**Working Group on discrimination against women in law and in practice**

**Questionnaire on good practices**

In accordance with its mandate, the UN Working Group on the issue of discrimination against women in law and practice has developed this questionnaire to gather information on “good practices” in eliminating discrimination and empowering women for its next thematic report. Given the centrality of the law to the Working Group’s mandate, the report will focus on the processes by which laws that support women’s equality and enjoyment of human rights come into being and are implemented in ways that support women’s enjoyment of their human rights and fundamental freedoms.

The questionnaire intends to solicit information on how a specific law aimed at addressing discrimination against women and promoting women’s substantive equality has come into being, was effectively implemented (I), and what impact the law has had for women on the ground (II).

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) clearly establishes State obligation to respect, protect and fulfill women’s human rights, ensuring the de facto enjoyment of those rights by women. CEDAW’s framework is founded on the principle of substantive equality, which requires States to take active measures to not only eliminate laws and practices that directly discriminate against women, but to create an environment in which women’s rights can be fulfilled. Good practices in the promotion of women’s human rights thus require a holistic approach that addresses both the causes and consequences of discrimination, and aim at social transformation.

Recognizing the aspiration of the Working Group to better understand the processes and elements which contribute to build “good practices” in legislation and its implementation the Working Group requests that you provide detailed information on at least **one law** adopted in a State that has been successfully implemented in that it has had a notably substantial impact on eliminating discrimination against women in the specific area related to that law and has enhanced women’s enjoyment of their human rights in your national context, such that you consider it a “good practice.” Processes of substantive change often take place over a period of many years, so the law need not be new: this survey should focus on a law whose impact has been substantiated and the impacts of which are still being seen.

The Working Group wishes to thank all stakeholders for responding to this questionnaire **by 12 September 2016.**

**Questionnaire**

**For the following sections, please provide information about a law that has been selected as an exemplary case study of a “good practice” in eliminating discrimination and empowering women in your national context.**

**I. Identification of a law that has eliminated or substantially reduced discrimination and supported women’s empowerment.**

Background Information on the Law

1. Name/Title of the Legislation: *Prohibition of Trafficking in Persons Law (Legislative Amendments)*, 5766 – 2006

2. Date the law passed and came into force: On October 19th 2006 Israel's Parliament, the Knesset, passed the new law that came into force on October 29th, 2006.

3. Was it a new law or an amendment of an existing law?

New ( ) Amendment ( x )

If it was an amendment of an existing law, please providing name/title of existing law and any pertinent information here:

The new legislation reflects an attitude whereby trafficking in persons is amongst the most severe crimes that exist, as at the core of this crime is "modern slavery", the withholding of freedom and objectification of that person. Furthermore, this legislation establishes the principle that combatting trafficking in persons requires the integration of a series of tools and actors. It also places emphasis on the primacy of victim protection and on the dignity of the human personality. Thus, the law amends the criminal legislation, and various parts of the criminal procedure, but also amends the *Legal Aid Law*, and adds reporting duties.

The law criminalizes various forms of conduct which amount to trafficking or allied crimes, creates procedural frameworks to facilitate deterrence, provides various protections for victims, and includes provisions to encourage international cooperation.

The new legislation establishes an offence, in the *Penal Law* 5737-1977 (hereinafter: *Penal Law****),*** of **trafficking in human beings for a wide array of exploitative purposes: removal of an organ, giving birth to a child and taking away the said child, subjecting a person to slavery, subjecting them to forced labor, subjecting them to an act of prostitution, subjecting them to participation in a pornographic publication or exhibition, committing a sexual offence against him.**

As regards trafficking for the purpose of slavery or forced labor, the law provides an additional panoply of crimes to address gradations in exploitation (further elaborated in question 5). This reflects the attitude that exploitation, even when it does not amount to trafficking or slavery, may still create a climate friendly to the development of such severe forms of exploitation. As such, the creation of a series of crimes serves a preventative purpose.

4. Is the legislation focused specifically on discrimination against women/gender equality, or is it part of a larger piece of legislation (i.e. Labour law with provisions around gender)? Please explain.

We see the law as promoting human rights in general, with a greater emphasis on women's rights. The law is not restricted to women, but the international understanding and experience shows that there is a higher percentage of women (and girls) who are victims of trafficking, due to various reasons; such as women being more susceptible to fall victims and the fact that in many societies, they are in a weaker position to start with. Furthermore in some of the purposes mentioned above, they are the vast majority such as trafficking for purposes of prostitution, for purposes of giving birth to a child and taking the child, for purposes of committing a sexual offence and trafficking for purposes of subjection to participating in pornographic publication or exhibition.

We should also note, that prior to the legislation coming into force, the main form of trafficking in Israel that the legislation was meant to address was trafficking in women for purposes of prostitution. Starting from the beginning of 2000, Israel was facing a rapidly escalating phenomena wherein women from former USSR countries were being smuggled into Israel through the Sinai border, sold to brothels where they were held captive and made to work under terrible conditions and violence. At its peak, there were over 1'000 women being smuggled into Israel every month and it was this background that led to the legislation.

5. Please provide a summary of the content of the law, its preamble or explanatory note, policy measures, dissemination and implementation regulations, and provisions for access to justice, as well a link to where all these can be found online.

1. Criminalizing a Series of Exploitative Behavior

The law establishes a gradation of criminal offences tailored to meet gradations in exploitative behavior. This reflects the view that all exploitation must be combated, even when it does not amount to trafficking or slavery, in order to create a climate unfriendly to the development of such severe forms of criminal behavior.

As regards trafficking for the purpose of slavery or forced labor, the following series of crimes has been established: **trafficking in human beings for the purpose of slavery or forced labor** (Section 377A(a) of the *Penal Law*), **holding a person under conditions of slavery** (Section 375A of the *Penal Law*), **forced labor** (Section 376 of the *Penal Law*), and **exploitation of vulnerable populations** (Section 431 of the *Penal Law*). This last crime was in force before the law, but its punishment was raised from one year's imprisonment to 3 years of imprisonment. In addition, the abduction offence has been broadened to include two new offences: **abduction for the purpose of slavery or forced labor** and **conveying a person beyond the boundaries of a state** (Sections 374A and 370 of the *Penal Law*)and a new offence created of **causing a person to leave a state for the purposes of prostitution or slavery (**Section 376A of the *Penal Law*).

The following is a concise analysis of the main crimes included in the new law and pertinent to trafficking for the purpose of slavery and forced labor:

1. **Trafficking in Persons** (Section 377A(a) *Penal Law*)

Before the new law came into force, the only trafficking offence was for the purpose of prostitution. The new law includes trafficking for a wide array of unworthy purposes, including slavery and forced labor. The crime is attended with a maximal punishment of 16 years imprisonment and 20 years imprisonment if it is committed against a minor.

The crime is composed of two main elements: a **transaction** in a person, for one of several **exploitative purposes**, including subjecting a person to slavery or forced labor. The definition of transaction in a person is instructive:

**""transaction in a person" means selling or buying a person or carrying out another transaction in a person, whether or not for consideration."**

Trafficking may transpire even if no threat, violence or abuse of power occurs. This definition facilitates the proving of the offence, as does the statement that no consideration is required, nor a transaction of a particular kind. The law explicitly states that a middleman in a trafficking transaction is to be considered an accomplice.

The law also facilitates convictions by stating two possible connections between the transaction and the exploitative conditions: either the trafficker must perform the acts for the exploitative purpose or in so acting he must place the person in danger of one of the exploitative conditions.

In addition, it should be noted, that the Supreme Court Interpretation of "buying and selling", was broad and included any transfer of rights in a human being. This mode of interpretation should facilitate convictions, even if it is difficult to prove the nature of the transaction.

1. **Holding a Person under Conditions of Slavery** (Section 375A of the *Penal Law*)

Before the new law, Israel did not have a slavery offence. Now, it is a crime with a maximal punishment of 16 years of imprisonment and 20 years imprisonment if committed against a minor.

The elements of the offence require that a person be held under conditions of slavery for the purposes of work or services, including sex services. Slavery is defined as follows:

**""slavery" means a situation under which powers generally exercised towards property are exercised over a person; in this matter, substantive control over the life of a person or denial of his liberty shall be deemed use of powers as stated."**

This definition attempts to focus upon the hard kernel of slavery, which is acting towards a person as if towards property, thus destroying his separate legal personality and his basic autonomy. [[1]](#footnote-1) The first part of the definition is taken from the Slavery Convention of 1926, whereas the second part was added in order to clarify that slavery may take place, even if there is no transfer of property rights in the person.

**Clearly, slavery and trafficking for the purpose of slavery are similar**, in that both crimes strike at a person's most basic freedoms and objectify him. Still, in trafficking, this is done by means of a **transaction in a person**, whereas under slavery, the **conditions** under which the person is held constitute the crime.

3. **New Abduction Offences Allied to Trafficking** (Sections 374A and 370 of the *Penal Law*)

The new law creates two new abduction offences which serve to cover behavior which is close to trafficking and slavery, but may not fall squarely into the elements of those crimes:

1. **Aggravated abduction offence** - (Section 374A) which requires that the abduction be perpetrated in order to achieve the aims enumerated in the trafficking crime (including slavery and forced labor). The maximal sentence is 20 years imprisonment. This Section was added in order to tailor abduction to a world rife with trafficking.

**Note that abduction does not require the use of force**, but may occur if the perpetrator threatens or entices the victim to leave the place in which he is by means of fraud (Section 369 of the *Penal Law*). Thus this crime fills in gaps left by the trafficking offence. **Even if a transaction cannot be proven, as is required by the trafficking crime, a perpetrator who causes a person to move from one place to another by fraudulent means, may still be convicted of abduction.**

2. In addition, the law creates a new offence of **"Conveying a Person Beyond the Boundaries of a State"** (Section 370) - which prohibits conveying a person beyond the boundaries of the state in which he/she resides. This provision reflects a reality by which people are abducted beyond national boundaries in order to "feed" the international "trafficking industry". The maximal sentence is 10 years imprisonment.

As in the abduction offence previously described, **this offence may be used even when there is no evidence of a transaction**, as required by the trafficking in persons offence.

4. **Causing a Person to Leave a State for Purposes of Prostitution or Slavery (**Section 376B of the *Penal Law*)

 Like the new abduction offence, this new offence fills in the gaps left by the trafficking offence. It penalizes "**Anyone who causes another person to leave the State in which he lives for purposes of engaging the person in prostitution or holding that person under conditions of slavery."** The maximal sentence is ten years imprisonment.

Thus, even if a transaction in a person cannot be proven, as required by the trafficking offence, a perpetrator who entices another person to move across borders in order to hold him under conditions of slavery is still liable to criminal sanctions.

5. **Forced Labor** (Section 376 of the *Penal Law*)

Before the law was enacted, the *Penal Law* included an offence of forced labor, but it was inadequate to deal with modern cases of severe exploitation, as can be seen by the maximal sentence, which was one year's imprisonment.

The new law redesigned this offence and strengthened it, as can be seen by the maximal sentence, which is 7 years imprisonment. The section penalizes "**Anyone who unlawfully forces a person to work, by using force or other means of pressure or by threat of one of these, or by consent elicited by fraud, whether or not for consideration…"**

This crime is tailored to cover situations of lesser exploitation than slavery or trafficking, which have maximal sentences of 16 years imprisonment. In addition, while those crimes deal in denial of basic freedoms, so that they do not require an element of force, pressure, threats or fraud, "forced labor" does, because it deals with less severe situations which can still be considered as employment relations, rather than slavery.

The crime does not require overt or threatened violence; "**other means of pressure"** opens the door to milder means. This term appears in other sections of the *Penal Law* and has been interpreted to include exploitation of severe economic hardship or an implicit threat to withhold a worker's permit.

**These five crimes are intended to cover the range of criminal behaviors related to exploitation of workers, without leaving gaps. The most severe behavior will be prosecuted under the trafficking, slavery or abduction crimes. The next gradation is causing a person to leave his state for purposes of slavery, and finally forced labor.**

Other provisions

In addition to the creation and rewriting of offences to address the phenomenon of modern slavery, the law also creates means of financial prosecution, aimed at the assets acquired by traffickers, and procedural rules affording important protection to victims. Some of the major important provisions of this law are: minimum sentences and a rule to award compensation to victims (Sections 377B and 377C of the *Penal Law*), broad forfeiture provisions (Section 377D of the *Penal Law*), money laundering provisions, a special Forfeiture Fund (Section 377E of the *Penal Law*), extraterritorial jurisdiction (amended Section 15 of the *Penal Law*), legal assistance between states (amendment to *Legal Assistance between States Law*, 5758 - 1998), duty to report (amendment of Section 368D of the *Penal Law*) court testimony not in the presence of the accused (amendment to the *Criminal Procedure Law* *(Interrogation of Suspects)* 5762-2002), preliminary testimony (amendment to Section 117(b) of the *Criminal Procedure Law [Consolidated Version]*, 5742 - 1982), court proceedings: in camera proceedings and non release of details about minors (amendment to the *Courts Law [Consolidated Version]*, 5744 - 1984), protections accorded to victims of crime (amendment to the *Crime Victims' Rights Law* 5761-2001).

The law also provides victims of trafficking and slavery offences with legal aid in proceedings arising from the trafficking – provided free of charge by the State. This empowers and enables them to pursue their rights to compensation in the civil courts.

6. When was the first draft of this law introduced, and when was it adopted (please specify dates of first draft and adoption?

The law consolidates two bills: a government bill and a bill proposed by a member of Knesset,[[2]](#footnote-2) MK Zehava Galon. The passage of the final version required cooperation between members of the Government and Knesset. The first Bill was submitted in 2005 and enacted in 2006.

*The Law’s Compliance with CEDAW*

7. In your view, does the law in question place a positive duty on the State to achieve substantive equality for women?

Yes ( X ) No ( )

 If yes, please explain: The law anchored the full scope of offences of trafficking in persons, thus vastly broadening the protection granted to trafficking, the majority of which, in Israel, and around the world, are women. Regretfully, women are more vulnerable to objectification and trafficking, and the law combats objectification which is at the core of the trafficking crimes.

8. Does the law contain a definition of discrimination that is in accord with Article 1 of CEDAW?

Yes ( ) No ( X )

 If yes, please direct us to the section of the pertinent document. If not, please indicate if that definition is enshrined already in the constitution or charter of rights.

9. Does the law’s definition of discrimination include and define both direct and indirect discrimination?

Yes ( ) No ( X )

 If yes, please explain:

10. How has the Constitution supported the process of adoption and implementation of the law? Does the Constitution have an equality and non-discrimination provision?

Israel has no formal constitution. However, it has enacted a number of Basic Laws. These Basic Laws, taken together, comprise a "constitution-in-the-making". Israel's Basic Laws, as their name suggests, are set to be basic norms, similar to constitutional provisions, which allow therefore very little room for amendment or repeal, and are not always subject to limitations or derogations, thus serving a key role in the protection of human rights. The Basic Laws are adopted by the Knesset in the same manner as other legislation. However, most Basic Laws include entrenched clauses whereby either a special majority is required to amend them, or changes may only be made if they are pursuant to the values of the State and are for a worthy purpose. One of the basic laws in Basic Law: Human Dignity and Liberty, establishing the right to freedom and basic human rights, non-discrimination on grounds of gender, race, religion and others, the right to equality and human dignity. The trafficking legislation is of course supported by this constitutional basic law and has been seen as such by the judiciary – most recently in the precedential case of Guilani v. the State of Israel, where the court states that the idea of "deprivation of liberty" in the slavery offence is drawn, among others, from the provisions of this law – stating that a person's liberty may not be deprived or limited by imprisonment, detention, or *any other means.*

11. Does the law contain provisions that address discrimination against women from an intersectional perspective, taking into account a diversity of women’s social identities, statuses and experiences?

 Yes ( ) No ( x )

 If yes, please explain which social identities, statuses and/or intersectional factors are explicitly noted in the law:
12. Whom of the following are bound by the law?

 The State Yes ( x ) No ( )

Public Authorities/Bodies Yes ( x ) No ( )

Civil society organisations Yes ( ) No ( x )

Private companies Yes ( x ) No ( )

Individuals Yes ( x ) No ( )

**II. How the law came into being and was implemented**

1. What was the impetus for the development of this law (i.e. social movement activism, political platform, a Supreme Court ruling, an egregious case of discrimination, constitutional reform…)?

Please see the answer to question No. 2 below. And answer to question 4 in previous section.

2. Were there any conditions in the political context that made it possible for this law to be developed and adopted at the time that it was (i.e. a particular political party in power, a conflict/post-conflict situation, a recent ratification of an HR instrument, etc.)?

Yes ( X ) No ( )

If yes, please explain:

The legislation of this Law was made possible by a combination of circumstance and persons who at the time served in certain political and public positions. At that time, the Supreme Court Justice, Elyakim Rubinstein served as the Attorney General of Israel. He initiated the first Inter-Ministerial Committee which examined the phenomenon of trafficking in women for the purposes of sexual exploitation. In addition, MK Zehava Galon actively acted to bring these issues to the awareness of other Knesset members and to the public. Moreover, at the time, the U.S. State Department issued its Trafficking in Persons (TIP) Annual Report, which addressed the issue of trafficking in women for the purposes of sexual exploitation and placed Israel in Tier 3 – as a country whose governments do not fully comply with the minimum standards and are not making significant efforts to do so. The recommendations of the Committee alongside MK Zehava Galon actions, and the TIP Report Tier placement, constituted significant factors in making this law possible.

3. What actors were consulted and how were they consulted in the law’s development and formulation? Check all that apply, and, where possible, provide names of involved individuals, agencies, organizations, etc.

Legal Experts/scholars (please specify) ( X ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Government Ministries ( X ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NHRI ( ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

NGOs/CSOs ( X ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Other social groups (specify) ( X) Women's organizations\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

4. Was there opposition to the law?

Yes ( X ) No ( )

If yes, please explain from whom and why, and how it was addressed:

The Public Defender's Office expressed its concerns regarding this law, especially on the broad definition of Slavery in the Law.

6. Were there other laws that needed to be reformed in order to enact this law?

Yes ( X ) No ( )

If yes, please list and explain:

Amendments were made to the following laws:the *Criminal Procedure Law* *(Interrogation of Suspects)* 5762-2002, the *Legal Aid Law* 5732 – 1972, the *Criminal Procedure Law [Consolidated Version]* 5742 – 1982, the *Courts Law [Consolidated Version]* 5744 – 1984, the *Legal Assistance between States Law* 5758 – 1998, the *Prohibition of Money Laundering Law* 5760 – 2000,the *Crime Victims' Rights Law* 5761-2001, the *Restriction on Use of a Place for Purposes of Preventing Commission of Offenses Law 5765-2005.*

7. Were any international human rights treaties or mechanisms referenced in the law’s creation?

Yes ( X ) No ( )

If yes, please list and explain: The Slavery Convention of 1926, UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000) and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002).

The explanatory report to the law explains that the provisions of the law are necessary for Israel to come into conformity with these two protocols, to enable their ratification, and to allow the country to take part in that important international struggle.

8. Did any international/regional/national human rights mechanism issue recommendations to the State in regard to amendment or formulation of this law, or regarding effective implementation? If yes, was this recommendation formulated prior, during or after the adoption of the law?

Yes ( X ) No ( )

If yes, please list and explain:

Please see the following concluding observation by the CEDAW Committee, following Israel's session before the Committee in January 2011:

"Trafficking and exploitation of prostitution

30. The Committee underlines the State party’s continuous efforts to address the issue of trafficking in women and girls, including the enactment of the *Anti-Trafficking Law*, which has broadened the definition of trafficking, as well as the adoption of the two National Plans to combat trafficking in persons for purposes of prostitution, and trafficking in persons for purposes of slavery and forced labour. While noting the extensive information provided in the fifth report and the State party’s replies to the list of issues, including that there has been a sharp decline in the number of women trafficked to Israel for purposes of prostitution, the Committee remains concerned at the prevalence of trafficking in the State party as a destination country, as well as reports of internal trafficking. In addition, it is concerned at the limited information provided on the existence and implementation of regional and bilateral memorandums of understanding and/or agreements with other countries on trafficking. Furthermore, the Committee is concerned that female asylum seekers and migrants entering into Israel through the Sinai desert are at high risk of becoming victims of trafficking.

31. The Committee urges the State party to fully implement article 6 of the Convention, including through:

(a) Effective implementation of its anti-trafficking legislation as well as its two national plans on the phenomenon of trafficking, in order to ensure that perpetrators are punished and victims adequately protected and assisted;

(b) Strengthening of its efforts at international, regional and bilateral cooperation with countries of origin and transit so as to address more effectively the causes of trafficking, and improve prevention of trafficking through information exchange; and

(c) Provision of information and training on the anti-trafficking legislation to the judiciary, law enforcement officials, border guards and social workers in all parts of the country; and

(d) Provision of immediate and effective treatment, including medical, psycho-social and legal assistance for women in need of international protection, who are victims of trafficking and sexual slavery in transit to Israel.[[3]](#footnote-3)"

9. What measures to support implementation were built into the law or developed immediately after (and as a result of) its passing? This could include such measures as budgetary and resource allocation, monitoring mechanisms, data collection, impact measurement mechanisms, independent monitoring, etc. Please list and explain, providing any relevant documents.

The established additional offences, monitoring mechanisms, enforcement mechanisms and aid mechanisms for victims of trafficking include:

I. A Message to the Courts – Minimum Sentences and a Rule to Award Compensation to Victims (Sections 377B and 377C of the *Penal Law*)

The new law sends a message to courts in two respects. It mandates minimal sentences for trafficking and slavery offences (one quarter of the maximal sentence unless there are special circumstances) [[4]](#footnote-4) and enacts a rule that courts should award compensation to victims of trafficking and slavery offences. If a court does not award such compensation, it must give the reasons for this omission.

**This limitation of judicial discretion is rare in the Israeli legal climate**. It sends a clear message to the judiciary that these are serious crimes which merit serious sentences and that victims of such crimes suffer harm which should be compensated.

IV. Economic Tools in the Battle against Trafficking and Slavery

The new law recognizes that trafficking and slavery are committed in order to reap economic rewards and that therefore, the battle against them must strike at the roots of these profits. The law provides two kinds of tools:

1. **Broad Forfeiture Provisions** (Section 377D of the *Penal Law*)

The law enacts broad forfeiture provisions which allow the courts to rule that property connected to trafficking and slavery offences should be forfeited. It includes the following provisions:

1. The property which can be forfeited is broad and includes property amassed from the profits accruing from movable and immovable property, money and rights which are connected to the crime.
2. The connection between the property and the trafficking and slavery offence is broadly set and may include: that the crime was committed with aid of the property, that the property served to allow the commission of the crime, that it was intended to be remuneration for the commission of the crime, that it was obtained directly or indirectly as remuneration for the commission of the crime, or was obtained as a result of the commission of the crime.
3. The law imposes an obligation upon courts that convict perpetrators of trafficking and slavery crimes to order forfeiture, as a rule, unless they reach the conclusion, for special reasons, that this should not be done.
4. The law allows courts to issue temporary orders and to order forfeiture in a civil proceeding, under special circumstances, even if no criminal proceeding was held.

2. **Money Laundering** (amendment of the *Prohibition of Money Laundering Law*, 5760-2000)

The law provides that the new crimes of trafficking in persons, kidnapping for the purposes enumerated in the trafficking section, slavery, causing a person to leave a state for prostitution or slavery – are crimes of origin for the purpose of the *Money Laundering Law*. This means that perpetrators who have money laundered in the context of these crimes, may be prosecuted under this economic law, as well as the substantive criminal laws violated, thus allowing a coordinated attack which strikes at the basis of their ill gotten gains.

V. Special Forfeiture Fund (Section 377E of the *Penal Law*)

As a rule, in the Israeli legal system, proceeds of crime which are forfeited are transferred to the State. Though there are exceptions to this rule, they are rare.

The new law diverges from this rule and establishes a special fund to which all forfeited property and fines imposed in connection to **trafficking and slavery offences**, should be transferred. The fund must allocate this property for the following purposes:

1. Rehabilitation, treatment and protection of victims of these offences. **Each year, no less than one half of the Fund's assets must be allocated to this end.**
2. Prevention of the commission of such offences.
3. Carrying out the functions of law enforcement authorities in enforcing the provisions of the law in regard to these offences.
4. Payment of compensation (whole or partial) to individual victims who have been awarded such compensation by means of court judgments (whether in civil or criminal cases) and have established that they have no reasonable possibility of enforcing the judgment.

These purposes reflect the various aspects of the battle against trafficking, as established by international conventions:[[5]](#footnote-5) **protection, prosecution and prevention**. Thus, the Fund is intended to be a tool to encourage the waging of this battle on all fronts.

**This provision is an important precedent, in its emphasis upon the protection of victims, above and beyond the other purposes of the Fund.**

VI. Tools to Foster the International Battle against Trafficking: Extraterritorial Jurisdiction and Legal Assistance between States

The new law forges two tools to encourage the international battle against trafficking and slavery:

1. **Extraterritorial Jurisdiction** (amended Section 15 of the *Penal Law*)

As a rule, Israeli courts have jurisdiction to try an Israeli citizen who has committed a crime abroad, on condition that the act is a crime, both in the state in which it was committed and in Israel (double criminality).

The new law broadens the class of cases in which an Israeli court has **jurisdiction to try an Israeli citizen for crimes committed abroad, even if the act was not a crime in the state in which it was committed.** These now include three new crimes enacted by the law: trafficking in persons, conveying a person beyond the boundaries of a state and causing a person to leave a state for the purpose of prostitution or slavery.

This provision prevents the Israeli citizen from sheltering under foreign legal systems which do not have adequate criminal provisions to cover these crimes.

1. **Legal Assistance between States** (amendment to *Legal Assistance between States Law*, 5758 - 1998)

The new law authorizes Israeli courts to **enforce forfeiture orders of foreign courts or administrative bodies** regarding property in Israel connected to the crimes of **trafficking in persons and slavery**. It also authorizes the Minister of Justice to request enforcement of a forfeiture order given by an Israeli court in regard to these crimes.

This amendment encourages cooperation between Israel and other nations in the economic battle against these offenses.

VII. Protection of Victims of Trafficking in Persons and Allied Crimes

The new law includes a series of protections for victims of trafficking and allied crimes:

1. **Special Forfeiture Fund** (Section 377E of the *Penal Law*)

The special forfeiture fund, described on page 12 of this document, provides for the protection of trafficking and slavery victims in general and on an individual basis, under certain circumstances.

1. **Duty to Report** (amendment of Section 368D of the *Penal Law*)

Section 368D of the *Penal Law* obligates a member of the public to report to the Police or the State Welfare Functionary if he harbors a suspicion that a crime has been committed recently against a minor or a member of a vulnerable population by a person responsible for him. A broader obligation is imposed upon certain professionals who tend to come into contact with such populations: to report even if the crime was not recently committed. These professionals include doctors, nurses, education employees, social workers, welfare workers, police, psychologists, criminologists, para – medical personnel, directors or staff in homes or institutions in which reside minors or members of vulnerable populations. **Violation of these obligations is a criminal offence.**

The new law added the crime of **trafficking of persons** as one regarding which this obligation to report applies. This amendment is intended to provide protection for the victims of trafficking by engaging the public as a whole, and professionals who may come into contact with them, to report their plight, thus allowing them to be helped.

**Court Testimony not in the Presence of the Accused (**amendment to the *Criminal Procedure Law* *(Interrogation of Suspects)* 5762-2002) Before the law came into force, courts were authorized to hear the testimony of a complainant, not in the presence of the accused, as regards sexual offences or trafficking for the purpose of prostitution – on condition that certain procedural safeguards were upheld.

The law applies this arrangement to complainants in regard to **trafficking for pornography and trafficking for the commission of a sexual offence.** This provision attempts to protect such complainants who often have special problems in facing accused persons who have invaded their autonomy in such extreme ways.

1. **Legal Aid for Victims of Trafficking and Slavery**

Before the law was enacted, free legal aid was given to all victims of trafficking for the purpose of prostitution. This aid pertains to civil suits arising from the trafficking or allied offences or in regard to their status as illegal entrants under the *Entry to Israel Law*. The assistance is accorded to all such victims unconditionally, no matter what their financial situation.

1. **Preliminary Testimony** (amendment to Section 117(b) of the *Criminal Procedure Law [Consolidated Version]*, 5742 - 1982)

Before the law was enacted, courts were obligated, as a rule, to decide on requests for preliminary testimony [[6]](#footnote-6) two weeks from the submission of the request and to hear the testimony, no later than two months from the date of the ruling – as regards criminal cases of trafficking for the purpose of prostitution.

The new law broadens this provision to include **all offences of trafficking in persons**. This arrangement provides protection of victims by shortening the period during which they may be threatened or pressured by criminals and by allowing them to return to their countries of origin within a reasonable time, should they so desire.

1. **Court Proceedings: In Camera Proceedings and Non Release of Details about Minors** (amendment to the *Courts Law [Consolidated Version]*, 5744 - 1984)

The new law authorizes courts to hear the trafficking cases in camera, in order to protect the interests of a victim of trafficking who may experience emotional hardship in testifying in public.

In addition, the law forbids releasing details about a minor who is a victim of trafficking in persons, (including - his/her name, picture, place of residence or other details which may identify him/her), without the permission of the court. This is intended to provide special protection to a minor who has undergone serious trauma.

1. **Protections Accorded to Victims of Crime (**amendment to the *Crime Victims' Rights Law*, 5761-2001)

The law accords to all victims of trafficking, slavery, and the aggravated kidnapping offence (for the purposes enumerated in the trafficking section) - special rights in the context of court proceedings. These rights are accorded to victims of especially severe crimes. Among the rights are: the right to obtain information about the prison or detention status of the criminal, the obligation of the court to expedite the proceedings within a reasonable time, forbidding the interrogation of such a victim about their sexual past (as a rule), the right to be accompanied by a supportive person during police interrogation, the right to express an opinion before the Parole Board, the right to express an opinion regarding amnesty for the criminal.

10. How was the law made accessible to the public? Did it include formal training on the new law for all stakeholders involved? Were specific groups of women targeted for these activities? Who was involved in these initiatives, and where did the funding come from? Please answer in detail.

The legislation process and the Law were discussed in the Media extensively, and the Law published to the public, similar to every law legislated. But in this case, the legislation process involved women's rights NGOs who were an integral part of the formation of the legislation. Following its enactment, training sessions were held in the various bodies in the relevant junctions likely to encounter trafficking victims and traffickers, as well as the general public. The training was State-funded and also involved NGOs. This training is ongoing till today.

11. Have there been any barriers to the law’s full and successful implementation?

Yes ( X ) No ( )

If yes, please explain the barriers and how they were/are being addressed:

There are still difficulties identifying victims of trafficking and slavery, especially in the labor fields of construction/ agriculture sites and in private homes (domestic care). In addition, there are many changes in the trafficking patterns that make it increasingly difficult to identify cases of trafficking – for law enforcement agencies and the Courts. For example: the traffickers do not use violence as much as in the past, do not confiscate travel documents, etc.

Moreover, there are difficulties distinguishing between asylum seekers and victims of trafficking.

12. What kinds of roles are being carried out by civil society/women’s organizations in supporting the implementation and impact of the law? How are these activities being financed?

Civil society organizations take part in several aspects relating to the law – they take part in training, lectures and awareness raising. An NGO operates the shelters for victims of trafficking - fully financed by the State. NGOs are also very active in the Knesset sessions of The Knesset Subcommittee on Trafficking in Women and Prostitution, a subcommittee of the Committee on the Status of Women, within the Knesset, focusing on the battle against trafficking in women and issues relating to prostitution. NGOs also take part in many of the round table and professional team coordinated by the NATU- the National Anti-Trafficking Unit and are an important partner in all aspects.

III. The impacts that the law has had for women on the ground

1. Did the adoption of the law result in the creation of any policies?

Yes ( X ) No ( )

If yes, please list and explain:

Parallel to the final drafting of the Law, in May 2006 the Israeli Government established a Committee of Directors General (CDG), A policy-making committee, which was established by a Government Resolution. The Committee members includes the Directors General or senior representatives of all the key Government Ministries that are involved in the anti-trafficking efforts, including the Ministries of Justice, Interior, Public Security, Health, Economy, Foreign Affairs, Social Affairs and Social Services, Finance and the Police. The Chairperson of the Committee is the Director General of the MOJ.

In addition, in December 2007 the Israeli Government approved the National Plans (Government Resolution no. 2670) on Trafficking in persons and trafficking for slavery and forced labour. These plans are currently undergoing an update process.

2. Have court cases/decisions resulted from the law? Has this data been systematically collected? If so, please provide details about the number of cases, convictions, decisions made.

The Law provided the Police, the State Attorney's Office and the courts many additional tools to prosecute and convict traffickers in persons. Since the enactment of the Law in 2006, there was an increase of convictions in trafficking in persons, in accordance with the Law, and cases using the new offence of holding under conditions of slavery have also been successfully prosecuted. Most recently, in September 2016 the Israeli High Court of Justice convicted two persons of holding their household employee under conditions of slavery.

3. What specific and measurable outcomes showing the impact of the law on society and on women’s enjoyment of their rights have been recorded as a result of the adoption and implementation of the law? How have these been monitored and by whom?

This Law was initially created to combat the exploitation of women and girls for purposes of prostitution, and to send a clear message that exploiting women, and other vulnerable groups, will be severely punished. The law significantly increased the number of women eligible for legal aid that received compensation from their traffickers and had completely overturned the trafficking in persons situation in Israel prior to its enactment.

The provision of legal aid by the State to victims of trafficking allowed dozens of victims of trafficking and slavery to pursue civil cases against their traffickers, and receive compensation from them. Furthermore, the law had an indirect impact on the way women and girls are perceived in Israeli society. A clear message filtered down that women are not objects or transactions and that they are equal in all ways and should be treated with dignity.

4. Are there other impacts of the law that have been observed?

Yes ( X ) No ( )

If yes, please list and explain what they are, as well as monitoring mechanisms used to observe and/or measure those impacts:

In comparison with the former law which addressed trafficking for purposes of prostitution, and was part of the Prostitution and Obscenity Chapter of the *Penal Law*, this Law places the offence of trafficking in persons in the chapter of Offenses against Liberty chapter of the Penal Law. This change meaning is very significant, has it relates to the nature of the offences and their graveness,

5. What mechanisms have been set up to review and assess the implementation of the law?

The National Anti-Trafficking Unit (NATU) is the primary government agency to coordinate the anti-trafficking efforts on a national scale, headed by the National Coordinator. The NATU was established according to a 2006 Government Resolution, and it operates independently, under the Ministry of Justice, and reports to the Committee of Directors General. While there are many government agencies that take an active part in anti-trafficking efforts, the NATU is the leading government agency, performing crucial overview functions in the realms of prosecution, protection and prevention. The NATU serves both as a coordination body, and as a leader in policy development. Its mission is to promote cooperation between all relevant government authorities, and also to serve as a bridge between government authorities and non-governmental organizations, as well as with relevant international bodies.

6. Is there data on how the law has affected some groups of women differently (i.e. based on race, ethnicity, religion, social class, age, etc.)?

Yes ( ) No ( X )

If yes, please explain the differential impacts and provide any relevant documents.

7. Has there been independent monitoring of the law?

Yes ( X ) No ( )

Please provide information.

There is a wide range of monitoring of this issue through the work on the UNODC on aspects of trafficking in persons according to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children to the [Convention against Transnational Organised Crime](https://en.wikipedia.org/wiki/Convention_against_Transnational_Organised_Crime). This issue is also addressed through the various Human Rights bodies, especially the CEDAW Committee and the Special Rapporteur on trafficking in persons, especially women and children. In addition, there are many NGOS very active in this field that are very much involved in this issue.

1. Prosecutor v. Dragoljub Kunarac et al, before the International Tribunal for the Former Yugoslavia dealing with the crime against humanity of "enslavement" – first instance decision 22 February 2001 and appeal 12 June 2002. [↑](#footnote-ref-1)
2. The Knesset is Israel's Parliament. [↑](#footnote-ref-2)
3. CEDAW/C/ISR/CO/5 (4.2.2011) [↑](#footnote-ref-3)
4. In the Israeli legal system, this does not mean that the minimal sentence must be incarceration; it can also be a suspended sentence, though the law mandates that not all the sentence can be suspended. [↑](#footnote-ref-4)
5. See for example, the citation in footnote 1. [↑](#footnote-ref-5)
6. Preliminary testimony is a procedure which allows hearing the testimony of a witness before the actual trial begins. [↑](#footnote-ref-6)