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Child Trafficking Victim Protection in the United Arab Emirates Legislation from the Perspective of Islamic Jurisprudence

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Abstract

This study examines the model of protecting victims of child trafficking in the UAE from the perspective of Islamic jurisprudence, through research, analysis, and legal texts in UAE law related to human trafficking crimes, and through research on Sharia provisions in Islam. This study aims to examine the protection model for victims of child trafficking in the UAE legislation and Islamic jurisprudence, analyze the effects of the phenomenon of child trafficking, and evaluate the model for protecting victims of child trafficking in the UAE from the perspective of Islamic jurisprudence. To achieve these objectives, the researcher applies the descriptive-analytical method. The study concludes that the crime of child trafficking is not a domestic crime in the United Arab Emirates, but rather a crime with an international and global dimension. The United Arab Emirates is a catalyst for the crime of human trafficking as a result of its high degree of safety, the multiplicity of nationalities inhabiting it and suffering from poverty in their countries of origin. The spread of poverty, unemployment, the desire to get rich quickly, the weakness of moral and religious scruples, and the lack of censorship on websites are among the most important reasons for the spread of the crime of child trafficking. Despite the various intensive efforts to combat this crime, following the instructions of the Islamic Sharia, which laid down provisions and texts that meet the protection of human beings in all aspects of life from inception to death, the rate of human trafficking cases in the United Arab Emirates is constantly increasing. The most important recommendations of the study are the need for government legal authorities to make greater efforts to organize and follow up the residency and nationalities of foreigners, especially children, as they are closely related to the crime of human trafficking.

Keywords: Human trafficking, Islamic jurisprudence, UAE, Protection of Victims.

Introduction

Since the crime of human trafficking is a serious crime on the individual in particular and on society in general, given the constituent circumstances of this crime, which view the human being as a commodity that can be sold and bought, states have sought to combat this

crime by all possible means, whether at the national or international level through drafting legal legislation that combats this crime and punishes its perpetrators, or through holding national and international seminars and conferences. States take various means to combat the crime of human trafficking, including those related to the victim, such as protection, determining the legal status of the victim, especially women and children, protecting their private life, and observing confidentiality in judicial procedures to the extent permitted by the internal law of countries while taking into account that all judicial procedures are not harmful to the rights, dignity, or physical and psychological wellbeing of the victims. One of the means of combating this crime on the part of the offender is the imposition of deterrent penalties that are commensurate with the gravity of the acts committed by the offender against the victim in order to achieve the goal of the punishment, which is general deterrence and private deterrence. Another mean of combating this crime is educating about the dangers of this crime in general.

Literature Reviews

The study of Al-Murad (2012) entitled "The position of Islamic law on trafficking in women and children and the transfer of human organs. The study aims to emphasize what has been stated in the provisions of Islamic Sharia on the issue of trafficking in women and children and the transfer of organs, through comparison with man-made laws. One of the results of the study is identifying the respect of Islamic Sharia for human dignity, as it forbids such illegal acts, and this is what has been confirmed by various international and national laws and legislations. Another result is an increase in trafficking in women and children as well as organ transplants in many countries of the world, which requires an integrated legal study that focuses on the role of international and national legislation in light of the provisions of Islamic Sharia in order to limit the spread of these crimes

The study of Al-Tilili (2008) entitled International Criminal Protection for Children. The study aims to emphasize the importance of international criminal protection for children, considering that children's rights are the essence of human rights, because they represent the age group upon which society is based, and therefore it requires directing more legal protection in order to address violations of children's rights. One of the results of the study is identifying the great interest of the international community in the phenomenon of the exploitation of children in illegal acts that contradict moral values and humanitarian principles

This international concern has begun since the Geneva Declaration of the Rights of the Child in 1924. International law also emphasizes the necessity of implementing existing laws related to child trafficking crimes and amending provisions that are inconsistent with the changes of the times, especially with regard to the misuse of the Internet for the purposes of trafficking in children and women

The study of El-Sayed (2016) aims to identify ways to combat trafficking in women and children through a comparative study. The research includes two topics. The first topic is ways to combat trafficking in women and children in Islamic law. The topic includes the prohibition of illegal sexual intercourse and the prohibition of experiments with women, children and their organs. The second addresses ways to combat trafficking in women and children in positive law by identifying ways to combat trafficking in women and children in Egyptian law and ways to combat it at the media and promotional level in Egypt, namely (awareness programs and campaigns, training courses). The research concludes that Islamic Sharia since its inception has been protecting vulnerable groups such as women and children. This position has remained constant, recognizing their rights and protecting them without exaggeration or

negligence. No matter how much man-made laws try to give women and children their rights, it will never be enough. The results also indicate that the emerging international circumstances, whether domestic or regional, enhance the possibility of the spread of the crime of trafficking in women and children. Prostitution and the exploitation of these vulnerable groups in society is increasing and spreading at a time of crises that the country is going through, such as wars, disasters and difficult economic conditions.

Methodology

The researcher uses the qualitative approach, analysis, induction, observation, and personal interview as tools for data collection and analysis, which are the most appropriate tools in the legal field of studies. These tools have helped the researcher to reach the results and recommendations of the study and achieve its goal. The approach adopted during this study is the descriptive approach and the comparative curriculum, by describing Child Trafficking Victim Protection in The United Arab Emirates Legislation from The Perspective of Islamic Jurisprudence, by referring to the previous literature, analyzing it objectively, expressing an opinion and commenting on it. As for the comparative approach, by comparing the relationship between the pandemic and its developments and the fatwas.

Descriptive research aims to accurately and systematically describe a population, situation or phenomenon. It can answer what, where, when and how questions, but not why questions. A descriptive research design can use a wide variety of research methods to investigate one or more variables. Also, the descriptive research is usually defined as a type of quantitative research, though qualitative research can also be used for descriptive purposes.

Results

The study has been revealed several issues as follows

- The sources of Islamic Sharia that preceded the international conventions had put in place preventive guarantees aimed at protecting children from all kinds of exploitation so that they could have a decent life, whether on the family or community level.
- The issue of trafficking in children has become of interest to the international community and this is demonstrated by the development of several preventive measures such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000.
- There are internal and external reasons that affect the laws and regulations of the state, such as corruption and political, economic or social instability, which are considered among the most important factors that contribute to the prevalence of child trafficking crimes.
- Child trafficking crimes are considered organized cross-border crimes and therefore there is a difficulty in finding accurate statistics on the extent of this phenomenon and this is due to the unwillingness of countries to publish the statistics to avoid the embarrassment, in addition to the fact that these crimes are carried out in complete secrecy and under different names and quasi-legal steps which are difficult to detect.
- The governmental or non-governmental media, educational and religious bodies have an important role in educating and raising society's awareness of the risks arising from the crime of child trafficking and how to confront them.

- The protection of children from exploitation is not only the responsibility of the state authorities, but also the responsibility of society. People have to report cases of violations against children, and the absence of the role of society will lead to the loss of protection for the child.
- In line with the purposes of Islamic Sharia, several of the UAE legislations have been enacted and are constantly updated to be a deterrent to child trafficking crimes. Example: the accession of the UAE in 1997 to the International Convention on the Rights of the Child issued in 1989, the issuance of Federal Law No. 51 of 2006 regarding crimes of human trafficking and its amendments in 2015 and the issuance of the Children's Rights Law under the name (Wadima Law) in 2016 and the issuance of the Federal Law on Domestic Violence in 2019 along with other relevant laws.
- Whether in terms of criminalization or punishment, UAE has developed strategies and means that are in the interest of child victims from protection and provision of all possible means such as the establishment of social support centers, the establishment of the Higher Committee for Child Protection and the establishment of institutions and associations concerned with the protection of victims.

Although the UAE plays an important role at the international or national level in combating the crime of child trafficking, there are some challenges that the state may face, especially since this type of crime is carried out outside the territory of the state through the use of electronic networks, which is difficult to eradicate, but can be reduced.

Discussion

The UAE has worked to combat human trafficking through several government agencies. In the previous chapters of this research, we have addressed the official and non-official bodies that work to combat child trafficking. Now we will discuss the legislation issued by the UAE in order to combat human trafficking, especially of children. If parental care is the mainstay for protecting children and their enjoyment of their rights in Islam, society and state institutions have an equally important role in this regard. This is achieved by the constitution's affirmation of the legitimate rights of children, especially their right to protection and security, which guarantees protection from exploitation in strenuous or dangerous work, with its physical and psychological violations. That is why the Prophet, peace be upon him, said: "So all of you are shepherds, and every one of you is responsible for his herd".

There is a Sharia rule, which is to prevent harm. The Prophet, peace be upon him, said: "There is no injury nor return of injury." It is a general rule that includes every act that leads to harm to a person. The Prophet, peace be upon him, said, "A woman was punished on account of a cat which she held captive till it died. Hence, she entered the Hell-Fire due to (her mistreatment of) the cat. She did not feed it or give it water while she held it captive, nor did she let it out so that it may eat the things that creep on the earth." This Sharia rule requires the protection of the child from every act that may negatively affect his life chances of advancement and progress, or harm the child's body or psyche.

In its essence and in its texts and legislation, Islam provides a protective environment for children, as the Prophet, Peace be upon him, said, "Allah would ask every trustee about his trust, did he keep or lose it?" The concept of child protection can only be achieved by addressing the forms of abuse, violence and exploitation that deprive the child of his rights, such as education and health. Our Holy Prophet urged us by saying "He is not one of us who does not have mercy on our young and does not respect our elders."

Islamic Sharia prohibits any aggression against the human body, whether by beating or physical, psychological or sexual harm. Our Noble Messenger said, "A Muslim is the brother of a Muslim: he does not oppress him, nor does he fail him, nor does he lie to him, nor does he hold him in contempt. Taqwa (piety) is right here [and he pointed to his chest three times]." In light of the foregoing, according to Article 7 of the UAE Constitution, Islam is the official religion of the Federation, and Islamic Sharia is a major source of legislation in it. Article (16) of the UAE Constitution states that society is responsible for protecting children, providing protection and rehabilitation to minors, and regulating public aid and social security laws for these matters.

In order to enhance the protection of the child, Article (327) of Federal Penal Code No. 3 of 1987 stipulates that "Whoever removes a newborn child from someone, who has legal authority over him, hides him, substitutes him for another, or falsely attributes him to other than his parents, shall be punished with imprisonment. The UAE has also been keen to provide full protection for juveniles in Federal Law No. (9) of 1976 regarding juvenile delinquents and homeless. Article (42) of this law specifies the penalty to be imposed on any person who exploits a juvenile by training him, preparing him, aiding him, or inciting him to engage in vagrancy behavior, to be punished by imprisonment for a period not exceeding one year or a fine of not less than two thousand dirhams and not exceeding five thousand dirhams. He shall be punished with this penalty even if the state of vagrancy is not legally fulfilled

There are other laws that address the issue of human trafficking in the UAE, such as the fifteenth Federal Law of 1993 regarding the regulation of organ transplantation and transfer. Article 7 states that the specialist doctor is prohibited from performing the operation with the aim of buying and selling organs by any means or receiving any financial compensation for them. In 2006, the UAE began drafting a federal law to combat this crime .It enacted Law No. 51 of 2006 on combating human trafficking and its amendments to Federal Law No. 1 of 2015 to address this crime at international and local borders. The law includes all forms of sexual exploitation, forced labor and servitude, trafficking in human organs, coercion in service, coercion in beggary and any practices similar to slavery

Thus, the experience of the UAE, which is legislatively based on the fifty-first Federal Law of 2006, as amended by Federal Law Number One of 2015 is considered a pioneer in the fight against human trafficking crimes. The UAE has always been a pioneer in enacting a comprehensive law in combating human trafficking crimes, with the aim of protecting victims of crime and punishing its perpetrators (Naseer, 2020, 8).In addition, the National Committee for Combating Trafficking in Persons was established in accordance with Federal Law No. 51 of 2006. It is concerned with studying and updating legislation governing issues related to combating human trafficking in order to achieve the required protection and coordinating the state's efforts in the field of combating human trafficking and protecting victims, especially women and children .The committee includes representatives of federal and local government agencies and civil society institutions in the country. The Committee for Combating Human Trafficking Crimes at the Ministry of Interior was also formed in accordance with Resolution No. (422) of 2009.

Its functions include expressing an opinion and updating legislation related to combating human trafficking, coordinating with the concerned authorities to raise awareness of the seriousness of these crimes, and coordinating with centers specialized in sheltering victims of human trafficking regarding their insurance and protection. The Higher Committee for Child Protection was established in accordance to Ministry of Interior Resolution No. (240) of 2010 and in accordance to the recommendations of this committee. The Ministry of Interior

Child Protection Center was established in accordance with Ministerial Resolution No. (347) of 2011 issued on June 28, 2011. As for the police stations in the UAE, they are specialized in receiving reports from the public regarding human rights violations in general, especially violations against children, as they provide assistance, care and protection for this category. It also collects evidence from the reports submitted to it and refers cases to the Public Prosecution for investigation and referral to the competent court.

The Ministry of Interior has developed many means and mechanisms to combat human trafficking crimes, including spreading the culture of combating human trafficking and raising awareness, enhancing cooperation with countries through the International Interpol by exchanging data and information on crimes related to human trafficking, monitoring suspects in human trafficking crimes, imposing more strict measures and controls on ports of entry into the country and the use of standard criminal systems that are used by INTERPOL to facilitate the verification of the identity of people at ports of entry. Federal Law No. 3 of 2016 on the Rights of the Child Law "Wadeema Law" is one of the most prominent and important laws that include several basic provisions for child protection and mechanisms for dealing with all forms of abuse and violence against children from the moment of notification and discovery of the case, in addition to the speedy collection of information and evidence and the provision of psychological, medical and social support.

The most important thing in this law is Article 2, which entrusts the competent authorities and the concerned authorities with the task of preserving the child's life. Article 2 refers to providing all necessary opportunities to facilitate the child's enjoyment of a free, safe and developing life. Article 13 prohibits children from being subjected to any arbitrary interference or unlawful action in their life, family, home, or correspondence, and it is prohibited to infringe upon their honor or reputation. The state guarantees the protection of the child from all forms of child pornography in accordance with the legislation in force. Article 26 prohibits publishing, displaying, circulating, possessing or producing any visual, audio, or printed sexual works or games directed at children or that would encourage delinquency in behavior. It can use neuroscientific techniques to study the individual's reactions (Alsharif et al., 2022a; 2022b; 2022c) toward the external environment and better understand the individual's responses (Alsharif et al., 2021a; 2021b).

As for Article 33, it refers to situations that threaten the physical, psychological, moral or mental integrity of the child. Article 37 of the same law prohibits the use and exploitation of children in filming, recording, or producing pornographic materials, or exposing them to acts of prostitution, whether directly or indirectly. It is clear to us from the above that the UAE is making many pioneering efforts to combat human trafficking at the local and international levels. The state is also making unremitting efforts to preserve human rights, security, awareness and legislation, with efforts commensurate with the humanitarian and ethical frameworks of the UAE. The UAE is a beacon of tolerance, a country of security and safety.

It preserves the dignity of human beings, values and principles of all people. Among these efforts, and in conjunction with the International Day for Combating Trafficking in Persons, which falls on the thirtieth of July each year, the Public Prosecution Office in the UAE is keen to launch awareness campaigns through social media sites to spread legal culture in all segments of society to spread the culture of law as a way of life. (Naseer, 2020, 1). It is worth noting that the United Arab Emirates is one of the parties to the Convention on the Rights of the Child, as it ratified this convention on November 11, 1997, and made reservations on several provisions of the agreement because they contradict the provisions

of Islamic Sharia and some national laws .In 2016, the UAE also signed the 2002 Optional Protocol to the International Convention on the Rights of the Child, which is concerned with the sale and exploitation of children in child pornography. In addition, the UAE has signed many agreements with several countries in order to achieve the exchange of the best methods and practices used to prevent human trafficking crimes and to assist the victims of these crimes .For example, the UAE, represented by the Ministry of Interior, was one of the countries participating among the forty-seven countries in the international operation "Libertera" aimed to addressing the crimes of human trafficking, migrant smuggling and other related international crimes, in coordination with the International Criminal Police Organization "INTERPOL".

The UAE played a pivotal role in this operation, as it hosted the operations room for managing the process by the participating teams and agencies from the regions of Asia, North Africa and the Middle East. (Naseer, 2020, 10).The previous program aims to raise awareness among external parties on the issue of human trafficking issues, in order to activate the role of all parties in cooperation and to make the various efforts undertaken by the UAE in order to address this crime, as these combating these international and social crimes require the full cooperation of all. On July 26, the results of that operation were announced through a press conference in the presence of senior Interpol officials and representatives of the ministries of the interior and the participating countries and the presence of local and international media and newspapers.

This operation resulted in the rescue of 430 victims of human trafficking and the rescue of 4,000 victims of illegal immigrants in seventy-four countries around the world and the arrest of 286 people, in addition to the success of police agencies around the world in operational activities within the aforementioned process, including the exchange of information between the participating countries, the intensification of patrols and raids, and the increase of inspections at border crossings and airports to 500 thousand operations, and 60 new investigations were launched in the world. (Naseer, 2020, 12)

This participation highlights the UAE's keenness on permanent cooperation with countries of the world, international organizations and institutions to promote and support the fight against crimes of all kinds, especially human trafficking crimes. Not only that, but the UAE is also considered one of the global partners in the campaign to combat this international crime. The UAE also organized a training program in coordination with the Consulate of India in Dubai with the aim of educating and developing members of diplomatic missions in the field of human trafficking.

Therefore, we note the efforts undertaken by the UAE in the field of combating the crime of human trafficking, which is currently considered an international crime. (Naseer 2020, 6).Thus, the program achieves effective cooperation between the two countries, as this community is of great importance in the UAE because of the large numbers. Therefore, it is important that they receive the necessary awareness about these social phenomena and receive training on the best international practices in dealing with cases at various social and psychological levels. As part of efforts of the state to prevent the occurrence of these crimes, and its keenness to rehabilitate cadres working in various institutions in the Emirates, with the aim of being able to deal well with human trafficking crimes and to ensure the necessary protection for victims, relevant and necessary programs have been implemented for those concerned in the field to ensure that they acquire practical skills and experience necessary scientific.

Indeed, a specialized distance program was subsequently prepared in the field of combating human trafficking, organized by the Dubai Judicial Institute and Dubai Police in coordination with the National Committee on Human Trafficking and the United Nations Office on Drugs and Crime over a period of 5 weeks. (Naseer, 2020, 13). The UAE stresses the importance of international cooperation to combat human trafficking, which is considered one of the most prevalent international organized crimes in the world. The UAE is always developing all means to overcome the obstacles faced by the international community in combating human trafficking.

The UAE has signed agreements with many countries regarding the exchange of information with the aim of preventing the crime of human trafficking and assisting and rehabilitating crime victims. This urged other countries to rush to confront this crime and seek to exchange experiences and information related to human trafficking crimes with other countries, such as the agreements signed between the UAE and the Republic of Georgia, which enhance cooperation between the two countries in combating crime and cooperation in other security fields. (Naseer, 2020, 13). This agreement aims to enhance direct cooperation between the two countries and develop relations in the police and security fields, especially in combating crime in all its forms, including human trafficking, money laundering crimes, cybercrimes, combating terrorism, enhancing traffic safety, combating drugs and sexual exploitation crimes, and exchanging experiences in the fields of artificial intelligence and the use of modern technologies to enhance police work.

The researcher believes that the most important objectives of the UAE strategy to combat human trafficking is to provide the means and capabilities to reduce the commission of human trafficking crimes and provide the necessary protection for victims, which calls for strengthening awareness-raising. This is something that the UAE has attached utmost importance to, considering the diversity of nationalities and cultures that live within it. In this regard, the competent authorities in the UAE have made great efforts to spread awareness programs for various groups of society in general and for potential victims in particular.

Conclusion and Recommendations

The issue of child trafficking is considered a challenge at the international level, despite the existence of international laws and national laws in some countries related to child trafficking crimes. However, these laws are not sufficient in confronting them at a time when crime is spreading at a high rate, and perhaps this is due to the ineffectiveness of the mechanisms and means that aim to implement those laws, which requires a comprehensive review through the development of plans to protect children from abuse in all its forms. This calls for confronting poverty and illiteracy and the effective implementation of all social, economic and health rights of the child. This also calls for providing material and moral support to children who are victims of abuse, seeking to rehabilitate the child at psychological and educational levels, and ensuring that they receive permanent protection and assistance from the state and society. The researcher has reached a set of results and suggested a set of recommendations that could serve researchers in the same field and would limit the spread of the crime of human trafficking. The recommendations of the study as follows:

- Overcoming obstacles facing the implementation of international and national laws by strengthening international cooperation and concluding regional alliances at all security and judicial levels in order to limit the spread of child trafficking crimes

- The necessity of training those involved in combating child trafficking crimes (the judiciary - the prosecution - doctors - social workers - the police) on how to deal with this type of crime and to benefit from the experiences of developed countries in this field
- Conducting scientific studies and research that contribute to raising awareness among members of society in cooperation with the media and civil society organizations, and allocating curricula on the effects and dangers of child trafficking crimes
- Increasing government support and allocating funds obtained from perpetrators of child trafficking crimes, whether they are individuals or companies, to treat the victims of these crimes by providing psychological, social and physical support, rehabilitation and reintegration into society
- Continuous development in the field of electronic security and effective control of social networking sites so that offenders are blocked in the event of a violation against the child, tracking the source of those sites, and inflicting and penalties on the perpetrators.

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