *Id.* at 6 n.21 (defining ijma as “[l]iterally ‘assembly,’ but in the legal sense meaning ‘consensus’ or ‘agreement,’ express or tacit, on a question of law” (citation omitted)).
elimination in steps, with incentives... it encouraged the
freedom of slaves by the tremendous reward from Allah Most
High; and it materially helped slaves to purchase their freedom
by providing the money to do so from zakat\textsuperscript{64} funds.\textsuperscript{65}

Moreover, the books of Hadith elaborate on the rewards of emancipation.\textsuperscript{66}
For example, an excerpt explains that the Prophet Muhammad (peace be
upon him) said, “Whoever frees a Muslim slave, Allah will save all the parts
of his body from the (Hell) Fire as he has freed the body-parts of the slave.”\textsuperscript{67}
The Prophet Muhammad further stated that he would be a claimant against
three groups of people on Judgment Day, one of which included a person
“‘who enslaves a free man, then sells him and eats this money.’”\textsuperscript{68}

At the birth of Islam, slavery was popular, and its outright elimination
would have disrupted social and economic elements of society.\textsuperscript{69} As the
notion of gradual elimination evolved, slavery became lawful only when
individuals were captured as prisoners of war.\textsuperscript{70} The pre-Islamic tradition
relating to prisoners of war granted them no rights, which resulted in either
their death or enslavement.\textsuperscript{71} However, Islam later provided two alternatives
for prisoners of war: (1) slaves were to be released unconditionally, or (2) be
held for ransom.\textsuperscript{72} Islamic tradition teaches that “[y]our slaves are your
brothers Whom Allah has placed in your hands. Thus, he who has his
brother in his hands must feed him what he eats, clothe him with that which
he wears. And he should not burden him with that which is beyond
him . . . .”\textsuperscript{73} It is apparent that Islam commanded the humane treatment of
slaves and even encouraged their freedom.\textsuperscript{74} This humaneness and the sense
of equality with slaves demonstrate how Islamic teachings hoped to
gradually dissolve the inequalities between free men and slaves and to unite Muslims in a free, Islamic society.

While the Protocol makes slavery a separate crime from trafficking, slavery has become a main purpose for trafficking; consequently, it is appropriate to examine the elimination of slavery in order to prevent human trafficking. The religion of Islam and Islamic law's support for the abolition of slavery is therefore crucial in regard to the prevention of human trafficking in Muslim nations. Muslim countries falling within the third tier or in the second tier "watch list" should refer to abolitionist verses from the Quran and Hadith. Both sources discourage all forms of slavery and seek to gradually eliminate the institution as a whole. Quranic and Hadith abolitionist verses would justify amending Islamic laws in accordance with the new ijma, which establishes the consensus that slavery is no longer permissible within contemporary Muslim society. A closer look into Islam's perspective of exploitation and the treatment of victims in relation to the Protocol's approach demonstrates that Islamic law actually aligns with the international approach to the prevention of human trafficking.

IV. THE PROHIBITION OF EXPLOITATION: A CLOSER LOOK INTO ISLAMIC LAW AND THE PROTOCOL

A. The Protocol's Prevention of Exploitation

Within its definition of "trafficking in persons," the Protocol also defines the term "exploitation": "Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." These provisions make clear that the Protocol not only focuses on practices similar to slavery, but it also specifically addresses the goal of preventing other forms of exploitation that are the purposes of or result from human trafficking. Forms of exploitation addressed in the Protocol, such as forced labor including domestic servitude, prostitution, and other forms of sexual exploitation, are also expressly addressed in Islam.

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75 Protocol, supra note 5, art. 3 (defining "trafficking" as having the purpose of exploitation and slavery as only one of several examples of exploitation ); UNODC, supra note 2, at 17–18 (discussing the distinction between slavery and trafficking).
76 See generally Freamon, supra note 54, at 38–51 (providing numerous quotes from the Quran and Hadith on the topic of slavery in Islam).
77 See id. at 29 (implying that this new ijma establishes the consensus that slavery is forbidden in modern Islamic law).
78 Protocol, supra note 5, art. 3.
B. Islam’s Prohibition of Exploitation

Although exploitation through forced labor is prevalent in several Muslim countries, Islamic labor law prohibits labor exploitation. This prohibition is supported by the Quran’s general command that employers “[g]ive just measure and weight, [and do not] withhold [f]rom the people the things [t]hat are their due; and do [n]o mischief on the earth [a]fter it has been set.” Apart from this general maxim, there are at least three major principles of Islamic labor law that perpetrators of forced labor violate: (1) the employer must fulfill his contractual obligations; (2) the employer must pay the worker upon completion of the employment contract; and (3) compensation must be specified prior to contract formation.

Many further aspects of human trafficking are haram, or forbidden, in Islam. Islamic labor law prohibits unlawful work. Trafficking for the purpose of stealing or drug smuggling, for example, is prohibited by Islamic law. Notably, Islam forbids begging—a fairly common practice in most Muslim countries—unless it is absolutely necessary. This is an important prohibition that is relevant to trafficking because perpetrators often force victims to beg for profit. However, since a perpetrator of forced labor is in no need of profit, Islam forbids this conduct that coerces one to beg.

Islam’s condemnation of the infliction of hardship or harm equally applies to the very difficult forms of work that are associated with forced labor. Consequently, trafficking for the purpose of difficult forced labor causing emotional or physical hardship, including sexual exploitation, is a prohibited labor practice under Islamic law.

Women and girls are the most targeted victims of sexual exploitation as they are often lured by deceitful promises of meaningful occupations only to

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79 UNODC, supra note 2, at 22 (describing how most forced labor in Muslim countries is based on a theory of breach of contract, whereby one’s breach is to be repaid through further work).
80 Id.
81 QURAN, supra note 63, at 7:85.
82 UNODC, supra note 2, at 23.
83 Id. at 43.
84 Id. at 22.
85 Id. at 23.
86 Id.
87 Id.
88 Id.
89 Id. at 23–24; see also QURAN, supra note 63, at 2:185 (stating that Allah “does not want [t]o put you to difficulties”).
90 QURAN, supra note 63, at 24:33.
91 UNODC, supra note 2, at 22–25.
end up as prostitutes. The Quran expressly addresses the prohibition of prostitution: "But force not your maids [t]o prostitution when they desire [c]hastity, in order that ye [m]ay make a gain [i]n the goods of this life." It is evident then, that according to the Quran, perpetrators who coerce their female workers into prostitution are doing so in violation of the religious teachings and Islamic Law.

Islam further interdicts residual elements and activities associated with human trafficking. For example, Islam's prohibition of bribery is relevant because bribing public officials regularly contributes to human trafficking. Border and customs officials often solicit and receive bribes, which enables and encourages trafficking.

From the degree of protection of individual rights that Islam affords its followers, it is apparent that slavery and human trafficking cannot legitimately exist in a truly Islamic society. The next section details Islam's approach to trafficking victims' rights and protection.

V. THE TWO "P"S: ISLAM'S PERSPECTIVE ON PROTECTING VICTIMS AND PREVENTING HUMAN TRAFFICKING

Both international and Islamic anti-trafficking laws recognize the importance of the rights of human trafficking victims. Both laws address "the concept of the vulnerable victim." Women, children, migrants, refugees, and orphans are more prone to fall victim to trafficking because of their vulnerable status, which results from poverty, social immobility, or discrimination. The Quran specifically addresses these groups of victims and offers support for the fact that women, children, and orphans are the most vulnerable groups. Islam encourages believers to assist such

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92 Id. at 25.
93 QURAN, supra note 63, at 24:33. Consistent with Islam's principles of autonomy and bodily ownership, Islamic law also prohibits trafficking for the purpose of adoption, forced child marriage, and organ trading. UNODC, supra note 2, at 26–31.
94 UNODC, supra note 2, at 22 (noting traffickers' use of venal governmental officials).
95 Id.
96 See id. at 40, 40 n.135 (pointing out that the Western concept of "human rights" is equivalent to the "human obligations" of Islam).
97 Id. at 33. A trafficking victim is defined as one "who, individually or collectively, ha[s] suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of [one's] fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power." Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, G.A. Res. 40/34, art. 1, U.N. Doc. A/RES/40/34 (Nov. 29, 1985).
98 UNODC, supra note 2, at 33.
99 See id. (stating that their "vulnerable status" may force them into exploitative conditions).
100 Id. at 34.
vulnerable groups, especially women and children, for "if anyone saved a life, [i]t would be as if he saved [t]he life of the whole people." 101

A. Islam's Protection of Women and Children

Reports estimate that the majority of trafficked persons are women and children. 102 In the case of female victims, the main reasons for their high numbers are lack of opportunity and patriarchal social structures. 103 Despite this statistic, Islam's teachings on the equality and treatment of women support a view antipodal to human trafficking. A verse from the Al' Imran—the third chapter of the Quran—illustrates the equality between men and women by stating, "Never will I suffer to be lost [t]he work of any of you, [b]e he male or female: Ye are members, one of another." 104 Although some argue that verses of the Quran permit acts of violence against women, 105 such interpretations are contradictory to the spirit of the Holy Book. The Quran and Muslim jurists teach that both physical and verbal abuse of a man's wife are grounds for a divorce. 106 Furthermore, the Prophet Muhammad stated that the finest of married men are those who treat their wives best. 107 He also commanded, "Do not hit ima' al-lah (female servants of God)," which further supports Islam's prohibition of violence against women. 108

Contrary to the treatment children receive at the hands of traffickers, Islam teaches that children should live in a safe and protected environment, free from abuse. 109 Particularly important in the trafficking context, children are often forced out of their homes and subjected to trafficking situations as a result of their parents' abuse. 110 Islam ensures that children have the right to education, care, and sustenance. 111 The Prophet Muhammad stated, "Each one of you is a

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101 QURAN, supra note 63, at 5:32.
102 Abramson, supra note 28, at 474.
103 UNODC, supra note 2, at 34.
104 QURAN, supra note 63, at 3:195.
105 UNODC, supra note 2, at 35 (discussing a husband's "right to discipline" his wife); see also QURAN, supra note 63, at 4:34 (stating that "[m]en are the protectors [a]nd maintainers of women").
106 UNODC, supra note 2, at 35.
107 Id. at 36.
108 Abu Dawud; see UNODC, supra note 2, at 36 (quoting the Quran).
109 UNODC, supra note 2, at 36.
110 Id.; see also discussion infra Part VII.B (discussing the malnourishment of children in the sport of camel racing).
111 UNODC, supra note 2, at 37.
caretaker and is responsible for those under his care.”

He also taught followers, “Fear Allah and treat your children with equal justice.”

Orphans are extremely vulnerable to trafficking and are often conscripted by traffickers to steal or beg. In accord with orphans’ unique vulnerability, Islam provides special protection to them by teaching that “the most loved homes to God, mighty [and] sublime, are homes in which the orphan is honored.” The Prophet Muhammad himself was an orphan, which encourages Muslims to be even more benevolent and caring towards orphans.

B. Refugee and Migrant Rights Under Islam

The protection and assistance Islam gives refugees, migrants, and internally displaced persons aligns with the protections of the Protocol. Islamic scholars have noted that

[]he holy Koran requires the faithful to comply with agreements and treaties on the rights of refugees. It provides a set of instructions in dealing with refugees and migrants, praising those who go to the assistance of people in distress and requiring the faithful to protect refugees. It recognises the rights of refugees and internally displaced persons, entitling them to certain rights and to humane treatment. It condemns people whose actions prompt mass migration and views them as lacking faith in God’s words.

112 Al-Bukhari 35:283; see also UNODC, supra note 2, at 37 (quoting Hadith).
113 Al-Bukhari & Muslim; see also UNODC, supra note 2, at 37 (including a passage from Hadith).
114 UNODC, supra note 2, at 37.
115 See id. (quoting Hadith).
116 Id. at 37–38.
117 Internally displaced people...[u]nlike refugees...have not crossed an international border to find sanctuary but have remained inside their home countries. Even if they have fled for similar reasons as refugees (armed conflict, generalized violence, human rights violations), [they] legally remain under the protection of their own government – even though that government might be the cause of their fight. As citizens, they retain all of their rights and protection under both human rights and international humanitarian law.
118 UNODC, supra note 2, at 38–39.
Therefore, since Islam teaches its followers to protect the rights of such victims, Muslim countries should comply with the Protocol, which provides protection for trafficked refugees and migrant workers. The Protocol addresses the fundamental rights of victims, including the right to housing, counseling and information regarding their rights, medical and material assistance, and training for employment and educational opportunities. Islam teaches and endorses the protection of certain groups while also encouraging the prevention of the victimization of individuals, which is noticeably relevant to the human trafficking issue at hand.

C. “Prevention Is Better Than Cure”

A popular saying amongst Muslims, “Prevention is better than cure,” supports the strategy that Muslim countries in violation of trafficking laws should work toward preventing these crimes and adhering to Protocol trafficking regulations. According to Islamic law, inaction or failure to provide protection to trafficking victims is haram, or forbidden. Consequently, according to Islamic traditions and teachings, every believer should not only work to prevent victimization but should also assist and provide protection for trafficking victims. With their principles in sync, it is apparent that Islamic teachings and law support and agree with the provisions of the Protocol concerning prevention of trafficking and the protection of victims.

VI. THE FINAL “P”: PUNISHING THE TRAFFICKERS

Islamic law complies with the Protocol’s goal of punishing traffickers rather than the victims of trafficking. Since Islam does not address trafficking specifically, trafficking is classified as a ta’zir crime, where punishment is not established by the Quran but is left to the discretion of individuals charged with ensuring public order and safety. However, trafficking constitutes a violation of one of Islam’s five essential rights: the

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120 See id. (explaining the requirement for Muslims to comply with agreements on the rights of refugees).
121 Protocol, supra note 5, art. 6.
122 UNODC, supra note 2, at 42.
123 Id. at 43.
124 See QURAN, supra note 63, at 9:71 (“The believing men and the believing women are helpers of each other: they bid the good, forbid the evil . . . .”); see also Abu Dawud (“Whoever makes things easier for a poor and a needy person, Allah will make things easier for him in this world as well as in the Hereafter.”); UNODC, supra note 2, at 47.
125 UNODC, supra note 2, at 45.
right to personal security.\textsuperscript{126} Because the failure to protect or compensate victims of trafficking for the wrongs they have incurred is \textit{haram}, Islam implicitly supports the punishment of perpetrators.\textsuperscript{127} Therefore, the governments of Muslim countries are authorized under Islamic law to punish traffickers and establish anti-trafficking laws to prevent violations.\textsuperscript{128}

Islamic criminal law’s condemnation of punishing the victim of trafficking provides another example of Islam’s compliance with the Protocol’s goal of punishment under its “3P paradigm.”\textsuperscript{129} Importantly, Islamic law excuses a trafficking victim’s action of stealing, prostitution, or other activity that would normally be deemed \textit{haram}.\textsuperscript{130} In fact, the Quranic legislation is the first law to ban the punishment of the victim of a crime.\textsuperscript{131}

\section*{VII. Exploring the External Factors that Contribute to Human Trafficking Violations in Non-Compliant Islamic Countries}

Although some individuals blame human trafficking violations on Islamic teachings, there are various external factors that explain the severity of the problem in Islamic countries.\textsuperscript{132} This section focuses on such causes of human trafficking in the Middle East and Persian Gulf since the majority of Muslim second tier “watch list” and third tier countries are located within these regions.\textsuperscript{133}

Middle Eastern countries serve as a place of “origin, transit, and destinations” for human trafficking.\textsuperscript{134} The most common forms of exploitation in the Middle East consist of sexual exploitation, such as prostitution and forced labor, particularly domestic servitude.\textsuperscript{135} Economic,\textsuperscript{136} religious,\textsuperscript{137} cultural,\textsuperscript{138} political,\textsuperscript{139} and social factors\textsuperscript{140} contribute to this exploitation.\textsuperscript{141}

\begin{itemize}
\item \textsuperscript{126} \textit{Id.} at \textsuperscript{43}.
\item \textsuperscript{127} \textit{Id.} at \textsuperscript{43}.
\item \textsuperscript{128} \textit{See} \textit{id.} at \textsuperscript{45} (discussing Muslim governments’ ability to enact penalties for a \textit{ta’zir} crime).
\item \textsuperscript{129} \textit{Id.} at \textsuperscript{41}; Protocol, \textit{supra} note \textsuperscript{5}, art. 6.
\item \textsuperscript{130} UNODC, \textit{supra} note \textsuperscript{2}, at \textsuperscript{41}.
\item \textsuperscript{131} \textit{Id.}
\item \textsuperscript{132} Anti-Slavery Int’l, Trafficking in Women: Forced Labour and Domestic Work in the Context of the Middle East and Gulf Region \textsuperscript{9} (2006), \textit{available at} http://www.antislavery.org/includes/documents/em_docs/2009/t/traffic_women_forced_labour_domestic_2006.pdf (identifying reasons for migration, such as “coping with conflict, unemployment, natural or manmade disasters, a mechanism for people to try and improve their social standing, a mechanism for building up social insurance, or a combination of all of these”). \textit{But see} Bakerink & Hawes, \textit{supra} note \textsuperscript{44} (arguing that Islam is a main contributing factor to sex trafficking of women).
\item \textsuperscript{133} \textit{See} \textit{supra} notes \textsuperscript{38–43} and accompanying text (explaining the tier placement qualifications and listing the Muslim countries placed in the second tier “watch list” and third tier).
\item \textsuperscript{134} Anti-Slavery Int’l, \textit{supra} note \textsuperscript{132}, at \textsuperscript{12}; Mattar, \textit{supra} note \textsuperscript{1}, at \textsuperscript{724}.
\item \textsuperscript{135} Mattar, \textit{supra} note \textsuperscript{1}, at \textsuperscript{724}; \textit{see} Anti-Slavery Int’l, \textit{supra} note \textsuperscript{132}, at \textsuperscript{11} (focusing on forced labor migration in the Middle East).
\end{itemize}
social, and cultural factors explain the prevalence of these purposes of trafficking within the region.\footnote{See Mattar, \textit{supra} note 1, at 729–34 (discussing parents selling children for as low as $500 and husband selling wife into prostitution as causes for trafficking); Anti-Slavery Int'l, \textit{supra} note 132, at 9–13 (discussing socioeconomic changes in labor migration, politics of labor migration, and the impact of societal conflict as causes for trafficking).}

\textbf{A. Historical and Economic Explanations of Increased Human Trafficking in the Middle East and Persian Gulf}

After the oil boom in 1970, the Middle East and Persian Gulf experienced increased inter-regional migration from Thailand, Bangladesh, the Philippines, and Indonesia.\footnote{Id.} Intra-migration within the Middle East also increased as non-oil-producing countries, such as Lebanon, Egypt, Jordan, and Yemen sent workers to the Persian Gulf countries of Saudi Arabia, Kuwait, and the United Arab Emirates (UAE).\footnote{Id.} Such migration was necessary because the oil-producing Gulf countries needed both low- and high-skilled workers, such as migrant health professionals, to establish banking systems, help with management and engineering, aid construction, and provide overall assistance with the increasing development of the region.\footnote{Id.}

\textbf{B. Social Explanations for Human Trafficking}

Socioeconomic changes not only modified the lifestyle of those living in the regions, but those changes also made the Middle East and Persian Gulf more vulnerable to human trafficking and exploitative activity.\footnote{See \textit{id.}, supra note 132, at 9–10 (quoting BRIDGET ANDERSON, \textit{BRITAIN'S SECRET SLAVES} (1993)).} As male migrants left to pursue work in oil-rich Gulf countries, women filled their vacancies on the home front.\footnote{Id.} In some instances, the family income substantially increased, serving as a possible explanation for the increase in domestic workers in non-oil producing countries.\footnote{Id.} The increased demand for domestic workers also related to the change in lifestyle in the Middle East: " 'The move towards a consumerist lifestyle and the nuclear family concomitant on increased prosperity has added to the domestic burdens... but the number of women in the household to share these burdens has diminished.' "\footnote{Id.} As a result, women needed the extra help of domestic
These domestic workers rapidly became servants subjected to slave-like conditions. Moreover, reports show that these domestic servants, who often receive little or no compensation despite being forced to work between twelve and sixteen hours per day, are abused both physically and verbally, malnourished, and may be subjected to sexual exploitation. Even if the workers gain the courage to leave, their employers withhold documents such as their passports, which prevents them from escaping these devastating conditions.

Trafficking into the Middle East has also increased due to the popularity of camel racing, a sport enjoyed by the wealthy in the Persian Gulf states. Children are kidnapped or sold by their parents and trafficked into the Gulf states to serve as camel jockeys because of their light weight. These children are subjected to slave-like conditions as they are often physically abused and underfed in order to maintain their low weight. However, children who grow to weigh more than thirty-seven pounds are deemed useless and are subsequently abandoned by their traffickers.

Even though such practices are continuing, the following section demonstrates how governments within the Middle East and Persian Gulf regions are making progress in addressing the increase in trafficking violations.

VIII. THE MUSLIM WORLD’S PROGRESS IN THE FIGHT AGAINST TRAFFICKING

Several Muslim countries have made efforts to join the international community in the fight against human trafficking. Specific countries that have responded by establishing anti-trafficking centers and shelters or passing anti-trafficking legislation include the UAE, Jordan, Syria, and others.
and Saudi Arabia. If other Muslim countries follow suit, human trafficking violations will decrease and Islamic countries will no longer comprise the majority of the second tier “watch list” or third tier.

Furthermore, as previously mentioned, Muslim countries that rely on Islamic law as a guide will find that Islam prohibits their exploitative acts. If these countries realize that human trafficking violations are not only condemned by the international community but also by the holy Quran and Islamic teachings, they may be ideologically compelled to become more proactive in the anti-trafficking movement. Lastly, Islamic law and the prohibition of human trafficking are in full accord with one another. This harmony between international trafficking provisions and Islamic law is illustrated by Muslim countries’ domestic legislation and constitutions that prohibit human trafficking and by the adoption of international human rights documents as national law. Such international influence on Islamic countries’ domestic legislation portrays Islamic law’s agreement with international anti-trafficking measures and provisions on the subject of human trafficking.

A. The United Arab Emirates’ Response to Its Human Trafficking Violations

The UAE is a prime example of the unity between Islamic law and international law because it duplicated the Protocol’s definition of human trafficking in its national law.

In the first eight months of 2009, seventeen human trafficking cases were registered in Dubai, an emirate of the UAE. In response, the government established the Human Trafficking Crimes Monitor Centre (HTCMC) to reduce human trafficking within the UAE and internationally. The director of the Department of Public Administration for Legal and Regulatory Control, Colonel Dr. Mohammed Al Murr, explained that the HTCMC’s purpose is to provide victims with assistance, monitor

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156 See UNODC, supra note 68, at 50–51 (explaining that Islamic law and international law are in agreement with regard to the prohibition and prevention of human trafficking).
157 Id. at 51.
158 Id.
159 Id.
160 Id.
161 Id. at 51.
162 Id.
163 Id.
international reports on the UAE, and enhance UAE progress by strengthening future human trafficking legislation and enforcement.\textsuperscript{164}

In the first eight months of 2009, 1,109 inspections were conducted at labor sites in Dubai.\textsuperscript{165} Although nearly 300 companies violated UAE labor laws, the HTCMC is organizing awareness campaigns to encourage companies to adequately implement the Ministry of Labour's rules.\textsuperscript{166} During the same time period, 545 companies were found in compliance with the HTCMC.\textsuperscript{167} The HTCMC is also partner to the UAE's National Committee for Anti-Human Trafficking established in 2007. Together they aid in the UAE's overall progress to eliminate human trafficking.\textsuperscript{168}

\textbf{B. Jordan Joins the Fight}

The Jordanian parliament has approved of legislation designed to prevent human trafficking violations in response to the international committee's complaint that Jordanian companies forcefully send foreign workers to Iraq.\textsuperscript{169} The parliament endorsed these laws to create an anti-human trafficking commission that will work jointly with the Ministry of Labour.\textsuperscript{170} The President of the Jordan Federation of Textile Industry Workers commented that "many workers are subjected to slavery-like working conditions including beatings, prolonged working hours, [and] work without payment or insufficient payment."\textsuperscript{171} He expressed his hope that the law will help improve the working conditions of foreign laborers who were previously abused.\textsuperscript{172}

As part of the prevent, punish, and protect plan, authorities aim to establish a shelter for victims, punish violators with incarceration for three years, and sanction or close companies connected to human trafficking.\textsuperscript{173} In 2009, the U.S. Department of State recognized Jordan as one of the five countries that has taken "commendable initiatives" necessary to combat human trafficking.\textsuperscript{174} In its report, the Department of State focused on Jordan's Ministry of Labour's establishment of the Humanitarian and Legal

\begin{thebibliography}{99}

\bibitem{164} Id.
\bibitem{165} Id.
\bibitem{166} Id.
\bibitem{167} Id.
\bibitem{168} Id.
\bibitem{169} Id.
\bibitem{170} Id.
\bibitem{171} Id.
\bibitem{172} Id.
\bibitem{173} Id.

\end{thebibliography}
Assistance Fund (Fund).\footnote{Id.} The Fund provides financial assistance to forced labor workers and laborers working in Qualifying Industrial Zone\footnote{A Qualified Industrial Zone is a trading zone where products are made only for the U.S. by two countries, Israel and either Jordan or Egypt. The U.S. oversees the operation and determines the conditions for tariff relief and importing. QIZs were created to promote peace between Israel and its neighbors and has resulted in economic growth in Jordan. MARY JANE BOLLE ET AL., CONG. RESEARCH SERV., RS 22002, QUALIFYING INDUSTRIAL ZONES IN JORDAN AND EGYPT 1–3 (2006), available at http://www.au.af.mil/au/awc/awcgate/crs/rs22002.pdf.} factories.\footnote{Id.} Employers have contributed approximately $336,000 to the fund, donating $60 toward each employee in order to legalize those with expired residency or work permits during the amnesty period between March and July 2008.\footnote{Id. at 43.} The Fund also offers assistance for food, housing, repatriation tickets, and legal fees for victims who filed charges against their employers.\footnote{Id.} The United States commends this effort because it “is a creative way to register workers, punish employers for not renewing residency permits, and establish an assistance mechanism for trafficking victims and other workers in distress.”\footnote{Id. at 43.}

Jordan, along with India, are the only two countries that appear in both the 2009 and 2010 Trafficking in Persons Report on Heroes\footnote{Id. at 45–46; see also id. at 42 (honoring another Jordanian, Linda Al-Kalash, as a “hero” for her assistance to victims through Legal Aid and Human Rights in Amman).}.\footnote{Id. at 45.} Jordanian Aida Abu Ras was one of nine people in the U.S. Report named as a “hero” because in 2003 she formed Friends of Women Workers, the first Jordanian NGO to combat human trafficking.\footnote{Id.} Friends of Women Workers provides legal aid for migrant women and runs media campaigns to raise awareness of migrant worker conditions.\footnote{Id.} Abu Ras is currently working with the Jordanian government to enforce regulations and to aid workers.\footnote{Id. at 45–46.}

Jordan’s move from the second tier “watch list” in 2009\footnote{Id. at 50.} up to the second tier in 2010\footnote{Id. at 48.} is not only evidence of how Jordan’s recent efforts to join the fight against human trafficking distinguish it from other non-complying Muslim countries, but also of the strategies Muslim countries may implement to prevent trafficking violations.
C. The Syrians and Saudis Tackle Trafficking

Syria is a destination for South and East Asian and Ethiopian women who are trafficked for the purpose of labor exploitation. In response to the exploitative activity, the International Organization for Migration held a workshop in Damascus to raise awareness concerning the magnitude of trafficking issues. Syrian government officials are also considering new anti-trafficking legislation. For the time being, a shelter for trafficking victims was recently opened in Damascus. Although Syria has no particular anti-trafficking laws, it is signaling that it is ready to make progress towards anti-trafficking initiatives.

Saudi Arabia, on the other hand, passed anti-trafficking legislation in July 2009, adopting a more stringent position against human trafficking. The new legislation outlaws all forms of human trafficking and enacts more severe consequences. Penalties for trafficking violations include a sentence of up to fifteen years in prison, a maximum fine of $267,000, or both. The penalty is even more severe if the victims are women, minors, or disabled persons. Penalties are also increased for perpetrators who are guardians of the victim, a close relative of the victim, or an enforcement official. The Council of Ministers also plans to establish a ministerial-level committee in the Human Rights Commission that will focus on combating human trafficking.

Unlike other Muslim countries, Saudi Arabia follows a strict version of Islamic law. Saudi Arabia is the birthplace of Islam, and its legal system embodies the most traditional school of thought with regard to Islamic law. It follows, then, that more than any other Islamic nation, the Saudi trafficking laws and responses accurately measure strict Islamic law’s compliance with international human trafficking law. Saudi Arabia reported the following statement to the Convention on the Elimination of All Forms of Discrimination Against Women:

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187 Syria and Trafficking, supra note 154.
188 Id.
189 Id.
190 Id.
191 Id.
192 Saudi Arabia’s Increased Penalties, supra note 155.
193 Id.
194 Id.
195 Id.
196 Id.
197 Id.
198 Id.
199 Esmaeili, supra note 47, at 7.
In view of the fact that the Kingdom applies the Islamic Shariah, which exhorts to virtue and forbids vice, fornication and immorality, as well as the fact that these conflict with tradition and custom, traffic in women and exploitation of prostitution of women are practices unknown to Saudi society. Whoever commits this type of activity is punished in accordance with the Islamic Shariah, which seeks to root out such inhuman practices. . . . Measures are designed to combat these dangerous social diseases and preserve morality and behavioural values in society.\(^{200}\)

If the strictest, and arguably most traditional Islamic society can embrace the tenets of international law against human trafficking, as this Saudi report postulates, then international law should well suit the Islamic legal structure of other Muslim countries in an effort to reduce their trafficking violations.\(^{201}\)

**IX. CONCLUSION**

International measures, such as the Protocol, are increasing in order to address the rapidly growing problem of human trafficking. Muslim countries, specifically within the Middle East and Persian Gulf, have been touched by this issue and are experiencing severe compliance problems. Some blame the trafficking problem on the Islamic religion or the Islamic legal system, and such arguments are based on the idea that Islam endorses slavery, which remains one of the main purposes of human trafficking around the world. Addressing Islam’s position on the elements and issues surrounding human trafficking is crucial for the Muslim world’s fight against the problem.

This Note has addressed the human trafficking problem in relation to the Islamic legal framework. It has done so by turning to Islam’s holy texts coupled with further interpretation. Based upon the Holy Book’s texts, the consensus among Islamic scholars and jurists, the teachings of the Prophet Muhammad, and—possibly the most relevant to the human trafficking issue—the actions of contemporary Muslim government leaders, one may draw the conclusion that Islam no longer accepts slavery. Islam worked towards gradually eliminating the slavery that was in existence before the birth of the religion, and the consensus is that it is now prohibited in the Muslim world.

\(^{200}\) UNODC, *supra* note 68, at 51 (citation omitted).
\(^{201}\) *Id.* at 52.
The concept of slavery is essential when exploring the issue of human trafficking in Muslim countries because perpetrators often subject victims to slave-like conditions where they threaten or coerce them. This Note not only focused on tracing traditional slavery to its contemporary form, but also discussed Islamic teachings concerning other common purposes of human trafficking such as sexual and labor exploitation. This Note further discussed Islam's view on the rights of victims and the protection of certain vulnerable groups, such as women, children, refugees, and migrants. Human trafficking is a \textit{ta'zir} crime, which calls for severe punishment. It follows, then, that through exploring the Islamic legal approach regarding issues pertaining to human trafficking, Islam not only encourages the protection of victims, but also punishes perpetrators and seeks to prevent further victimization.

This Note went beyond examining Islamic law and further explored external factors that explain some of the reasons for the severity of the human trafficking violations in the Muslim world. Several of the aforementioned historical and socioeconomic factors, alone, can explain the increase in trafficking in the Middle East and Persian Gulf. One major factor was the development of the oil-producing region that called for the migration of workers, which later resulted in labor exploitation and even impacted the family dynamics at home in the non-oil producing regions where domestic servitude and other forms of forced labor became prevalent. After exploring several external factors that contribute to the increase in trafficking in the Middle East and Persian Gulf, it is apparent that such factors, not Islam, are a more plausible and precise explanation for the Muslim world's violations of international anti-trafficking laws.

This Note concluded by discussing Muslim countries' recent steps toward improving the human trafficking conditions. Positive progress includes: new national anti-trafficking legislation, establishment of shelters for victims, penalization of perpetrators, and public statements condemning human trafficking. One significant Muslim country taking action to combat the human trafficking problem is Saudi Arabia. Because Saudi Arabia strictly follows the most stringent and traditional form of Islamic law, it serves as a great example of an Islamic approach to preventing human trafficking. Therefore, this Note contends that other Muslim countries should follow Saudi Arabia's lead in establishing national anti-trafficking legislation. Additionally, Muslims should turn to Islam's approach to the issues surrounding human trafficking to educate themselves about the severity of the violations within their countries. In the Middle East and Persian Gulf, a religious approach may be the most efficient way of realizing the need for preventative action.

More important than Islam's compatibility with international law concerning the issue of human trafficking is the realization that the one
reinforces the other. Supported both internally by the humane and compassionate teachings of Islam and externally by international anti-trafficking laws, Muslim nations, more than ever, have reason—even a religious obligation—to prevent human trafficking, protect its victims, and prosecute its perpetrators.