



KINGDOM OF SAUDI ARABIA

**UNIVERSAL PERIODIC REVIEW
HUMAN RIGHTS COUNCIL**

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Kingdom of Saudi Arabia
Submission to the United Nations Universal Periodic Review
3rd Cycle
31st Session of the UPR Working Group
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1. REPORTING ORGANISATIONS

1.1. This submission is prepared and submitted by:

1.1.1. **Reprieve.** An international legal action charity which was founded in 1999 (UK charity registration no. 1114900). Reprieve provides support to some of the world's most vulnerable people, including people sentenced to death and those victimized by states' abusive counter-terrorism policies. Based in London, but with offices and partners throughout the world, Reprieve is currently working on behalf of 70 people facing the death penalty in 16 countries, including Saudi Arabia. Reprieve's vision is a world free of execution, torture and detention without due process.

1.1.2. **European Saudi Organisation for Human Rights (ESOHR)** is a non-profit organization established by a group of activists and based in Berlin, Germany, with the aim of strengthening the commitment to human rights principles in Saudi Arabia.

2. INTRODUCTION

2.1. In this submission, Reprieve and the European Saudi Organisation for Human Rights (ESOHR) provide an overview of developments in the application of the death penalty in the Kingdom of Saudi Arabia since the last Universal Periodic Review, with a focus on the use of the death penalty for drug offences and against migrant workers, as well as suspected victims of human trafficking.

2.2. Saudi Arabia has failed to address recommendations it accepted during the previous review period. Of concern are the rising executions, the disproportionate number of executions of migrant workers, non-compliance with international standards in imposition of the death penalty, including violation of the "most serious crimes" threshold and the lack of due process and fair trial in capital cases, as well as lack of access to remedies for migrant workers.

2.3. While Saudi Arabia has taken some measures towards guaranteeing rights to migrant workers and preventing trafficking, the existing framework continues to

deprive migrant workers of their human rights, and they face ongoing discrimination in the criminal justice system.

- 2.4. Since 2014, Saudi Arabia has carried out **579** executions, placing it among the top five executing countries in the world. Saudi Arabia has continued to carry out an unprecedented number of executions with appalling regularity and in flagrant disregard of international standards since its last review in 2013. In the first quarter of 2018, the Kingdom has carried out execution for drug offenders at the same rate as for murder.

3. THE DEATH PENALTY FOR DRUG OFFENCES IN SAUDI ARABIA

- 3.1. Saudi Arabia retains the death penalty for drug offences and has executed people at an unprecedented rate for drug trafficking. Since January 2014, Saudi Arabia has executed 201 people for drug offences, accounting for **38%** of all executions in the Kingdom.
- 3.2. This is despite the international prohibition against the death penalty for drugs and non-lethal offences, and calls by UN experts demanding a halt to executions for drug offences.
- 3.3. Article 37 of Saudi Arabia's Law on the Control of Narcotic and Psychotropic Substances makes it an offence punishable by death to traffic or smuggle narcotics, receive such substances from a smuggler, manufacture drugs with the intent to trade, and recidivism of smuggling or manufacturing offences.
- 3.4. Such provisions retaining the death penalty for drug offences, and subsequent executions, runs counter the Kingdom's obligations to limit the death penalty to crimes that cross "the most serious crimes threshold." The Arab Charter for Human Rights, Article 10 of which prescribes that:

"Sentence of death will be imposed only for the most serious crimes; every individual sentenced to death has the rights to seek pardon or commutation of the sentence".

- 3.5. Although Saudi Arabia has not acceded to the International Covenant on Civil and Political Rights¹, there is international consensus that drug offences do not cross the most serious crimes threshold.

- 3.6. The UN Economic and Social Council describes the threshold for the most serious crimes as not going beyond “*intentional crimes with lethal or other extremely grave consequences*”. The United Nations General Assembly later endorsed this resolution.² This position is shared by several others including the UN Human Rights Committee (HRC),³ the UN Office on Drugs and Crime (UNODC),⁴ the UN Special Rapporteur on extrajudicial, summary or arbitrary executions,⁵ the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,⁶ and the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.⁷ The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has further stressed that “most serious crimes” are defined as “cases where it can be shown that there was an intention to kill, which resulted in the loss of life.”⁸ Thus, executing individuals for drug offences amounts to summary executions in violation of the right to life.

4. MIGRANT WORKERS, FOREIGN NATIONALS AND EXECUTIONS

- 4.1. Reprieve and ESOHR are concerned that migrant workers and foreign nationals continue to be disproportionately targeted in Saudi Arabia's application of the death penalty, in breach of its international commitments and accepted recommendations. Since 2014, **37%** of persons executed were foreign nationals. The majority of these foreign nationals executed were executed for drug offences.
- 4.2. Reprieve and ESOHR are concerned that foreign nationals represent the majority of persons executed for drug offences (**67%**) in the Kingdom of Saudi Arabia since 2014. In particular, Pakistan nationals are executed at a higher rate than other foreign nationals and Saudi Arabian nationals, representing **34%** of all persons executed in the Kingdom for drug offences, even though Pakistan nationals are estimated to make only 6% of the population in the Kingdom.
- 4.3. Saudi Arabia is a leading employer of South Asian migrant workers, who occupy a variety of blue collar jobs in the Kingdom. Nationals of Pakistan are the second largest migrant population in the Kingdom, after Indian nationals.⁹
- 4.4. In its last review, Saudi Arabia accepted recommendations to take measures for promotion and protection of rights of migrant workers and their families, and to end exploitation and discrimination against them. However, foreign nationals, many of who are likely to be migrant workers have been disproportionately executed since the last review.

- 4.5. The statistics reveal that executions are being carried out and the death penalty is being imposed disproportionately and discriminately on national origin or ethnicity, in violation of international law, and Saudi Arabia's accepted recommendations.
- 4.6. Non-discrimination, together with equality before the law and equal protection of the law without any discrimination, have been held to constitute general principles relating to the protection of human rights. Article 2(1) of the International Covenant on Civil and Political Rights as well as Article 2 of the Arab Charter on Human Rights prohibit any discrimination of any kind, based on race, colour, sex, language, religion, political opinion, national or social origin, property, birth or other status. Given how vulnerable migrant workers are, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, explicitly reiterates this obligation.¹⁰

5. HUMAN TRAFFICKING AND THE DEATH PENALTY

- 5.1. Reprieve and ESOHR are concerned that many migrant workers who have been executed for drug offences may have been victims of human trafficking, who were vulnerable people and were forced to act as drug mules to transport drugs across the border. In some cases, these nationals appear to have been forced into smuggling drugs in their intestines. In at least 10 cases identified by Reprieve and ESOHR in 2017, Pakistan nationals were executed for smuggling narcotics or psychotropic substances that were ingested. In similar cases, the UN has raised concerns with the Kingdom of Saudi Arabia that such practices may be indicators that the defendants were subject to human trafficking, calling on the Kingdom to immediately conduct a review of such death sentences.
- 5.2. There is a nexus between human trafficking practices, the exploitation of persons as forced drugs mules, and the application of the death penalty for drug offences. The UNODC has also recognised that the combined impact of human trafficking and drug trafficking on the victim is immense physical abuse and mental torture.¹¹ There is consensus in the international community that victims of human trafficking should not be punished in any form – including prosecution, detention or imprisonment - for offences that they were compelled to carry out, i.e. for crimes related to their trafficking [the non-punishment principle].

- 5.3. Saudi Arabia has acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime [hereinafter, the Palermo Protocol], and as such, has obligations accruing under the same. One of the purposes of the instrument is to “protect and assist the victims of such trafficking, with full respect for their human rights”.¹² The Palermo Protocol provides the following definition for trafficking in persons:

*“the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, or deception, or the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”*¹³

- 5.4. The Palermo Protocol also provides that the consent of the trafficked person to the intended exploitation is irrelevant where any of the means set out in the definition of trafficking have been used.¹⁴ It also provides that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in the definition of “trafficking in persons” provided in the instrument.¹⁵

- 5.5. Following from the concept of trafficking in persons outlined in the Palermo Protocol, and keeping in view the purpose of the instrument, several bodies have subsequently affirmed the importance of identification of victims of trafficking in persons and the non-punishment principle. The Working Group on Trafficking in Persons, recommended in 2009, that

*“State parties should (a) Establish appropriate procedures for identifying victims of trafficking in persons and for giving such victims support; (b) Consider, in line with their domestic legislation, not punishing or prosecuting trafficked persons for unlawful acts committed by them as a direct consequence of their situation as trafficked persons or where they were compelled to commit such unlawful acts...”*¹⁶

- 5.6. In 2010, the Working Group reaffirmed its recommendation.¹⁷

- 5.7. The Office of the United Nations High Commissioner for Human Rights (OHCHR) issued Recommended Principles and Guidelines on Human Rights and Trafficking in 2002 to provide practical policy guidance, within the broader Protocol framework, on the prevention of trafficking and the protection of trafficked persons.¹⁸ Recommendation principle No. 7,¹⁹ Guideline No. 2,²⁰ and Guideline No. 4,²¹ all provide that States should consider legislation that ensures that trafficked persons are not be criminally charged or prosecuted for crimes committed as a direct consequence of their situation as trafficked persons. Additionally, the UN General Assembly issued a resolution that requires States to ensure that victims of trafficking are treated as victims of crime, and urges Governments to ensure that trafficked persons are not penalised for having been trafficked.²²
- 5.8. Although Saudi Arabia has taken some steps towards combatting human trafficking by adopting the Law on Combatting Human Trafficking and establishing the Committee on Trafficking in Persons. However, these reforms have largely failed to prevent human trafficking in the Kingdom.
- 5.9. The anti-trafficking law does not have any non-punishment principle which would protect victims of human trafficking from punishment if the crime was a result of their status as a trafficked person. Further, there is no complaints mechanism whereby a victim may file a complaint or launch an investigation into the circumstances of their trafficking. In its last review, Saudi Arabia accepted recommendations to take measures to address exploitation of migrant workers, as well as combatting human trafficking.
- 5.10. Reprieve and ESOHR are concerned that Saudi Arabia has failed to take any steps towards fulfilling its accepted recommendations and international obligations under the Palermo Protocol, the Arab Charter on Human Rights as well as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which has resulted in execution of trafficked vulnerable persons, who ought to have been protected, and not be subjected to further abuses.

6. DENIAL OF FAIR TRIALS IN DEATH PENALTY CASES

6.1. Fair trials and the death penalty

- 6.1.1. Saudi Arabia has not complied with the accepted recommendations to guarantee due process, and implement legal reforms to promulgate a criminal code, ensure transparent, timely and fair criminal trials, prohibit the use of torture in custody, inform every person of the charges brought against him/her and carry out further efforts to increase the transparency and openness of legal proceedings.
- 6.1.2. Saudi Arabia has failed to guarantee due process and the right to fair trial while imposing the death sentence. Migrant workers are often sentenced to death after patently unfair trials, where they do not understand the language in which trials are conducted, lack legal representation, do not have consular access, are subjected to wide discretionary powers vested with the judges, and lack information about the appeals and pardon process.
- 6.1.3. There is an international obligation on States to guarantee the right to fair trial and due process to every accused. Countries that retain the death penalty can only impose a sentence once an accused has been guaranteed the right to fair trial and due process. This right has been safeguarded in numerous international instruments. The Universal Declaration on Human Rights prescribed that every individual is “entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.”²³ The right to fair trial, and the minimum standards that States must comply with were further elaborated a few years later in the International Covenant on Civil and Political Rights.
- 6.1.4. Article 14 of the International Covenant on Civil and Political Rights provides content to the right to fair trial and due process, and Article 6(2) of the Covenant, which prescribes restrictions on imposition of death penalty explicitly provides that a State may only impose a death sentence after having complied with the requirements under Article 14. This right to fair trial and due process, including the right against self-incrimination is mirrored in other instruments, including the Arab Charter on Human Rights, and the Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which prohibits use of force during interrogation or detention.

- 6.1.5. The Law of Criminal Procedure was issued in 2001, and has provisions pertaining to interrogation, investigation and imprisonment. The Code prescribes guidelines for law enforcement authorities and the judges to follow. It prohibited torture, limited the period of arbitrary detention, and provided the defendant the right to seek the legal assistance of a lawyer or a representative to defend him/her during the investigation and trial stages. In 2013, the law was modified to give persons accused of major crimes (which includes all capital crimes) the right to free legal representation.²⁴
 - 6.1.6. Reprieve and ESOHR are concerned that the Saudi authorities routinely violate the right to fair trial and due process in capital trials. The concern is heightened in cases involving migrant workers because of their vulnerable position in the legal system, given that they often do not have family or other connections, lack adequate resources, do not understand the language or the legal system, and have often faced severe exploitation.
 - 6.1.7. Common violations that migrant workers face in a criminal trial include: lack of legal representation during the pre-trial and trial phases of the proceedings, failure to inform an accused of the charges, failure to inform an accused of his/her rights during interrogation, use of torture, cruel or other degrading treatment in custody through forced confessions and forced detention, inability to understand legal proceedings which are conducted in Arabic, lack of access to translator during trial, lack of access to judicial documents in a language understood by the accused, lack of information about the appeals and pardon process, and bias of police, prosecutors and judges.
- 6.2. Denial of Consular Assistance
 - 6.2.1. Access to consular assistance for foreign nationals is an important aspect of the protection of those facing the death penalty abroad and is provided for in the Vienna Convention on Consular Relations.

- 6.2.2. Saudi Arabia has acceded to the Vienna Convention on Consular Relations, and as such, has obligations under the same. Following from Article 36 of the Convention, the Saudi authorities are required to inform all detained foreign nationals “without delay” of their right to have their consulate notified of their detention and to communicate with their consular representatives.²⁵ Although this requirement applies to every case which involves a foreign national, but the obligation is of particular significance when a foreign national is charged with a capital offence owing to the irreversibility of the punishment. The protections to guarantee consular access to migrant workers are further enshrined in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- 6.2.3. The denial of the right to consular notification and access is a violation of due process and the execution of a foreign national deprived of such rights constitutes an arbitrary deprivation of life, in contravention of articles 6 and 14 of the International Covenant on Civil and Political Rights. In its resolution 71/187, the General Assembly called upon States to respect the right of foreign nationals to receive information on consular assistance when legal proceedings are initiated against them. The requirement that foreign nationals must be informed without delay after their arrest of that right was confirmed by the International Court of Justice, which has provided for remedies in cases where that right was violated.
- 6.2.4. Reprieve and ESOHR have reports that Saudi authorities have failed to apprise foreign nationals of their right to consular access or facilitate consular communication for detained foreign nationals. There is concern that consular officials are not promptly informed of the arrest of their nationals, and are not given free access to their nationals, thus putting foreign nationals at greater risk of receiving a death sentence and undermining their right to due process.

7. ACCESS TO REMEDIES

- 7.1. Migrant workers are disproportionately sentenced to death and executed in the Kingdom of Saudi Arabia. Reports indicate that many of these migrant workers are likely to have been victims of human trafficking, forced labour and torture who were convicted for crimes that they were compelled to commit, and the domestic mechanisms failed to protect them.

- 7.2. In its last review Saudi Arabia committed to taking measures to protect the rights of migrant workers, particularly those involving legal redress, and strengthening the institutional and legal basis for protection of human rights. Although the Kingdom has taken some steps towards better protection of rights of migrant workers, these measures are far from meeting Saudi Arabia's accepted recommendations in the last review or the threshold mandated under international law.

- 7.3. An overwhelming number of male migrant workers have been sentenced to death and executed for drug trafficking. In numerous cases, these migrant workers have been convicted for smuggling drugs where drugs were stitched into their intestines, or they had been compelled to swallow drugs, or were not even aware that the suitcases that they were asked to carry had drugs. There are strong indicators that many of these were victims of human trafficking, however, there is no evidence that the courts accounted for the circumstances under which these people were compelled to commit crimes.

- 7.4. Further, a large number of male and female migrant workers are also employed in Saudi Arabia in a variety of sectors, and many of them are subjected to forced labour. The US Department of State recognizes that the foreign worker population is the most vulnerable to trafficking in Saudi Arabia, particularly female domestic workers, due to their isolation inside private residences. Although Saudi Arabia has adopted labor law amendments since its last review, these guarantee continue to exclude female domestic workers.²⁶

- 7.5. These amendments also fall short of eradicating the *kafala* system, under which foreign workers have to obtain permission from their employers for an exit visa to leave the country legally, they are forced to continue working until they are granted permission to leave. Many employers continue to keep their employee's passports in their possession, thereby restricting their movement. Many migrant workers have reported to be deceived and exploited by having to perform work which is substantially different from the work conditions they were promised in their contract. Thus, common violations include confinement, non-payment or underpayment of wages, confiscation of passports, long working hours.

- 7.6. Female domestic workers have also reported experiencing severe mental, physical and sexual abuse by their employers or employer's family members.²⁷ Reports indicate that some domestic workers who reportedly committed murders of their employers under conditions that amount to forced labor and trafficking, and often, under threat of sexual abuse, have been sentenced to death without looking at the circumstances that drove them into forced criminality.
- 7.7. The legal procedures in Saudi Arabia fail to provide legal redress to migrant workers, especially those who have been victims of forced labour, trafficking and torture. The anti-trafficking law contained in the Trafficking in Persons (Offences) Act fails to protect victims of human trafficking by failing to incorporate the non-punishment principle. According to the non-punishment principle on human trafficking, that enjoys international consensus, victims of human trafficking should not be punished in any form – including prosecution, detention or imprisonment - for offences that they were compelled to carry out, i.e. for crimes related to their trafficking. Further, although Saudi Arabia has established a Standing Committee on Trafficking in Persons, the committee fails to adequately identify and investigate claims of human trafficking.
- 7.8. Similarly, Saudi Arabia has failed to incorporate the non-punishment principle for forced labour, or take measures that meet the threshold of international protections on forced labour. Much like the non-punishment principle on human trafficking, the non-punishment principle on forced labour provides that measures should be taken to ensure that “competent authorities are entitled not to prosecute or impose penalties on victims of forced or compulsory labour for their involvement in unlawful activities which they have been compelled to commit as a direct consequence of being subjected to forced or compulsory labour.”²⁸
- 7.9. In order to effectively protect the human rights of migrant workers, Saudi Arabia must incorporate and apply the non-punishment principles, and ensure the laws are in strict adherence with international standards.

8. RECOMMENDATIONS

8.1. REGARDING THE DEATH PENALTY:

- Ratify the International Covenant on Civil and Political Rights
- Immediately review counter narcotics legislation with a view of abolishing all offences that carry the death penalty for drug offences
- Immediately conduct a review of death row and commute the death sentences of all persons sentenced to death for drug offences
- Immediately impose a moratorium on death sentences and executions with a view of abolishing the death penalty
- Conduct a review of all legislation with a view of abolishing first offences that do not meet the most serious crimes threshold; and consider second, consider the full abolition of the death penalty
- Conduct investigations into the executions carried out since 2014 and make the findings public
- Issue public figures on the number of persons currently on death row
- Ensure that dead bodies of those executed are repatriated to their families

8.2. REGARDING DUE PROCESS AND FAIR TRIALS:

- Ratify the International Covenant on Civil and Political Rights
- Review current legislation to ensure it reflects international standards for due process and fair trial rights
- Conduct a review of existing laws to ensure compliance with international human rights standards
- Guarantee consular access without delay in consonance with Article 36 of the Vienna Convention on Consular Relations

8.3. REGARDING ACCESS TO REMEDIES:

- Strengthen domestic anti-trafficking law to incorporate mechanisms for identification of victims of human trafficking and the non-punishment principle
- Strengthen domestic anti-forced labour law to incorporate the non-punishment principle
- Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

- Ratify the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
- Ratify the Domestic Workers Convention 2011 (No 189)
- Ratify the Protocol of 2014 to the Forced Labour Convention 1930 and the Forced Labour (Supplementary Measures) Recommendation 2014 (No 203)
- Accept individual complaints procedure under the CCPR, CERD, CAT, and CEDAW

ENDNOTES

¹ The International Covenant on Civil and Political rights sets out the restriction in the following way at Article 6(2):

“In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court”

² UN General Assembly (14 December 1984) Human rights in the administration of justice, Resolution A/RES/39/118.

³ HRC (8 July 2005) Concluding observations: Thailand, CCPR/CO/84/THA, para. 14; HRC (29 August 2007) Concluding observations: Sudan, CCPR/C/SDN/CO/3, para. 19.

⁴ UNODC (2010) Drug control, crime prevention and criminal justice: a human rights perspective. Note by the Executive Director (Commission on Narcotic Drugs, Fifty-third session, Vienna, 8–12 March) E/CN.7/2010/CRP.6*–E/CN.15/2010/CRP.1*

⁵ UN Commission on Human Rights (24 December 1996) Extrajudicial, summary or arbitrary executions: report by the Special Rapporteur, submitted pursuant to Commission on Human Rights Resolution 1996/74, E/CN.4/1997/60; UN Human Rights Council (29 January 2007) Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/4/20, paras. 51–52; HRC (18 June 2010) Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Addendum : Communications to and from governments, A/HRC/14/24/Add.1, pp. 45–46.

⁶ UN Human Rights Council (14 January 2009) Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/10/44, para. 66.

⁷ UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (6 August 2010) A/65/255, para. 17

⁸ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc. A/HRC/4/20, 29 January 2007, paragraphs 39-53 and 65.

⁹ <https://esa.un.org/miqgmprofiles/indicators/files/SaudiArabia.pdf>

¹⁰ Article 7 International Covenant on Civil and Political Rights

¹¹ U.N. Office on Drugs and Crime, *Drug mules: Swallowed by the illicit drug trade*, https://www.unodc.org/southasia/frontpage/2012/october/drug-mules_-swallowed-by-the-illicit-drug-trade.html.

¹² Palermo Protocol, see above note 8 at art. 1(b).

¹³ Palermo Protocol, see above note 8 at art. 3 (a).

¹⁴ Palermo Protocol, see above note 8 at art. 3 (b).

¹⁵ Palermo Protocol, see above note 8 at art. 3 (c).

¹⁶ U.N. Working Group on Trafficking in Persons, Report on the Meeting of the Working Group on Trafficking in Persons Held in Vienna on 14 and 15 April 2009, 21 April 2009, CTOC/COP/WG.4/2009/2, para 12, http://www.unodc.org/documents/treaties/organized_crime/Final_report_English_TIP.pdf.

¹⁷ U.N. Working Group on Trafficking in Persons, Report on the Meeting of the Working Group on Trafficking in Persons Held in Vienna from 27 to 29 January 2010, 17 February 2010, CTOC/COP/WG.4/2010/6, paras 50-51, http://www.unodc.org/documents/treaties/organized_crime/2010_CTOC_COP_WG4/CTOC_COP_WG4_2010_final_report_E.pdf.

¹⁸ OHCHR, Recommended Principles and Guidelines on Human Rights and Human Trafficking, <http://www.ohchr.org/Documents/Publications/Traffickingeng.pdf>. [hereinafter, “Recommended Principles and Guidelines”].

¹⁹ Recommended Principles and Guidelines, see above note 16 at Recommended Principle No. 7

Recommended Principle No. 7 states “Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons”

²⁰ Recommended Principles and Guidelines, see above note 16 at Recommended Guideline No. 2.

Recommended Guideline No. 2 includes the following provision: “States...should consider... [e]nsuring that trafficked persons are not prosecuted for violations of immigration laws or for the activities they are involved in as a direct consequence of their situation as trafficked persons.

²¹ Recommended Principles and Guidelines, see above note 16 at Recommended Guideline No. 4.

Recommended Guideline No. 4 includes the following provision: “States should consider... [e]nsuring that legislation prevents trafficked persons from being prosecuted, detained or punished for the illegality of their entry or residence or for the activities they are involved in as a direct consequence of their situation as trafficked persons”.

²² U.N. General Assembly, Resolution on Traffic in Women and Girls, 31 January 2001, A/RES/55/67, para 6.

The resolution requires States to “[e]nsure that victims of trafficking in persons are treated as victims of crime and that national legislation effectively criminalizes all forms of trafficking” and urges “[g]overnments to take all appropriate measures to ensure that identified victims of trafficking in persons are not penalized for having been trafficked and that they do not suffer from victimization as a result of actions taken by Government authorities.”

²³ Article 10, Universal Declaration on Human Rights

²⁴ Royal Decree No. M/2 Art. 139 (Nov. 25, 2013).

²⁵ Article 36, Vienna Convention on Consular Relations; Article 16, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

²⁶ <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271271.htm>

²⁷ <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271271.htm>

²⁸ Article 4(2), The Protocol of 2014 to the Forced Labour Convention, 1930