

**Committee: Legal Committee (LEGAL- GA4)**

**Issue: The effectiveness of legal frameworks on anti-trafficking legislation**

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## **INTRODUCTION**

According to the UNODC, behind narcotics and weaponry, human trafficking is the third-largest international criminal sector. It is considered that this is because it is one of the areas of organized crime that is expanding the fastest. An estimated \$32 billion is made by the human trafficking industry, \$15.5 billion of which is made in developed nations. The number of slaves ranges from a few million to 27 million, and there are no precise data available. There is no denying that this is a worldwide catastrophe notwithstanding the wide variety of estimates provided by governments, NGOs, and campaigners.

Because human trafficking is a complicated problem, states must be legally prepared to combat it as a heinous crime carried out against victims by criminals. The implementation of laws that can properly respond to trafficking, in as nuanced and effective a way as the crime is complex and harmful, is mandated by a number of United Nations conventions and instruments, with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter the TIP Protocol) supplementing the United Nations Convention against Transnational Organized Crime (hereinafter the TOC Convention) at the fore.

Only laws and regulations that effectively prohibit all aspects of human trafficking in line with TIP Protocol Article 5 will result in the successful prosecution of traffickers and compensation for victims. Due to the complex interaction of factors, legislation must be both comprehensive enough to handle the various ways that individuals are exploited and detailed enough to address the frequently complex trafficking process.

The difficulties States have in putting the TIP Protocol into effect are not all included in this study guide's full list. Instead, it aims to highlight some of the difficulties and problems that States must overcome in order to combat trafficking in their own internal settings. This study demonstrates how various legal systems have erected their legislative responses against human trafficking by using instances from various nations rather than prescribing remedies. In bringing up these intersecting legislative concerns, it is anticipated

that policymakers and legislators would become more aware of and grasp the importance of developing comprehensive legislative solutions to challenging problems like human trafficking.

For any questions that may come up during your research, do not hesitate to contact us so as to help you, via our emails: Theodore: [takritidis@pinewood-school.gr](mailto:takritidis@pinewood-school.gr), Eve: [vazaiouevaki@gmail.com](mailto:vazaiouevaki@gmail.com), Olga: [olgamaraletou@gmail.com](mailto:olgamaraletou@gmail.com). We are looking forward to cooperating with you all and we are certain that we will have a great collaboration and fruitful debates.

## **DEFINITION OF KEY TERMS**

### **TRAFFICKING**

Human Trafficking is the recruitment, transportation, transfer, harboring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit. Men, women and children of all ages and from all backgrounds can become victims of this crime, which occurs in every region of the world. The traffickers often use violence or fraudulent employment agencies and fake promises of education and job opportunities to trick and coerce their victims.<sup>1</sup>

### **ANTI-TRAFFICKING**

An Act to institute policies to eliminate trafficking in persons especially women and children, establishing the necessary institutional mechanisms for the protection and support of trafficked persons, providing penalties for its violations, and for other purposes.<sup>2</sup>

### **ILO**

The International Labor Organization (ILO) is a United Nations agency dealing with labor issues, particularly international labor standards, social protection, and work opportunities for all. This topic is of relevance to the IAS exam aspirants.<sup>3</sup>

### **TOC CONVENTION**

The United Nations Convention against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, is the main international instrument in the fight against transnational organized crime.<sup>4</sup>

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<sup>1</sup> <https://www.unodc.org/unodc/en/human-trafficking/human-trafficking.html>

<sup>2</sup> <https://pcw.gov.ph/republic-act-9208-anti-trafficking-in-persons-act-of-2003/>

<sup>3</sup> <https://byjus.com/free-ias-prep/ilo/>

## TIP PROTOCOL

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (also referred to as the Trafficking Protocol or UN TIP Protocol) is a protocol to the United Nations Convention against Transnational Organized Crime. The protocol was adopted by the United Nations General Assembly in 2000 and entered into force on 25 December 2003. As of May 2020, it has been ratified by 178 parties.<sup>5</sup>

## BACKGROUND INFORMATION

After the Palermo Protocols of 2000, several nations have progressively shifted from a position of living in denial of the existence of human trafficking and migrant smuggling in and out of their territories to creating responsible policies for combatting trafficking in persons, especially women and children, in all its manifestations. The governments of several nations have begun to commit to containing the threat at various operational levels after realizing the pandemic's multifaceted effects. The fundamental legal and policy frameworks and initiatives created by the UN and its agencies, which served as a model for the development of member states' own laws, policies, strategies, and initiatives, are at the basis of these responses. Prevention, prosecution, and protection are the three main strategies used by these legislative frameworks and activities to address the issue of human trafficking.

The prosecution (law enforcement) component of these legal frameworks and initiatives is heavily emphasized, while the prevention and, more importantly, victim protection components receive little to no attention, according to a critical analysis of these initiatives at the regional and international levels. In addition to protecting and enforcing the human rights of trafficking victims, prosecution of those who break anti-trafficking legislation is essential to the battle against human trafficking. Unfortunately, despite current efforts at the international and regional levels to speed up the enforcement of these rights, which began in 2004 with the establishment of the mandate of the Special Rapporteur on Trafficking in Persons, especially Women and Children, the recognition and protection of these rights have yet to gain the desired momentum globally.

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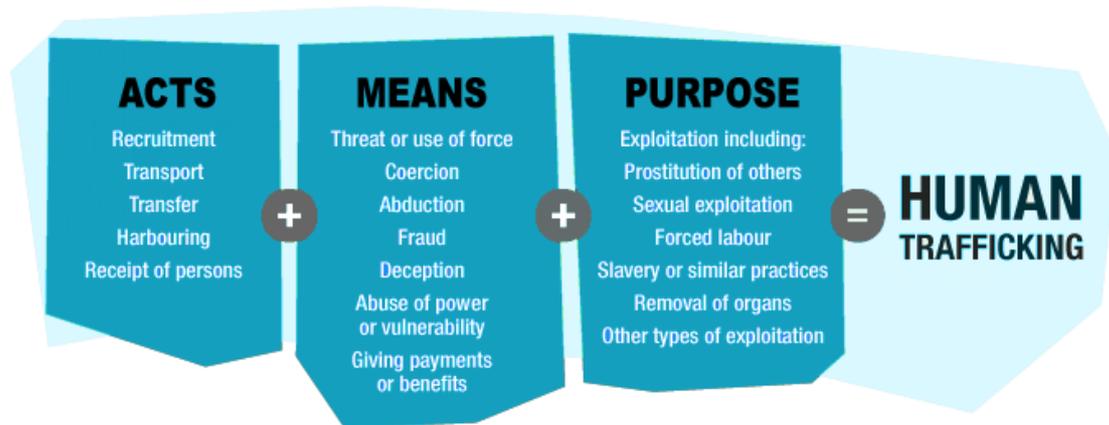
<sup>4</sup> <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

<sup>5</sup> [https://en.wikipedia.org/wiki/Protocol\\_to\\_Prevent,\\_Suppress\\_and\\_Punish\\_Trafficking\\_in\\_Persons,\\_Especially\\_Women\\_and\\_Children#:~:text=The%20Protocol%20to%20Prevent%2C%20Suppress,Convention%20against%20Transnational%20Organized%20Crime](https://en.wikipedia.org/wiki/Protocol_to_Prevent,_Suppress_and_Punish_Trafficking_in_Persons,_Especially_Women_and_Children#:~:text=The%20Protocol%20to%20Prevent%2C%20Suppress,Convention%20against%20Transnational%20Organized%20Crime)

In order to assess its sufficiency or efficacy, this study guide reviews the remedial rights of trafficking victims that are included in international and regional legislative frameworks and efforts. The frameworks and activities mentioned here, however, are those of several African governments because Africa is the focus of this regional dialogue. It also briefly examines pertinent international legal efforts, frameworks, and best practices.

### Act + Means + Purpose = Human Trafficking

Table 1-What is human trafficking



\*Many anti-trafficking laws do not include all of these purposes (especially the removal of organs). Differing definitions not only result in confusion surrounding the issue, but also in neglect of victims in need of protection.

### The Challenge of Weak Implementation Machinery

Trafficking is not an exception to the rule that a strong and reliable international compliance apparatus is vital to international law regulation. Regrettably, the Trafficking Protocol falls short on this front despite being the primary instrument of legal obligation in this field, operating under the very lax supervision of a working group of States Parties attached to the larger Conference of Parties to the UN Convention against Transnational Organized Crime and the Protocols Thereto (UNTOC), which convenes annually. The Working Group is not comparable to a human rights treaty body or a comparable compliance body in any way. It doesn't look at State Party reports on how the Protocol is being implemented. It does not make suggestions to particular States Parties, have productive discussions with them, or otherwise engage in meaningful interaction with them.

The ongoing (unreported) disagreement over the issue of non-governmental organization (NGO) involvement in its sessions—something that is taken for granted inside the human rights system—provides another helpful contrast. Some States are adamantly in favor of inviting outsiders to attend their meetings.

However, some people are firmly resisting. Proposals to increase the supervisory apparatus connected to UNTOC are also met with a lot of hostility. In what has grown to be a crowded and contentious area, there seems to be little desire among States Parties to the Trafficking Protocol in particular.

### **Remedial Rights in International Legal Frameworks and Initiatives**

Even before the formation of international organizations like the League of Nations, which is no longer in existence, and the United Nations, the international community had a number of frameworks and programs aimed at preventing the trafficking of people, particularly of women and children. The International Agreement for the Suppression of the White Slave Traffic, 1904, is the oldest known example of such a reaction. In the first part of the 20th century, several more treaties with a similar structure were adopted. Despite the fact that these documents tended to be gender-biased and lacked a comprehensive definition of human trafficking, some aspects of the criminal act may be understood from their provisions. These tools' analyses show that prostitution and the sexual exploitation of children and women were thought to be the major purposes of human trafficking.

### **The issue of Consent**

When permission has been acquired illegally, as in the case of children, or when that person's unique vulnerability renders it impossible for them to consent in the first place, it is illogical and illicitly impossible to consent to being abused. Real consent is only attainable and admissible in court when all pertinent information is available and the subject is given the choice to consent or not. In addition, it is illegal to submit to forced labor, slavery, or acts that resemble slavery or servitude.

Domestic law allows the victim's consent to constitute a defense, but as soon as one or more forms of trafficking are shown, consent is no longer relevant and consent-based defenses cannot be asserted. Consent that has been invalidated or tainted by the trafficker's use of any inappropriate methods constitutes trafficking. Additionally, it may be claimed that a victim's assent at one point in the process cannot be interpreted as consent at all points in the process. If there is no victim consent at any point in the process, trafficking has

occurred. This implies that the offense has been committed even if the victim gave their agreement to labor abroad or to enter the country illegally, but not to be exploited.

## **MAJOR COUNTRIES AND ORGANISATIONS INVOLVED**

On July 1, the U.S. Department of State released the 2021 Trafficking in Persons (TIP) Report. The report's goal is to understand and support countries all over the world in combating human trafficking at all levels, especially amidst the challenges raised by the global pandemic. It evaluates 188 countries and assigns each to one of four categories based on the country's efforts to combat trafficking. Tier 1 is the best ranking, while Tier 3 is the worst. There are two middle ranks: Tier 2 and Tier 2 Watch List.

### **Russian Federation**

The Russian government has made limited steps to safeguard victims. The government did not create or use a formal mechanism to direct employees in the early victim identification or their referral to help. The lack of a clear definition of who was a trafficking victim or a way to distinguish them from victims of other crimes in the legislation, according to experts, made it difficult to carry out identification procedures and restricted access to victim assistance. Compared to 61 in 2019 and 19 in 2018, the authorities announced the identification of 52 trafficking victims in 2020. Law enforcement figures show that of the 52 victims that were identified, 50 were female sex trafficking victims and two were male victims of forced labor. In certain instances, the available statistics did not include national origin information, however the majority of victims were Russian. As in previous years, the government did not provide funding or programs for protective services dedicated to trafficking victims.

### **Democratic People's Republic of Korea**

The Democratic People's Republic of Korea (DPRK or North Korea) is still on Tier 3 in the U.S. Department of State's 2021 Trafficking in Persons Report, because its government has not fully complied with the requirements for the eradication of trafficking and is not making significant efforts to do so, even after taking into account any potential effects of the COVID-19 pandemic on its ability to combat trafficking. In prison camps as part of a well-established system of political repression, during mass mobilizations of adults and children, in labor training centers, and through its imposition of forced labor conditions on DPRK overseas workers, the government had a policy or pattern of forced labor during the

reporting period. According to reports, the government increased the number of political detainees as a result of the COVID-19 outbreak, increasing its ability to compel North Koreans to compulsory labor. State-sponsored forced labor was utilized to finance both legitimate government operations and other illegal activity. The administration made no clear attempts to combat human trafficking.

## **Iran**

Iran still has a serious problem with the trafficking of both children and adults for the purpose of slavery and sexual exploitation. Iran has become a political arena that mostly ignores the domestic humanitarian issues the country suffers as a result of tensions and conflict with neighboring nations. Iran is listed as a Tier 3 country. Given the gravity of human trafficking in Iran, immediate action is required.

Iran did not disclose any cases of human trafficking in 2021, despite regulations designed to prosecute and penalize anyone who engage in the practice there. To join and fight in militias headquartered outside of Iran, most notably in Afghanistan, Yemen, and Syria, the Iranian government itself also forces adult men and young boys to do so. Many of these people, including some "boys as young as 13 years old," are not even Iranians; the Iranian government frequently traffics in foreign nationals as well as undocumented immigrants. The Iranian government also supports militias and prepares juvenile soldiers for battle.

## **ABOLISHING INJUSTICE IN THE 21ST CENTURY (A21)**

A21 is a nonprofit organization dedicated to rescuing people from slavery and restoring them to full health. Their operational plan entails reaching out to the weak and reducing demand, rescuing captives and pursuing criminal charges against them, and restoring survivors and giving them the tools they need to live freely. A21 has 12 offices in 11 countries (Australia, Bulgaria, Denmark, Greece, Holland, Norway, South Africa, Thailand, the UK, Ukraine, and the USA), and six of these operations provide restorative aftercare services (Bulgaria, Greece, South Africa, Thailand, Ukraine, and the USA). Its objective is to ensure that every human trafficking survivor receives the assistance they need. We've taken a personalized approach and want to support each trafficking victim in their efforts to reintegrate into society and move toward independence.

## Rapha International

An aftercare program for young female survivors who had been rescued from slavery and sexual abuse in Battambang, Cambodia, was launched by Rapha International in 2003. Rapha is now a respected worldwide organization that has the support of the governments of the nations where it operates, 19 years after it first began. The Rapha International concept entails hiring and supplying local workers that are skilled and motivated to fight child labor, sexual exploitation, and abuse in their home nations. Holistic healing is used in all of Rapha's aftercare programs.

The strategy used by Rapha International to combat human trafficking has been shown to be effective. Since its founding in 2003, Rapha has been assisting young people who have been the victims of human trafficking in Battambang, Cambodia. In 2009, Rapha launched its first preventative program, Kids Club, in Phnom Penh, Cambodia, and started helping trafficking victims in Chiang Mai, Thailand. In Battambang, Cambodia, another Kids Club facility opened in 2012. In addition to opening an aftercare center in Siem Reap, Cambodia, and a Kids Club site in Mae Sot, Thailand in 2016, Rapha started working with trafficking survivors in Haiti in 2014. The Rapha Hope & Healing Center in Joplin, Missouri, opens its doors in 2020.

## TIMELINE OF EVENTS

Date	Description of Event
1904	International Agreement for the Suppression of the White Slave Traffic
1910	International Convention for the Suppression of the White Slave Traffic
1921	International Convention for the Suppression of the Traffic in Women and Children
1930	Forced Labour Convention
1949	Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others
1999	Worst Forms of Child Labour Convention

2000	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography
2003	Protocol to Prevent, Suppress & Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime
2005	The Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197), adopted by the Committee of Ministers

## UN INVOLVEMENT: RELEVANT RESOLUTIONS, TREATIES AND EVENTS

The United Nations has a specific office regarding human trafficking, the Office on Drugs and Crime (UNODC). Resolutions adopted by the United Nations GA as well as documents produced by the Legal Committee have been a constant driver for the development of rules and regulations regarding human trafficking and international cooperation of Member States in their anti-trafficking activities.

See below for a list of resolutions of the UN General Assembly and UNODC documents of particular influence on the legal actions against trafficking in States.

- [A/RES/76/186](#) - Crime prevention and criminal justice: Improving the coordination of efforts against trafficking in persons
- [A/RES/76/7](#) - 2021 Political Declaration on the Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons

The General Assembly Adopts the political declaration entitled “2021 Political Declaration on the Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons” annexed to the present resolution.<sup>6</sup>

- [A/RES/76/178](#) - Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives: 76/178. Situation of human rights in the Islamic Republic of Iran

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<sup>6</sup> 37th plenary meeting 22 November 2021-76/7. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/351/40/PDF/N2135140.pdf?OpenElement>

- [A/RES/63/156](#) - 63/156. Trafficking in women and girls [on the report of the Third Committee (A/63/425)]
- [A/RES/63/194](#) - 63/194. Improving the coordination of efforts against trafficking in persons: Welcoming of the holding of the Vienna Forum to Fight Human Trafficking

## PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

While many attempts to solve this conflict have been done, these are the main ones that were put into work successfully:

- Article 5 of the TIP Protocol required States parties to criminalize trafficking in persons as defined in Article 3 of the TIP Protocol;
- The following duties are placed on Member States by Article 10 of the European Convention on Action Against Traffic in Human Beings with relation to victim identification:
  - Each Party shall make available to its competent authorities individuals who have received training and certification in preventing and combating human trafficking, in identifying and assisting victims, including children, and shall ensure that the various authorities work cooperatively with one another and with pertinent support organizations, so that victims can be identified in a procedure properly taking into account the special circumstances of women and child victims
  - Each Party shall, in cooperation with the other Parties and competent support organizations, implement such legislative or other measures as may be required to identify victims as appropriate. Every Party shall make sure that, if the competent authorities have reason to believe that a person has been a victim of human trafficking, that person shall not be expelled from its territory until the identification procedure as a victim of an offense specified in Article 18 of this Convention has been finished by the competent authorities. Each Party shall also make sure that person receives the assistance specified in Article 12, paragraphs 1 and 2;

- When a victim's age is unknown but there is evidence to infer that the victim is a child, the victim should be deemed to be a child and shall receive additional protective measures while the victim's age is being verified;
- Each Party shall, upon becoming aware that an unaccompanied child is a victim, take the following actions:
  - a) Provide for the representation of the child by a legal guardian, organization, or authority who shall act in the child's best interests;
  - b) Take the necessary steps to establish the child's identity and nationality;
  - c) Use all reasonable efforts to identify the child's family when doing so is in the child's best interests.<sup>7</sup>

While many attempts have been made, especially in the 21<sup>st</sup> century, many experts and NGOs do not believe that legal frameworks and resolutions are the most effective way to combat the issue. Over the years numerous people have attempted to gather data concerning trafficking in persons. Sooner than later these groups of people realized that an international campaign should be in order, so they created [enumeration of NGOs etc....]

## **POSSIBLE SOLUTIONS**

The focus of this guide has been on the effectiveness of anti-trafficking legislations, highlighting the importance of its legal frameworks and resolutions. As discussed, legal frameworks entail both advantages and disadvantages for the sake of human anti-trafficking, as well as a number of challenges for society and government. The aim of this section will thus be to provide with a number of possible solutions to this issue, vastly reflecting on issues discussed in this guide.

The measures that should be implemented to counter this conflict must focus on legal aspects, practical solutions and education campaigns, such as but not limited to:

- The resources needed shall be financially covered. The best way to do that is international funding. By doing that, the nations will not only help in order

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<sup>7</sup> <https://www.unodc.org/documents/human-trafficking/2008/BP023TheEffectivenessofLegalFrameworks.pdf>

to tackle the issue of trafficking, but also be recognized by others as a devoted ally in matters of anti-trafficking;

- Research and data gathering by Member States and international organizations in the area of human trafficking shall continue in a spirit of international cooperation to minimize the annual trafficking victim percentage;
- Students shall be given the opportunity to educate themselves upon the issue. To do that, they must be informed through school activities, such as videos/movies, field trips related to anti-trafficking or face to face communication with an expert. To that end, legal framework research clubs should be put into work in both schools and universities;
- An increasingly active civil society shall have a crucial role to play in exposing human trafficking in all its forms, including for the sexual exploitation of children, to take measures to criminalize child sex tourism, to condemn the practice of trafficking in persons, and to investigate, prosecute, condemn and penalize traffickers and intermediaries, while providing protection and assistance to the victims of trafficking with full respect for their human rights, and invites Member States to continue to support those United Nations agencies and international organizations that are actively involved in victim protection;

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