

HUMAN TRAFFICKING AND LABOR MIGRATION
TEL-AVIV UNIVERSITY FACULTY OF LAW
INTERNATIONAL LL.M. PROGRAM
SPRING 2014
DR. HILA SHAMIR

Reading List Last Updated *April 16 2014*

Contact Information

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Overview

A rapidly evolving body of international and national law focuses on human trafficking. While significant political and scholarly attention has been dedicated to the prevention of sex trafficking, there is a growing understanding that human trafficking is not unique to the sex industry but occurs in other labor sectors such as agriculture, construction, and domestic work. This course will focus on understanding the mechanisms of anti-trafficking law, the ideological and policy impulses that produced and sustain it, the complex ways in which it is interacting with other legal regimes affecting labor migration (immigration law; human rights law and governance; international and national labor law; etc.), and the distributive effects it is producing both in the developed and the developing world. The course will begin with a study of the origins of anti-trafficking law in the context of sex work, and disagreements among feminists about the legal approach towards sex work/prostitution, and will then turn to an exploration of the challenges facing the current anti- trafficking legal framework in effectively reducing labor exploitation in both the sex industry and other labor sectors.

Course Policies

Readings: All reading materials can be found in the course's moodle website <http://moodle.tau.ac.il/> .

Note that the uploaded files are usually the full documents. However, the syllabus assigns only selected pages from each document. Accordingly please consult the reading instructions in the syllabus for the exact reading assignments.

You should be prepared for each class to discuss and debate the assigned readings, which consist of legal and policy analyses drawn from interdisciplinary sources.

Readings marked by an asterisk (*) are optional.

Attendance: Attendance in every session is required. Please let me know if you are prevented from attending a session.

Grading Criteria: Your grade for the semester will be based on the following:

Class Participation 20%

I place a high value on attendance and informed participation in class discussions. The goal is to engage in critical analysis of the issues presented in the readings and discussion. Please note, however, that limitations experienced by non-native English speakers will not adversely affect the evaluation.

Final (take-home) Exam 80%

The final exam will be a take-home exam, consisting of essay questions (with a page limit).

Class Schedule

Session 1: April 29, 2014

INTRODUCTION - LABOR MIGRATION AND TRAFFICKING IN PERSONS – CONTEMPORARY TRENDS, DEFINITIONS AND SCOPE

1. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime, G.A. Res. 25, Annex II, U.N. GAOR, 55th Sess., Supp. No. 49, at 60, U.N. Doc. A/45/49 (Vol. I) (2001). Available at: <http://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>
Read pp. 41-48, the preamble to the Trafficking Protocol and Articles 1-11.
2. Victims of Trafficking and Violence Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (2000). Available at: <http://www.state.gov/documents/organization/10492.pdf>
Skim sections 101-112 (pp. 1466-1490); read carefully sections 103, 108, 110
3. U.S. Department of State, TRAFFICKING IN PERSONS REPORT [TIP] (2013). **Read pp. 29-47, 64 + read one or two country narratives for any country that interests you** [please be prepared to discuss in class one country narrative]. Country narratives in alphabetical order are available here: <http://www.state.gov/j/tip/rls/tiprpt/2013/>
4. ILO, Operational Indicators of Trafficking in Human Beings (Delphi Indicators) 2009.
Read pp. 3-7.
http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/document/publication/wcms_105023.pdf
5. Anne T. Gallagher, THE INTERNATIONAL LAW OF HUMAN TRAFFICKING (Cambridge U.P. 2010), Chapter 1, “The International Legal Definition,” **Read pp. 12-53.**

Session 2: April 30, 2014

THE FEMINIST DEBATE OVER PROSTITUTION/SEX WORK AND THE TRAFFICKING PROTOCOL

THE PROSTITUTION/SEX WORK DEBATE

1. Andrea Dworkin, *Prostitution and Male Supremacy*, in *Life and Death* (1997)
Read pp. 139-151
2. Martha C. Nussbaum *Whether From Reason or Prejudice: Taking Money For Bodily Services* 27 J. LEGAL STUD. 693 (1998).
Read pp. 693-707, 716-724

SEX WARS AND THE PROTOCOL

3. Melissa Ditmore & Marjan Wijers, *The Negotiations on the UN Protocol on Trafficking in Persons*, 4 NEMESIS 79 (2003)
Read pp. 79-87
4. Dorchen A. Leidholdt, *Prostitution and Trafficking in Women, An Intimate Relationship* 167 in PROSTITUTION, TRAFFICKING AND TRAUMATIC STRESS (Melissa Farley ed., 2003)
Read pp. 167-181

Session 3: May 7, 2014 – Guest Lecture – Prof. Guy Mundlak

MIGRATION OF LABOR/SERVICES/CAPITAL AND LABOR CITIZENSHIP

1. Jennifer Gordon, *People are Not Bananas: How Immigration Differs from Trade*, 1009 NORTHWESTERN U LAW REV 1109 (201)
2. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
<http://www2.ohchr.org/english/bodies/cmw/cmw.htm>
3. Jennifer Gordon, *Transnational Labor Citizenship*, 80 S. CA. LAW REV. 503 (2007) pp. 561-570
4. Guy Mundlak, *De-Territorializing Labor Law*, 3(2) LAW AND ETHICS OF HUMAN RIGHTS 188-221 (2009) [focus: only the conclusion pp. 218-221]

Session 4: May 13, 2014

THE THREE "R"'S: RESCUE, REHABILITATION AND REPATRIATION

1. Aziza Ahmed and Meena Seshu, *We Have The Right Not To Be “Rescued”.....’: When Anti-Trafficking Programs Undermine The Health And Wellbeing Of Sex Workers* 1 ANTI-TRAFFICKING REVIEW 149 (2012)
Read pp. 149-164
2. Noy Thrupkaew, *Beyond Rescue*, THE NATION (Oct 8, 2009); *The Crusade against Sex Trafficking*, THE NATION (Sept 16, 2009).
<http://www.thenation.com/article/beyond-rescue>
3. Daphna Hacker and Orna Cohen, *The Shelters in Israel for Survivors of Human Trafficking – Report* (2012).
Read pp. 19-28.
4. Denise Brennan, "Laboring After Forced Labor" in *Life Interrupted: Trafficking into Forced Labor in the United States* (Duke University Press, 2014)
Read pp. 163-184.

Session 5: May 14, 2014

UNINTENDED CONSEQUENCES? CRITIQUES OF THE TRAFFICKING FRAMEWORK

1. James C. Hathaway, *The Human Rights Quagmire of “Human Trafficking,”* 49 VA. J. INT’L L. 1, 26 (2008)
Read pp. 1-29
2. Anne T. Gallagher, *Human Rights and Human Trafficking: Quagmire or Firm Ground? A Response to James Hathaway*, 49 VA. J. INT’L L. 789, 791 (2009)
Read pp. 789-818, 824-833
3. Mike Dottridge, *Introduction* in *COLLATERAL DAMAGE: THE IMPACT OF ANTI-TRAFFICKING MEASURES ON HUMAN RIGHTS AROUND THE WORLD* (Global Alliance Against Traffic in Women (GAATW), 2007)
Read pp. 5-24

Session 6: May 20, 2014

IMMIGRATION POLICIES, GUEST WORKER PROGRAMS AND HUMAN TRAFFICKING

1. KIRAN DESAI, *THE INHERITANCE OF LOSS* (2006)
Read pp. 196-208
2. Anti Slavery, *THE MIGRATION TRAFFICKING NEXUS: COMBATING TRAFFICKING THROUGH THE PROTECTION OF MIGRANT'S HUMAN RIGHTS* (2003).
Read pp. 3-15.
3. Kathleen Kim & Grace Chang, *Reconceptualizing Approaches to Human Trafficking: New Directions and Perspectives from the Field*, 3 STAN. J.C.R. & C.L. 317 (2007)
Read pp. 318-329, 334-339

4. RHACEL S. PARRENAS, *ILLCIT FLIRTATIONS: LABOR, MIGRATION AND SEX TRAFFICKING IN TOKYO* (2011)
Read pp. 25-56
5. DOVELYN AGUNIAS, *GUIDING THE INVISIBLE HAND: MAKING MIGRATION INTERMEDIARIES WORK FOR DEVELOPMENT*, (HUMAN DEVELOPMENT RESEARCH PAPER 2009/22, 2009)
Read pp. 1-23

Session 7: May 21, 2014

MIGRANT DOMESTIC WORKERS

1. ILO convention 189 and Recommendation 201 on Decent Work for Domestic Workers
2. Einat Albin and Virginia Mantouvalou, *The ILO Convention on Domestic Workers: From the Shadow to the Light*, *Industrial Law Journal* (forthcoming 2012)
Read: pp. 67-78
3. HELEN SCHWENKEN, 'DOMESTIC SLAVERY' VERSUS "WORKERS' RIGHTS': POLITICAL MOBILIZATION OF MIGRANT DOMESTIC WORKERS IN THE EUROPEAN UNION, Center for Comparative Immigration Studies, University of California at San Diego, Working Paper 116 (2005).
Read pp. 1-18
4. Arlie Hochschild, *Love and Gold*, in *GLOBAL WOMAN: NANNIES, MAIDS AND SEX WORKERS IN THE NEW ECONOMY* (Barbara Ehrenreich and Arlie Hochschild, eds., 2003)
Read pp. 15-31
5. Rhacel S. Parrenas, *The Care Crisis in the Philippines* in *GLOBAL WOMAN: NANNIES, MAIDS AND SEX WORKERS IN THE NEW ECONOMY* (Barbara Ehrenreich and Arlie Hochschild, eds., 2003)
Read pp. 37-54

Session 8: May 27, 2014

DOCUMENTARY MOVIE AND DISCUSSION

We will watch and discuss the documentary film "**A Working Mom**" (76 min.)

<http://www.itvs.org/films/working-mom>

Session 9: May 28, 2014

A LABOR APPROACH FOR HUMAN TRAFFICKING

1. DAVID KENNEDY, *THE DARK SIDES OF VIRTUE: REASSESSING INTERNATIONAL HUMANITARIANISM* 14–15 (2004)
Read pp. 3-17, 24-26.
2. Kevin Kolben, *Labor Rights as Human Rights?*, 50 VA. J. INT'L L. 449, 450, 474–84 (2010)
Read pp. 450-460, 468-484.
3. XENIA COMMANDEUR, *BEYOND BORDERS: EXPLORING LINKS BETWEEN TRAFFICKING AND LABOUR* (Global Alliance Against Traffic in Women, GAATW Working Paper Series, 2010)
Skim pp. 4-20
4. Hila Shamir, *A Labor Paradigm for Human Trafficking*, 60 UCLA LAW REVIEW 76 (2012).
Read pp. 93-119
5. * Dina Francesca Haynes, *Exploitation Nation: The Thin and Grey Legal Lines between Trafficked Persons and Abused Migrant Laborers*, 23 NOTRE DAME JOURNAL OF LAW, ETHICS & PUBLIC POLICY, 41 (2009)
Read pp. 1-7, 10-19, 22-35, 38-41, 58-70

Session 10: June 10, 2014

LABOR MIGRATION AND HUMAN TRAFFICKING IN ISRAEL – PART I

1. ADRIANA KEMP, *LABOR MIGRATION IN ISRAEL: OVERVIEW, SOCIAL POLICY, EMPLOYMENT AND MIGRATION WORKING PAPER 103*, OECD (2010)
Read: 7-9, 14-35
2. REBECA RAIJMAN AND NONNA KUSHNIROVICH, *LABOR MIGRATION RECRUITMENT PRACTICES IN ISRAEL* (2012).
Read 60-97.
3. *Prohibition of Trafficking in Persons (Legislative Amendments) Law, 5766 – 2006*
4. Nomi Levenkron and Yossi Dahan, *Women As Commodities: Trafficking in Women in Israel* (Hotline for Migrant Workers Report, 2003)
<http://www.adva.org/uploaded/TraffickingReport2003Engfinal.pdf>
Read pp. 19-36

5. U.S. Department of State, TRAFFICKING IN PERSONS REPORT (2013).
<http://www.state.gov/documents/organization/210739.pdf>
Read the Israel Country Narrative pp. 207-209.
6. * Daphna Hacker and Orna Cohen, THE SHELTERS IN ISRAEL FOR SURVIVORS OF HUMAN TRAFFICKING – REPORT (2012).
Read pp. 58-77.

Session 11: June 11, 2014

LABOR MIGRATION AND HUMAN TRAFFICKING IN ISRAEL – PART II

7. Asif Efrat, *Governing Guns, Preventing Plunder: International Cooperation Against Illicit Trade* (OUP 2012)
Read pp. 195-224 [pp. 16-30 of the pdf file]
8. Dafna Hacker, *Is the Trafficking Victims Protection Act a Transnational Success? Lessons from Israel's Strategic Compliance* (Draft Article, Unpunished manuscript, 2014)
Read pp. 9-19, 31-36.
9. Hila Shamir, *Antitrafficking in Israel: Nationalism, Borders, and Markets*, in *GOVERNANCE FEMINISM: AN INTRODUCTION* (forthcoming 2014) Co-authored with Janet Halley, Prabha Kotiswaran, Chantal Thomas.
Read pp. 27-39.
6. *Hila Shamir, *A Labor Paradigm for Human Trafficking*, 60 *UCLA LAW REVIEW* 76 (2012).
Read pp. 120-126.