



# OVERVIEW OF TRAFFICKING AND PROSTITUTION LAWS IN THE MIDDLE EAST AND AFRICA

Published by the Thomson Reuters Foundation for the Trust Women Conference

NOVEMBER 2012

LATHAM & WATKINS<sup>LLP</sup>

 RBS Group

EQUALITY NOW

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# INTRODUCTION

The Thomson Reuters Foundation has partnered with Equality Now, Latham & Watkins LLP (**Latham & Watkins**) and the Royal Bank of Scotland (**RBS**) to produce a landscape analysis of human trafficking and prostitution laws in certain countries in Africa and the Middle East. This analysis is intended to assist Equality Now in strategically targeting countries to advocate for legal reform towards the elimination of sex trafficking. This Overview does not contain the full findings of the research, but rather, is intended to provide a high-level overview of the relevant trafficking and prostitution laws in those countries.

This project was undertaken on a pro bono basis by Latham & Watkins and RBS through TrustLaw, a global pro bono marketplace supported created by the Thomson Reuters Foundation. This project is one of a series of TrustLaw projects programmes that provides a legal framework that can be used to improve laws and policies that affect women. The Thomson Reuters Foundation is immensely grateful to Latham & Watkins and RBS and to their lawyers from around the world for donating their time and expertise to this project.

The jurisdictions examined for this project were Egypt, Israel, Kuwait, Lebanon, Morocco, Oman, Saudi Arabia and the United Arab Emirates (**the MENA countries**) and Benin, Côte d'Ivoire, Ghana, Mali, Nigeria and Senegal

(the **ECOWAS countries**). The first page of this Overview sets out a table which summarises the legal position in each of the selected countries in relation to each of the categories below:

1. **Prostitution** including whether prostitution is illegal, whether trafficking victims are exempt from prosecution and whether there are specific provisions for child prostitution.
2. **Patronizing** including whether purchasing sex is illegal, whether there are specific provisions that address purchasing sex from trafficking victims or minors.
3. **Promoting** including whether promoting or profiting from prostitution is illegal and whether there are specific provisions relating to promotion of prostitution involving trafficking victims or minors.
4. **Extraterritoriality** including whether the abovementioned laws have extraterritorial application.
5. **Sex Trafficking** including whether trafficking is illegal and whether the laws distinguish between sex trafficking and labour trafficking.
6. **Legal Reform** a brief overview of legal reform efforts in each region.

The second part of this Overview summarises the findings in relation to each of the above categories with respect to the MENA countries and the ECOWAS countries, respectively.





## PROSTITUTION AND ANTI-HUMAN TRAFFICKING LAWS

### MENA COUNTRIES SUMMARY TABLE

#### PROSTITUTION

	Is it illegal to sell sex?	Are trafficking victims exempt from prosecution for prostitution-related crimes?	Are there any age distinctions? (i.e. is it legal for adults but not minors?)	Is there a difference between brothel and street prostitution? Escorting?
BAHRAIN	Yes	No	No	Yes
EGYPT	Yes	Yes	No	No
ISRAEL	No	Unclear	No	Yes
JORDAN	Yes	Yes	No	No
KUWAIT	Yes	No	Yes	No
LEBANON	No	Yes	Yes	Yes
MOROCCO	Yes	Silent	No	Silent
OMAN	Yes	Unclear	No	Unclear
QATAR	Yes	Unclear	No	No
SAUDI ARABIA	Yes	Unclear	No	Unclear
UNITED ARAB EMIRATES	Yes	Yes	Yes	No

#### PATRONIZING

	Is it illegal to buy sex? (including through provisions on kerb-crawling, patronizing, soliciting)	Is it illegal to buy sex from a minor?	Is it illegal to buy sex from a trafficking victims?
BAHRAIN	Yes	Yes	Yes
EGYPT	Yes	Yes	Yes
ISRAEL	No	Yes	No
JORDAN	Yes	Yes	Yes
KUWAIT	Yes	Yes	Yes
LEBANON	No	Yes	Silent
MOROCCO	Yes	Yes	Yes
OMAN	Unclear	Unclear	Unclear
QATAR	Yes	Yes	Yes
SAUDI ARABIA	Yes	Yes	Yes
UNITED ARAB EMIRATES	Yes	Yes	Yes

## PROMOTING

	Is it illegal to promote/profit off another's prostitution? (including through pimping, procuring, pandering, promoting prostitution, inducing or enticing the prostitution of another, brothel-ownership, maintaining a house of ill repute or bawdy house, living off the profits of another's prostitution)	Is it illegal to promote/profit off the prostitution of a minor?
BAHRAIN	Yes	Yes
EGYPT	Yes	Yes
ISRAEL	Yes	Yes
JORDAN	Yes	Yes
KUWAIT	Yes	Yes
LEBANON	Yes	Yes
MOROCCO	Yes	Yes
OMAN	Yes	Yes
QATAR	Yes	Yes
SAUDI ARABIA	Yes	Yes
UNITED ARAB EMIRATES	Yes	Yes

## SEX TOURISM / EXTRATERRITORIALITY

	Is it illegal to travel abroad and buy sex?	Is it illegal to travel abroad and buy sex from a minor?	Is there a law against sex tourism operators?
BAHRAIN	Silent	Silent	No
EGYPT	Silent	Silent	No
ISRAEL	No	Yes	Unclear
JORDAN	Silent	Silent	No
KUWAIT	No	No	No
LEBANON	Silent	Silent	No
MOROCCO	Unclear	Unclear	Yes
OMAN	Silent	Silent	No
QATAR	Yes	Yes	No
SAUDI ARABIA	Yes	Yes	No
UNITED ARAB EMIRATES	Silent	Silent	No

## SEX TRAFFICKING

	Is sex trafficking criminalized? Is it distinguished from labor trafficking?	Does the crime require movement of the victim?	Is facilitation of sex trafficking criminalized?
BAHRAIN	Yes	No	Yes
EGYPT	Yes	No	Yes
ISRAEL	Yes	No	Yes
JORDAN	Yes	Yes	Yes
KUWAIT	Yes	Unclear	Unclear
LEBANON	Yes	No	Yes
MOROCCO	Unclear	No	Unclear
OMAN	Yes	No	Yes
QATAR	Yes	Yes	Yes
SAUDI ARABIA	Yes	No	Yes
UNITED ARAB EMIRATES	Yes	No	Yes

## SERVICES FOR VICTIMS / SURVIVORS

	Does the trafficking law or related laws include services for victims/ survivors?
BAHRAIN	Yes
EGYPT	Yes
ISRAEL	Yes
JORDAN	Yes
KUWAIT	Yes
LEBANON	No
MOROCCO	Yes
OMAN	Yes
QATAR	Yes
SAUDI ARABIA	Yes
UNITED ARAB EMIRATES	Yes

## LAW REFORM

	Is there currently any discussion of reforming the prostitution/ sex trafficking laws?
	No
	No
	Yes
	No
	Yes
	Yes
	Yes
	No
	No
	No



# 1 PROSTITUTION

## MENA

The majority of MENA countries surveyed prohibit prostitution but do not have specific prostitution laws. Rather, the prohibition of prostitution is based on either a prohibition of sex outside of marriage or a morality provision in the Penal Code generally prohibiting prostitution and/or debauchery. The relevant provisions are broadly interpreted, as sex outside of marriage is strictly prohibited under Shari'ah Law irrespective of whether or not money changes hands. Saudi Arabian law, for example, is based entirely on Shari'ah Law and does not rely on legislation to prohibit prostitution. Two MENA countries do not have an outright prohibition against prostitution: Israel and Lebanon. Lebanon, however, has specifically legalized prostitution for women but not men.

There was a divide amongst the MENA countries surveyed as to whether trafficking victims are exempt from prosecution for prostitution-related crimes. The laws of Morocco, Saudi Arabia, Oman, the United Arab Emirates, Kuwait and Bahrain do not contain express provisions that exempt trafficking victims from prostitution-related crimes or that allow victims to apply to vacate previous convictions that occurred as a result of trafficking.

In contrast, the laws of Lebanon and Jordan expressly provide for exemptions of the aforementioned crimes and allow for applications to vacate previous convictions which arose as a result of trafficking. The laws of Qatar and Egypt also provide for exemptions from prostitution-related crimes; however, the laws are unclear regarding whether trafficking victims can apply to exonerate themselves from previous crimes that arose solely as a result of trafficking.

In Israel, while the selling of sex is not a crime, trafficking victims could have a defense under the Penal Code for the promotion of prostitution loosely based on their status as a trafficking victim.

Amongst the MENA countries surveyed, only the laws of Lebanon have an age distinction with respect to the legalization of prostitution. Lebanon's laws state that only women above the age of 21 can engage in prostitution in brothels. The laws of most MENA countries call for heightened sentences for those found guilty of engaging in sex with minors.

In addition, only the laws of Bahrain, Egypt, Israel and Lebanon provide for a distinction between brothels and street prostitution. The laws of Jordan, Kuwait, Morocco, Oman, Qatar, Saudi Arabia and the United Arab Emirates do not make such distinction.

## ECOWAS

In the ECOWAS countries, prostitution is not illegal in Benin, Côte d'Ivoire, Mali or Senegal. However, in Benin, soliciting and procuring prostitution is illegal. Similarly, in Nigeria and Côte d'Ivoire, prostitution is not illegal per se; however, those that trade in prostitution (such as pimps and persons who keep brothels) will be prosecuted.

It is unclear as to whether trafficking victims are exempt from prosecution for prostitution-related crimes in all of the ECOWAS countries surveyed. It should be noted, however, that trafficking victims in Senegal are generally not incarcerated or fined for unlawful acts committed as a result of trafficking.

Only the laws of Senegal and Benin create an age distinction with respect to the legality of prostitution. In Benin, child prostitution is illegal, and in Senegal, it is legal for a woman over 21 years of age to register with the police and legally become a prostitute. Côte d'Ivoire is the only ECOWAS country surveyed that distinguishes between brothels, and street prostitution – where private prostitution is legal, brothels are not.

## 2 PATRONIZING

### MENA

The laws of Bahrain, Egypt, Jordan, Kuwait, Morocco, Qatar, Saudi Arabia and the United Arab Emirates prohibit the purchase of sex. The laws of Oman are unclear on the matter, although sex outside of marriage is generally prohibited. Israel and Lebanon do not prohibit the purchase of sex. Israeli Law does not prohibit the purchase of sex from a trafficking victim unless the purchase of sex is characterized as 'trafficking in persons' under the Israeli Penal Code. While Lebanese Law is silent on the purchase of sex from a trafficking victim, the purchaser could be considered to be an accomplice of the trafficking crime.

### ECOWAS

Côte d'Ivoire, Mali and Senegal have legalized the purchase of sex. However, each of these countries criminalizes sex with minors. Benin, Ghana and Nigeria criminalize the purchase of sex in general, and Ghana and Nigeria also specifically criminalize the purchase of sex from minors. None of the ECOWAS countries surveyed has a clear position regarding the purchase of sex from trafficking victims.

### 3 PROMOTING

#### MENA

All MENA countries surveyed prohibit promoting and profiting (in all its forms) from prostitution. In Egypt, the laws call for an increased penalty if the person promoting or enticing prostitution is a relative of the victim, is responsible for the victim's upbringing or care or has authority over the victim. Lebanon also extends the prohibition on promotion to trafficking victims and has established different penalties for men and women profiting from prostitution. The laws of Israel and Bahrain call for increased sentences if minors are involved in the procurement and inducement of prostitution.

#### ECOWAS

The laws of the ECOWAS countries take similar positions in that generally all forms of promotion and gain from prostitution is illegal. The laws of Benin and Côte d'Ivoire additionally prohibit the tolerance of prostitution in facilities such as hotels, drinking establishments and clubs. In general terms, ECOWAS countries specifically state that such laws also apply with respect to the prostitution of children or minors. In Senegal and Ghana, a minor is a person under the age of 16, whilst it is a person under the age of 18 in Nigeria and a person under the age of 21 in Côte d'Ivoire.

### 4 EXTRATERRITORIALITY

#### MENA

Few MENA countries have any laws expressly referencing the extraterritorial application of the laws relating to procurement of prostitution. However, the laws of Morocco expressly set out such a prohibition, which provides that if any person should commit acts outside of Morocco that are deemed to be criminal offences in Morocco, they will be subject to trial and sentencing in Morocco. Accordingly to Morocco's laws, it is an offence to purchase sex from an adult or a minor and it is the only MENA country surveyed for the purpose of this report which has promulgated a law against sex tourism.

Qatar expressly prohibits the purchase of sex abroad, whereas Saudi Arabian law is silent on the matter. The extraterritorial application of laws relating to the purchase of sex is either unclear, doubtful or inapplicable in Bahrain, Egypt, Jordan, Kuwait, Oman and the United Arab Emirates. Israel does not prohibit

the purchase of sex outside of Israel however Israeli law does prohibit the purchase of sex abroad from a minor.

## ECOWAS

Of the ECOWAS countries surveyed, none of them have specific laws regarding the extraterritorial application of the laws relating to the purchase of sex for adults or minors. However, Nigeria, Côte d'Ivoire and Senegal all have laws against sex tourism operators and others who encourage the prostitution of adults and/or children.

## 5 PATRONIZING

### MENA

Human trafficking is specifically criminalized in all MENA countries except for Morocco, which has not promulgated an anti-human trafficking law but relies on the penal code to criminalize human trafficking. Not all of the MENA countries distinguish between sex and labour trafficking. In fact, the distinction appears only in the laws of Egypt, Israel and Lebanon. Of the MENA countries that criminalize human trafficking, the offence typically results in a penalty of imprisonment, with some countries, such as Jordan and Kuwait, also levying a fine on persons found guilty.

Of the MENA countries surveyed, only Qatar and Jordan require movement in their legal definitions of trafficking. The facilitation of sex trafficking is criminalized in all countries surveyed except for Kuwait and Morocco, where the position is unclear.

The majority of MENA countries surveyed provide, at a minimum, limited services or rights for trafficking victims including medical, legal and social services. The anti-trafficking law of Jordan provides that the Council of Ministers may establish a centre to provide services and help for human trafficking victims. While Morocco provides services to child victims, there does not appear to be equivalent services for adult victims of such crimes. Only Lebanon does not provide any services for victims of trafficking crimes.

### ECOWAS

The laws of the ECOWAS countries generally contain specific prohibitions on sex trafficking. In Benin, violators are prosecuted under provisions that criminalize prostitution, kidnapping and forced labour. Although Benin and Côte d'Ivoire do not have an anti-human trafficking law relating to adults, both countries have enacted such a law for children. Côte d'Ivoire, Mali, Nigeria and Senegal are

the only countries with laws that distinguish between sex trafficking and labour trafficking. In each of Côte d'Ivoire, Benin, Ghana, Mali and Nigeria, violators face a prison sentence if convicted and in Côte d'Ivoire and Ghana, a conviction carries the possibility of an additional fine.

Of the ECOWAS countries surveyed, only Senegal requires movement in the legal definition of trafficking. The facilitation of sex trafficking is criminalized in all ECOWAS countries surveyed except for Benin, where the position is unclear.

Some of the ECOWAS countries surveyed provide, at a minimum, limited services or rights for trafficking victims, including medical, legal and social services. Ghana goes as far as providing counseling, employable skills training and start-up and financial assistance. Benin, Côte d'Ivoire and Mali do not provide any services for victims of trafficking crimes.

## 6 LEGAL REFORM

### MENA

Among the MENA countries, Kuwait, Israel, Oman and Morocco seem to be taking or have recently taken steps to reform their prostitution and sex trafficking laws. For example, a draft "Child Law" is purportedly under review in Oman that may provide for further protection against sex trafficking of children. Also, the Moroccan Human Rights Association continues to call for a complete overhaul of the Moroccan Penal Code and Israel has taken steps to make the solicitation of prostitution illegal.

### ECOWAS

Most of the ECOWAS countries are undertaking steps towards reform of prostitution or sex trafficking laws. There have been discussions in Ghana and Nigeria regarding the legalization of prostitution, although this has been met with hostility in Nigeria. A new criminal code is under discussion in the National Assembly of Benin, with provisions relating to violence against women under review. In 2011, the President of Côte d'Ivoire established the National Monitoring Committee to Fight Trafficking, Exploitation and Child Labour and the National Assembly of Mali is yet to vote on a bill proposed in 2010 which would prohibit all forms of trafficking.



## ACKNOWLEDGEMENTS

This research was made possible due to extensive resources committed by Latham & Watkins and RBS at the request of Equality Now.

In particular, we would like to thank the following people for donating their time to work on this project:

**LATHAM & WATKINS** Christian Adams, Adeola Adeyemi, Alia Ahmed, Ekin Akar, Salam Alsamdi, Opeyemi Atawo, Nick Collins, Krysta Copeland, Andrew Hutchinson, Patrick Ky, Derek McKinley, Brian Meenagh, Hon Ng, Anthony Pallett, Charlotte Rowley, Matthew Schneider and Tyler Waltman.

**RBS** Mehran Bevandi, Sarah Byrch, Nina Carter, Jonathon Friend, Sarah Garland, Sema Kandemir, Gareth Kenny, Clare Mould and Ed Robinson.

**EQUALITY NOW** Yasmeen Hassan, Lauren Hersh, Kristen Berg and the Equality Now anti-trafficking team.

### DISCLAIMER

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**FRONT COVER PHOTO** Sixteen-year-old prostitute Maya waits for a customer inside her small room at Kandapara brothel in Tangail, a northeastern city of Bangladesh. Andrew Biraj / REUTERS



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