

THE DIFFERENT TYPES OF HUMAN TRAFFICKING IN ARMED CONFLICTS

Dr. Elie Al Asmar

The ECHR provides that “No one shall be held in slavery or servitude. No one shall be required to perform forced or compulsory labour”¹. But, unfortunately, this article is far from being applied in a categorical way nowadays, especially in areas affected by armed conflicts. Indeed, slavery has existed since the dawn of time and in different eras, the most recent of which dates back to the slavery of the 18th and 19th centuries when the famous "triangular trade" of black slaves and goods between the West, Africa and America was in its period of prosperity.

When talking about human trafficking, this phenomenon that continues to grow due to poverty and the various humanitarian and security crises, we will consider several types. Those that are widely known as selling and buying people, and those that are new to the crime scene as exploiting a person in an illegal act after deception. Trafficking in women and children is a growing concern for the international community. It has always been alerted to this crime. It has tried to provide for all types of trafficking in persons and especially women and children in order to suppress them through the various international conventions and the penalties found in national laws. According to the Palermo Protocol, the latest international text that combats this crime, the different types of trafficking are, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor, slavery or practices similar to slavery, servitude or the removal of organs². By this description, this protocol has left enough leeway for states to legislate against this crime. The term "minimum", used by the Palermo International Protocol, gives a kind of guidelines for states to consider all the possible types of trafficking in persons that we can find in different societies, on the national and international scene.

"Trafficking in persons" and "trafficking in human beings" have been used as umbrella terms for the act of recruiting, harboring, transporting, providing or obtaining a person for sexual acts or forced sexual intercourse through the use of force, fraud or coercion. The Palermo Protocol describes this compulsory service using a number of different terms, including involuntary servitude, slavery or practices similar to slavery, debt bondage and forced labour. It is also pointed out in the preamble to the Palermo Protocol that, despite the variety of international legal instruments that contain standards for combating the sexual exploitation of women and children, there is no universal instrument that addresses all aspects of human trafficking³. It is for this reason

¹ European Convention of Human Rights, art. 4

² Palermo Protocol, op. cit, art. 3(a)

³ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit., p. 19.

that the Palermo Protocol was adopted by the international community. However, the international legal arsenal is currently unable to deal with the different types of trafficking other than those relating to sexual exploitation.

Trafficking in human beings can include the movement of people, but the latter is not necessary for the constitution of the crime. People can be considered victims whether they were born into a state of servitude, or exploited in their home town, or transported to the situation of exploitation, or having previously consented to work for a trafficker, or whether they participated in a crime as a direct result of being trafficked. At the heart of this phenomenon, the goal of traffickers is to exploit and enslave their victims through coercive and deceptive practices.

In this research paper, we aim to give a clear scope of the different traditional types of human trafficking committed in armed conflicts.

This research is divided into five axes:

1. **Prostitution and sexual exploitation as a weapon of submission of increasingly vulnerable minors**
2. **Forced labor little practiced in armed conflicts and debts necessary for survival, favoring servitude**
3. **Illegal recruitment and use of child soldiers**
4. **Organs amputated and sold under coercion or deception**
5. **Illegal forced adoptions**
6. **Conclusion**

Section 1: Prostitution and sexual exploitation as a weapon of submission of increasingly vulnerable minors

Prostitution is not defined by international instruments, but a common definition is that of interpretation in its ordinary sense, that is to say, any sexual act offered in exchange for a reward or profit-making purposes. The act of prostitution itself committed by adults over the age of 18 is

not explicitly prohibited in international conventions. Therefore, the voluntary prostitution, without threats or coercion, of persons over the age of 18, remains outside the criminal law insofar as national legal systems so provide⁴.

When an adult engages or is engaged in a commercial sex act, such as prostitution, by force, threat of force, fraud, coercion or any combination of such means, then that person is considered a victim of trafficking⁵. Under these circumstances, perpetrators involved in recruiting, harboring, inducing, transporting, obtaining, sponsoring, soliciting or retaining a person for this purpose are guilty of adult sex trafficking, or in other words, the exploitation of the prostitution of others. Sex trafficking can also occur under debt bondage, as individuals are compelled to continue in prostitution by owed illegal "debt", allegedly incurred by their transportation, recruitment, or even "sale", that the exploiters insist that they must pay before they can be free.

Rape or other forms of sexual violence or coercion are used to break people (physically, mentally and emotionally) and force them to submit to forced labor or slavery-like practices. Rape or other forms of sexual violence are weapons used against trafficked women to force them into forced labor in the sex industry⁶. The adult's initial consent to participate in prostitution is not legally determinative: if one is subsequently detained through psychological manipulation or physical force, the trafficked person should enjoy the benefits outlined in the Protocol of Palermo and applicable national laws. The practices of Daesh in Iraq and Syria are a telling model on the physical or moral manipulation of women, who are detained after rape for the purpose of sexual slavery. The notions of abduction, trafficking and sexual slavery are all linked, and they can be associated – but not exclusively – with armed conflict. Trafficking can increase in a conflict situation due to the breakdown of political, economic and social structures and increased militarization. The destruction of public and private structures increases the number of potential victims, and therefore women who find themselves in situations of armed conflict are at particular risk of falling prey to traffickers⁷.

⁴ Idem, p. 39

⁵ Department of State, United States of America, *Trafficking in Persons Report*, op. cit., p 30.

⁶ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit., p. 13.

⁷ Lindsey Charlotte, *Les femmes face à la guerre*, Comité International de la Croix Rouge, Suisse, 2002, 304 pages, p. 62

During and after conflicts, women and girls are the most targeted by prostitution and sexual exploitation. For some authors, acts of violence and rape committed by male soldiers are linked to the military training they received, and to the notion of virility which is often an integral part, including symbolically, of this training, and which exploits the anxieties, the weak points, the pride and the prejudices⁸.

Syria and Iraq present, in the context of armed conflicts and war, a fertile ground for all types of exploitation. Syrian refugee women in Istanbul, cared for by Caritas Turkey, claimed to have been raped during the conflict. They preferred to flee to Turkey rather than return to their families. In Syria, raped women are stigmatized by their families and society as a whole. Among the Syrian women sexually exploited in Turkey, many have also been victims of rape in Syria. The men also brought up the subject of forced prostitution. All this leads us to say that this behavior is not culturally accepted but that more and more women are resorting to it for economic reasons⁹.

In addition to cases of sexual servitude, in countries in conflict, many observers confirm the abduction of women for resale abroad to be exploited in forced prostitution. As early as 2003, Human Rights Watch reported an increase in cases of abduction of young women¹⁰. The same year, the NGO *Organization of Women's Freedom in Iraq* reported that 400 women had been kidnapped in the Kirkuk region. For 18 of them, evidence showed that they had been sold for sexual exploitation in night clubs in Egypt. There is also the possibility of selling women to the Gulf countries in particular. In Iraq or Syria, it is above all the border areas that currently concentrate the most risk of kidnappings. Many armed groups use these crossings to finance themselves through the smuggling of migrants and the resale of women¹¹.

Forced marriages may also constitute, in some regions of the world, a trafficking in persons offense within the meaning of the Protocol. By analyzing the facts, we can realize that the act can be constituted by the transfer or reception of a person; the means will be, inter alia, those of force,

⁸ Idem, p. 25

⁹ Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*[online], July 2016, 44 pages, p. 13, available at : http://www.infomie.net/IMG/pdf/francais-teh-situationsdeconflits-bd_0.pdf

¹⁰ Human Rights Watch, *Climate of Fear: Sexual Violence and Abduction of Women and Girls in Baghdad*[online], New York, July 2003, Vol. 15, N° 8(E), 20 pages, p. 1. Available at : <https://www.hrw.org/reports/2003/iraq0703/iraq0703.pdf>

¹¹ Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*, op. cit., p. 13.

threats, coercion or kidnapping; the objective may be sexual exploitation and/or servitude¹². There are societies where the young girls of the offender's family will eventually be sent to live in servitude with a priest or in the victim's family to 'acquit' the offense, when a member of a family commits it. In this case, the act may consist of reception or accommodation; the means may be coercion, abuse of power or a situation of vulnerability; the objective may be sexual or exploitation through labour, servitude or slavery¹³.

Peacekeeping and post-conflict operations have in the past created highly favorable circumstances for the trafficking of persons, mainly women, for the purpose of sexual exploitation. The act may be to recruit, transfer or receive, the means may be coercion, deception or abuse of power or position of vulnerability and the purpose may be sexual exploitation, servitude or forced labor¹⁴.

The UN estimates that each year, 4 million people are victims of these practices of prostitution of minors. Trafficking in girls under 18, mainly for the purpose of prostitution, accounts for approximately 30% of the total¹⁵. Where a child (under the age of 18) is recruited, seduced, harbored, transported, provided, procured, sponsored, solicited or maintained to perform a commercial sex act, evidence of the means used such as force, fraud or coercion, is not necessary for the offense to be qualified as trafficking in human beings¹⁶. There is a consensus that, by definition, any type of prostitution is considered involuntary, even when the child gives consent¹⁷. There are no exceptions to this rule: no cultural or socio-economic rationalization changes the fact that children exploited in prostitution are victims of trafficking. The use of children in commercial sex is prohibited by law in most countries around the world. In the case of Iraq, the sentence will be increased if the victim has not reached the age of eighteen¹⁸, and the Penal Code also applies to anyone who finds themselves on Iraqi territory after having committed as perpetrator or accomplice the crime of trafficking in women and children¹⁹. For Syria, penalties for human trafficking crimes should be increased in accordance with the provisions of the General Penal Code

¹² Office des Nation Unies contre la drogue et le crime, *Manuel de lutte contre la traite des êtres humains à l'usage des praticiens de la justice pénale*, op. cit, p. 7

¹³ Idem

¹⁴ Idem

¹⁵ Lindsey Charlotte, *Les femmes face à la guerre*, op. cit, p. 62

¹⁶ Palermo Protocol, op. cit, art. 3(c and d)

¹⁷ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 39.

¹⁸ Iraq, *Law n°28 Anti-Trafficking in Persons*, op. cit, art. 6

¹⁹ Iraq, *Law n°111 Penal Code*, op. cit, art. 13

if the crime is committed against women and children²⁰. Sex trafficking has devastating consequences for children, including long-lasting physical and psychological trauma, disease (including HIV/AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism and even the death²¹. Child victims of trafficking will generally be destined for sexual exploitation, in its two main forms, child prostitution and child pornography²². The use, recruitment or offer of a child for the purposes of prostitution, production of pornographic material or pornographic performances, are also considered the worst forms of child labor according to the International Labor Organization²³.

During the armed conflicts in Iraq, young girls were not spared from these atrocities. Young girls who are Muslim or belong to religious minorities (Christians and Yazidis) have been kidnapped from their homes by the Islamic State or other armed militias. To prevent them from fleeing and returning to their families, they are raped in front of their parents, creating an indelible feeling of shame vis-à-vis their loved ones. Once kidnapped, they are subjected to combatants as sex slaves²⁴. In fact, these practices are used on the rise during armed conflicts for the sole purpose of intimidating the enemy and negatively influencing combatants and public opinion.

Lebanon, a country bordering Syria, and directly affected by the Syrian crisis, has been able to identify a few dozen cases of human trafficking for the sexual exploitation of minors. In 2021, the Lebanese anti-trafficking department identified 27 cases of victims of human trafficking. In May 2021, their number was already 22. The majority of cases concerned young Syrian girls sold from Syria by their husbands or parents. According to the interview with Colonel Elie Al Asmar (author of this research paper), head of the Lebanese Anti-Human Trafficking Unit within the Internal Security Forces, Syrian husbands sell their wives to Lebanese living in Lebanon with the promise of decent work. But once in Lebanon, they are forced to work in bars or forced into prostitution by a Lebanese and/or a Syrian. There is also the case of poor Syrian families who

²⁰ Syria, Decree-Law No. 3 on Human Trafficking, op. cit, art. 8

²¹ Department of State, United States of America, *Trafficking in Persons Report*, op. cit, p 30.

²² Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 32.

²³ International labor Organization, *Worst Forms of Child Labor Convention 182*, 1999, art. 3

²⁴ Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*, op. cit, p. 13.

decide to marry their daughter to go through a Lebanese intermediary who then brings the daughter to Lebanon. Once there, he resells her or forces her into prostitution²⁵.

Section 2: Forced labor: little practiced in armed conflicts and debts necessary for survival, favoring servitude

Forced labor, sometimes also referred to as labor trafficking, encompasses the full range of acts of trafficking, such as recruiting, harboring, transporting, providing, or obtaining, especially when a person uses physical or psychological force or threat, abuse of the legal process, deception or other coercive means to compel someone to work. Once a person's work is exploited by such means, their prior consent to work for that employer is legally irrelevant: the employer will be a trafficker and the employee will be a victim of trafficking. Migrants are particularly vulnerable to this form of human trafficking, but individuals can also be forced into labor in their own countries. Women in forced labor, especially women and girls in domestic servitude, are often sexually exploited²⁶. According to findings and readings, this form of trafficking is very rare during armed conflicts. In these situations, servitude and slavery are the most dominant. The categories of vulnerable people such as women and children, who are affected by armed conflicts are faced with these practices; do they choose the debts willingly?

Debt bondage is the state or condition resulting from the fact that a debtor has undertaken to provide as security for a debt their personal services or those of someone over whom they have authority, if the fair value of these services is not assigned to the liquidation of the debt or if the duration of these services is not limited nor their character defined²⁷.

Another form of coercion is the use of an obligation or debt. Some workers inherit the debt; for example, in South Asia, it is estimated that there are millions of victims of trafficking trying to repay the debts of their ancestors. Others fall victim to traffickers or recruiters who illegally exploit an original debt assumed, knowingly or unknowingly, as a term of employment. Debts incurred by migrant workers in their country of origin, often with the involvement of labor agencies and employers in the country of destination, can also contribute to a situation of debt bondage. Such circumstances may arise in the context of temporary employment in which the legal status of the

²⁵ Idem, p. 17.

²⁶ Department of State, United States of America, *Trafficking in Persons Report*, op. cit, p 31.

²⁷ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 30.

worker in the destination country is tied to the employer, and workers fear seeking redress²⁸. In other cases, the victims are effectively introduced into the circuits of the crime, an option that does not always correspond to a free decision, given the vulnerability that exposes them to its limited access to any assistance or legal income. In application of the theory of induced criminality, traffickers establish a relationship of dependence and servitude with their victims, as a result of their debt, conditions of marginality and social marginalization or narrow ties which unite the trafficking organization with the victims²⁹.

In certain situations and conditions, workers and job seekers, especially abroad, can only incur new debts to obtain food and basic necessities, provided by the employer, or accept goods instead of wages. Physical restraint and force are often used against those workers or job seekers caught in situations of debt bondage³⁰.

During armed conflicts, and because of political and economic instability, some girls and women are forced to go into debt to meet the living needs of their families. Following the non-reimbursement of the debt, they will be under the authority of the creditor who offers them several solutions to this problem, of which the easiest for them, and the most difficult for the victim, is to execute the orders which are generally commit acts punishable by law, against income for the trafficker.

Involuntary domestic servitude is a form of human trafficking that occurs in unique circumstances, such as private residences, that create distinct vulnerabilities for victims. It is a crime in which domestic workers are not free to leave their jobs and are abused and underpaid. Many domestic workers do not receive the basic benefits and protections generally available to other groups of workers, things as simple as a day off. In addition, their ability to move freely is often limited, and private employment in homes increases their vulnerability and isolation. Authorities can't inspect homes as easily as in many other cases, or they don't have the mandate or ability to do so. In addition to facing involuntary servitude, domestic workers, especially

²⁸ Department of State, United States of America, *Trafficking in Persons Report*, op. cit, p 31.

²⁹ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 27.

³⁰ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 30.

women, face various forms of abuse, harassment, and exploitation, including sexual and gender-based violence³¹.

According to the International Labor Office, domestic workers in forced labor experience a form of exploitation that is classified as human trafficking³². This phenomenon is frequently associated with labor migration, both within and across national borders, and appears to refer to domestic work³³. It is also remarkable that domestic workers, whose work takes place in the private environment, experience a high degree of vulnerability, which is accentuated by the isolation in private houses and apartments, domestic work is often synonymous with long working hours, low wages and poor working conditions³⁴. As for the consent or acceptance by a worker of working conditions inferior to those to which they are entitled, this makes this situation difficult to detect. In general, this work situation in exploitative conditions is discovered during labor inspections or during work accidents. With regard to domestic service, the characteristics of invisibility which are specific to them accentuate the recourse of certain employers to clandestine labor with inadequate working conditions³⁵. But these practices are not limited to people likely to commit offenses or who have a criminal profile, diplomatic personnel often use servants. Sometimes, anywhere in the world, these servants have been recruited and forced to work in these households³⁶. In this sense, it should be noted that domestic slavery does not have professional structures as in sexual slavery. The maid pays only once, during her initial sale. The financial interest is in no way comparable to that emanating from a prostitute. Unlike the mafias that organize the sex trade, the sectors linked to domestic employment are the poor cousins of the traffic in women. However, part of this market is also in the hands of organized sectors³⁷.

Due to the poverty in certain regions of the world, and especially in the zones affected by armed conflicts, and due to the unstable and volatile situation in the countries which are the subject of

³¹ Department of State, United States of America, *Trafficking in Persons Report*, op. cit, p. 31.

³² Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 28.

³³ Idem, p. 30

³⁴ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 30.

³⁵ Idem, p. 39

³⁶ Office des Nation Unies contre la drogue et le crime, *Manuel de lutte contre la traite des êtres humains à l'usage des praticiens de la justice pénale*, op. cit, p. 7

³⁷ DUSCH Sabine, *Le trafic d'êtres humains*, Edition PUF, Paris, 2002, 317 pages, p 96.

our paper, we can see that this phenomenon is upsurge and that the most affected part of the population are women, girls and boys.

Section 3: Illegal recruitment and use of child soldiers

Some forms of exploitation of people are specific to countries directly affected by conflict, such as the recruitment of children to be used as soldiers³⁸. The child soldier is a manifestation of human trafficking when it involves the illicit recruitment or use of children, by force, fraud or coercion, by the armed forces as combatants or to accomplish other forms of work.

Some child soldiers are also sexually exploited by armed groups. The perpetrators may be members of government armed forces, paramilitary organizations or rebel groups. Many children are forcibly abducted to be recruited as combatants. Others are recruited to work as porters, cooks, guards, servants, messengers or spies. Young girls may be forced to marry or have sex with male commanders and combatants. Child soldiers, boys and girls, are often victims of sexual abuse³⁹.

Several children are enrolled in armed militias for the cause of "Jihad"⁴⁰. Some children will be recruited into separatist militias. Refugee women in Lebanon reported that boys were regularly kidnapped to be recruited into armed militias. This information was confirmed by the US Department's report on Syria, published in 2016, which reports on boys being kidnapped to be recruited into armed militias.

Armenian refugees from Syria reported being particularly exposed to this phenomenon because of their religion. According to some testimonies, boys belonging to religious minorities or considered non-Sunni seem to be more targeted⁴¹. This information corresponds to common strategies during conflicts. The recruitment of foreign fighters by armed militias and terrorist groups such as Al Nusra, and the Islamic State in Iraq and the Levant (ISIL), under the pretext of jihad, amounts to a similar phenomenon of human trafficking and affects a very large number of

³⁸ Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*, op. cit, p. 5.

³⁹ Department of State, United States of America, *Trafficking in Persons Report*, op. cit, p. 31.

⁴⁰ A holy war waged on behalf of Islam as a religious duty, *also* : a personal struggle in devotion to Islam especially involving spiritual discipline

⁴¹ Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*, op. cit, p. 15.

countries. The young girls recruited are mainly used to procreate. They are married to fighters assigned to them once they arrive there. According to information from the DGSI (French Intelligence and Internal Security Directorate) in 2015, they represented 35% of recruits in France⁴². Estimates by the various Western intelligence services agree on a proportion of 60,000 young combatants or child soldiers, who are enlisted in Iraq, Syria and Libya, half of whom would come from abroad⁴³. Foreign fighters in Iraq and Syria come from 86 countries. The largest contingents come from the Middle East, the Maghreb and then Western Europe⁴⁴.

In fact, long before the Palermo Protocol, the international community became aware of this phenomenon which targets children, and in 1999 adopted the International Labor Organization Convention (No. 182) on the worst forms of child labor. In this convention, a child is defined as anyone under the age of 18 (art. 2), similar to the Convention on the Rights of the Child and the Trafficking Protocol. States that have ratified this Convention are required to adopt immediate and effective measures to establish and guarantee the prohibition and elimination of the worst forms of child labor with urgency. “The worst forms of child labour” can be like all forms of slavery or similar practices, such as the sale and trafficking of children, debt bondage and serfdom as well as forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict⁴⁵.

This is not limited to the involuntary and illegal recruitment of children, it is also particularly worrying to note the high number of children recruited or voluntarily engaged in armed conflicts, in flagrant violation of international humanitarian law. It is often said that boys participate more in combat than girls, but there are also girl soldiers. Moreover, girls are not only recruited to participate actively in hostilities, but also as sexual slaves or to be forced into “marriage” with commanders or other soldiers. It is therefore of the utmost importance that all forms of participation or involvement of children in hostilities are avoided and eliminated⁴⁶. In the context of the voluntary recruitment of children, it will be more difficult to qualify the act as human trafficking if exploitation is not proven. In fact, the competent courts are increasingly hesitant to

⁴² Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*, op. cit, p. 15.

⁴³ Idem

⁴⁴ Idem

⁴⁵ International labor Organization, *Worst Forms of Child Labor Convention 182*, art. 3

⁴⁶ Lindsey Ch., *Les femmes face à la guerre*, op. cit, p. 37

treat child soldiers as victims of military enlistment, especially when there are direct attacks on the interests of the state. On the other hand, for the marriage of young girls with a view to sexual exploitation, even if these are consented, trafficking is always considered. With regard to the age of recruitment and participation in hostilities, initiatives have been taken by United Nations agencies and non-governmental organizations (NGOs), as well as by the International Movement of the Red Cross and Red Crescent, in order to develop children's rights. These initiatives led to the adoption in May 2000 of the Optional Protocol to the Convention on the Rights of the Child. This text requires States parties to take all possible measures to ensure that members of their armed forces who have not reached the age of 18 do not take direct part in hostilities, to ensure that persons under the age of 18 are not subject to compulsory recruitment into their armed forces, and to raise the minimum age for voluntary enlistment from 15 years. The Optional Protocol also prohibits armed opposition groups from recruiting or using in hostilities children under the age of 18 under any circumstances⁴⁷.

Some States establish minimum ages for different purposes, independently of having reached the age of majority in their domestic law. This is visible at the level of the completion of compulsory education, part-time or full-time employment, work in dangerous conditions, sexual consent, marriage, recruitment or voluntary commitment in the armed forces or the criminal responsibility. These theoretically and practically legal conditions can make it difficult to determine the existence of trafficking in cases where the minor had given their consent. For example, national legislation may provide for a minimum age for contracting a marriage, which produces the emancipation of the person, lower than the age of 18 provided for in the Protocol⁴⁸.

The Palermo Protocol conditions the validity of the victim's consent to the fact that it was not obtained through the use of the means of coercion set out in the definition of trafficking, within the meaning of Article 3(b) of this Protocol. However, this Protocol does not expressly consider the particular situation of children who have given their consent. In such cases, according to the spirit of the instrument, which does not consider the presence of the element of coercion necessary for the offense of trafficking to be constituted (art. 3, c), the consent of the child will not be valid,

⁴⁷ Lindsey Ch., *Les femmes face à la guerre*, op. cit, p. 37

⁴⁸ Geronimi Eduardo, *Aspects juridiques du trafic et de la traite des travailleurs migrants*, op. cit, p. 32.

even in the absence of such coercive elements, especially for the worst forms of child labor and for sexual exploitation⁴⁹.

A favorable environment is added to the fertile ground of the recruitment of children; these are the refugee camps located in countries bordering the country of conflict. The refugee camps set up on the Syrian borders are often or sometimes used as a rear base for combatants who have hosted their families. Similar phenomena exist with Iraqi Kurdistan. Some wounded fighters stay there for the time necessary for convalescence. This proximity between refugee women and combatants increases the danger of recruitment of adolescents by armed groups. Although few studies have focused on this specific aspect, the recruitment of children, including refugees, is part of the strategy of the majority of militias⁵⁰.

During wars and armed conflicts, children may be subject to abduction and forcible conscription into armed forces. These acts can also be prosecuted as the crime of human trafficking. Children are particularly vulnerable to military recruitment due to their emotional and physical immaturity. The act of trafficking may consist of the recruitment, transport or receipt of a child or an adult, the means, as in the case of adults, may be the use or threat of the use of force or abuse of a position of vulnerability and the objective may be servitude, forced labor or sexual exploitation⁵¹.

Armed conflict amplifies the risks of human trafficking among vulnerable populations by increasing economic desperation, weakening the rule of law, reducing the availability of social services and forcing people to flee for their safety. Armed conflict often results in the breakdown of governments, justice systems, labor markets and community support structures that would normally provide citizens with protection from disasters and crime, including human trafficking. Many contributing factors, such as high unemployment, limited social services, and weak oversight by law enforcement agencies, are magnified in conflict zones exploited by traffickers. Without options and services to sustain their livelihoods, people are made vulnerable and therefore likely to resort to illicit activities or risky illicit means to survive. These conditions constitute sectors in which traffickers thrive.

⁴⁹ Idem

⁵⁰ Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*, op. cit, p. 21.

⁵¹ Office des Nations Unies contre la drogue et le crime, *Manuel de lutte contre la traite des êtres humains à l'usage des praticiens de la justice pénale*, op. cit, p. 7.

During armed conflicts, governments divert existing resources to deal with the impending crisis, resulting in the loss of infrastructure and personnel for peacetime government services. This draws on existing resources and creates new gaps in the structures of governments to protect and provide for their citizens. Some militias use human trafficking to generate revenue and recruit new fighters. Young women and girls are often forced to marry or have sex with male commanders and combatants. The national and civil disorder caused by such conflict makes the traffickers' recruitment tactics - including false offers of jobs, housing or education - more attractive to vulnerable populations⁵².

Armed conflicts can destroy government institutions and create a climate of impunity that encourages traffickers to prey on vulnerable populations. Women and children, migrants and displaced people are among those most at risk of trafficking in conflict zones⁵³. Terrorist organizations such as Daesh and Al Nusra, for example, have abducted and forced women and children into sexual slavery in Iraq and Syria, and recruited children to fight.

Refugee and internally displaced persons camps are prime targets for traffickers. The concentration of vulnerable and displaced people, combined with a lack of security, services and surveillance, usually present in these camps, make them ideal places for traffickers. Traffickers are able to build relationships with corrupt camp officials and establish trafficking networks.

Human trafficking is often overlooked in crises and omitted from the formulations of humanitarian and emergency response policies. Trafficking operations can thrive in international reconstruction efforts where there are few government institutions or rule of law. The international community and individual countries must recognize sex trafficking as a common phenomenon during conflicts and include anti-trafficking strategies in humanitarian actions.

Section 4: Organs amputated and sold under coercion or deception

Research and studies have proven that the removal and transplant of organs and tissues has become a scientific and medical need for the well-being of Humanity. But what has become serious is the misuse of these tissues and organs. They are considered commodities in criminal markets,

⁵² Department of State, United States of America, *Trafficking in Persons Report*, op. cit, p 32.

⁵³ Department of State, United States of America, *Trafficking in Persons Report*, op. cit, p 32

and trade is conducted against the law. These operations are done discreetly, and sometimes in a way that is difficult to detect, or according to legal procedures far from being penalized⁵⁴.

The concept of organ trafficking is the buying and selling of those human organs, such as tissues, skin, blood, and kidneys⁵⁵. Organ procurement often takes the form of medical tourism, where a patient travels from one rich country to another poor country to pay and have surgery to receive the organ. In this poor country, the laws against organ trafficking are weak, or rather non-existent⁵⁶. This trade quickly invaded the Arab world, and we can see very prosperous countries in this trade like Egypt. At the same time, it must be said that this activity is not accepted in Islam or in other religions. Islam has positioned itself categorically against these behaviors, no tissue or organ can be cut from the body of a living person. The Quran notes that God honored the sons of Adam⁵⁷, this requirement to honor them must avoid their humiliation or their sale. The practices of Daesh contradict these religious rules.

Several international instruments have provided for and repressed these behaviors, especially the Universal Declaration of Human Rights in 1948⁵⁸, the International Covenant on Civil and Political Rights⁵⁹, in addition to national laws.

The World Health Organization has included the removal of organs as a form of human trafficking. Payment for cells, tissues and organs is likely to take unfair advantage of the poorest and most vulnerable groups, and leads to profiteering through human trafficking. This payment expresses the idea that some people lack dignity, that they are mere objects to be used by others⁶⁰. The definition of human trafficking also includes the removal of organs which is considered a serious violation of human rights. This violation affects the innate human dignity of individuals.

During the war in Syria and Iraq, Syrian and Iraqi refugees testified to observed acts of organ trafficking. The testimonies collected were relatively precise. Several women have reported that

⁵⁴ Sadek Leila Ali Hussein, *Trafficking in Persons as Transnational Organized Crime*, Middle East University, Kuwait, 183 pages, p. 59 (in arabic)

⁵⁵ Nached Suzi Adli, *The Crime of Organs Trafficking*, Edition Dar Al Jami'a Al Jadida, Alexandria, 2005, 160 pages, p.55 (in arabic)

⁵⁶ Sadek L. A. H., *Trafficking in Persons as Transnational Organized Crime*, op. cit, p. 59

⁵⁷ Quran, Al Issra' Chapter, verse 70

⁵⁸ United Nations, *Universal declaration of Human Rights*, 1948, art. 5

⁵⁹ United Nations, *International Covenant on Civil and Political Rights*, 1966, art. 7

⁶⁰ The Arab Initiative to combat Human Trafficking, *Understanding Trafficking in Persons in the MENA region*, Washington DC, 2013, 128 pages, p 22

following surgeries, people have had their kidneys removed without their knowledge. Some people reported that on the way to Lebanon, they received threats to force them to donate their organs. The most specific testimonies relate to situations of wounded fighters in Syria, going for security reasons to seek treatment in Turkey in the border town of Kilis, then found dead with one or other organ amputated⁶¹.

The report of the United Nations Agency for Refugees (published in November 2014) on the issue of trafficking in Syria corroborates the existence of this phenomenon. Among the Syrian refugees in Lebanon, several cases of organ trafficking have been described tending to confirm that this trade is in full development. A Syrian family explained that they had contacted the sheikh of the neighborhood for help, who asked them in exchange to donate a kidney. This rise is explained by the financial difficulties encountered by refugees to cope with the increasingly high cost of living and going hand in hand with the ban on refugees working. Although it is still too early to state categorically the presence of this trade, the testimonies quoted above echo a recent case of organ trafficking judged in 2013 in Kosovo concerning the Médecus clinic. During the trial, among the nine defendants, one of them pleaded guilty. From 2008, this clinic founded in 1999 by a Turkish philanthropist was the subject of an investigation which showed that thirty illegal transplants had taken place. Each of the donors was to receive large sums of money in exchange for their organs (15,000 euros for a kidney). In the end, they were never paid⁶².

Ultimately, armed conflicts constitute a favorable environment for criminal groups, enabling them to increase their activities by targeting the most vulnerable populations.

Section 5: Illegal forced adoptions

In a few countries, particularly those where the adoption market is already established, illicit adoption practices are becoming commonplace and can be prosecuted as part of general human trafficking crimes. Small children may be forcibly separated from their mothers, who have been coerced into signing blank papers that later become illegal contracts. The act may be transporting

⁶¹ Les Blough, *Organ Smuggling: Turkish Hospitals Traffic Injured Syrian Citizens' Organs*[online], February 2014, available at : <https://www.globalresearch.ca/organ-smuggling-turkish-hospitals-traffic-injured-syrian-citizens-organs/5367869>

⁶² Secours Catholique Caritas France, *La traite des êtres humains dans les situations de conflit et post-conflits*, op. cit, p. 13.

or receiving a child and the purpose may be slavery or sexual exploitation. It is not necessary to establish means when the trafficked person is under the age of 18, however coercion, fraud and deception are commonly used against the mother to obtain signatures, blood samples and birth certificates⁶³.

Conclusion

We can see that these types of human trafficking thrive during armed conflicts. All of these forms of human trafficking are well considered by the international community. The latter spared no opportunity to put in place provisions that suppress this phenomenon. The added value of this international dynamism is to internationally criminalize all these violations of the dignity of the individual.

⁶³ Office des Nation Unies contre la drogue et le crime, *Manuel de lutte contre la traite des êtres humains à l'usage des praticiens de la justice pénale*, op. cit, p. 7.