



UNITED NATIONS
Office on Drugs and Crime

**The International Instruments Regulating the
Management of Trafficking in Human Beings**

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Some features of trafficking in persons

- **Large supply of potential victims:**
 - economic difficulties, lack of employment opportunities.
- **Growing demand for workers in the sex industry, cheap labour.**
- **Organized criminal networks have taken control over this supply and demand situation to exploit victims and generate profits: Trafficking in persons is regarded as a high profit – low risk crime.**
- **Organizers are often also involved in other crimes.**
- **No country in the Southern African region has yet specific anti-human trafficking legislation in place.**
- **If no legislation is in place – it is difficult to recognise the problem: when there is no recognition of the problem – little is done to tackle it.**



International Instruments

- UN Convention against Transnational Organized Crime “*Palermo Convention*”
- Supplementary Protocols:
 - Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
 - Protocol against the Smuggling of Migrants by Land, Sea and Air
 - Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition



Trafficking Protocol: Status of Signature and Ratifications

- Currently 117 signatures and 92 ratifications
- Entered into force in December 2003
- Ratified in Southern Africa by: Botswana, Lesotho, Madagascar, Mauritius, Namibia, Seychelles, South Africa, Zambia (accession)



UN TOC Convention

- **adopted by the UN General Assembly at its Millennium Meeting in November 2000**
- **opened for signature at a Conference in Palermo, Italy, in December 2000**
- **entered into force in September 2003**
- **In Southern Africa, TOC has been ratified to date by:**
 - **Botswana, Lesotho, Madagascar, Malawi, Mauritius, (Mozambique), Namibia, Seychelles, South Africa; Zambia (accession)**
- **TOC Convention criminalizes:**
 - **participation in an organized criminal group**
 - **laundering of proceeds of crime**
 - **corruption**
 - **obstruction of justice**
- **Definition of transnational crime and organized criminal group**
- **Forfeiture of proceeds of crime**
- **Extradition, mutual legal assistance, investigation**
- **Training, research, information measures, prevention**



Purpose of the Trafficking Protocol

(Article 2)

The Trafficking Protocol offers a framework for tackling the problem of human trafficking.

- To prevent and combat trafficking in persons, paying particular attention to women and children;
- To protect and assist victims of such trafficking, with full respect for their human rights; and
- To promote international co-operation to achieve above goals.



Definition of Human Trafficking (Article 3)

"Trafficking in persons shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of 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..."



Definition of Human Trafficking (Art. 3)

“...**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.”

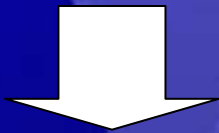


Trafficking as a process

1. Recruitment of a person **Country of Origin**



2. Transportation of a person **Country of Transit**



3. Exploitation of a person **Country of Destination**



Criminalization (Art. 5)

Member States should consider:

- a) To enact domestic laws making human trafficking a criminal offence. Such laws should also establish as criminal offences attempting to commit, participating as an accomplice and organizing or directing other persons to commit human trafficking.
- b) To ensure such legislation applies to victims of all ages and both sexes; and clearly distinguish between trafficking in persons and other forms of irregular migration.



Smuggling of Migrants versus Trafficking in Persons

- *Main Differences:*
 - **Consent:**
 - smuggling involves migrants who have given consent to their smuggling.
 - trafficking victims have not given consent, and if they initially consented, that consent has been rendered meaningless by the coercive, or deceptive actions of the traffickers.
 - **-Exploitation:**
 - smuggling ends with the migrants' arrival at their destination.
 - trafficking involves the ongoing exploitation of the victim, i.e. more long-lived criminal activity, profit both from transportation and exploitation.
 - **Transnationality:**
 - smuggling of migrants is always transnational.
 - trafficking in persons may occur over or within borders.



Assistance and Protection of Victims (Art.6)

Member States should consider:

- To implement measures to provide for physical, psychological and social recovery of victims of trafficking. This should include: housing, counseling, medical, psychological and material assistance as well as employment, educational and training opportunities.
- To provide for the physical safety of victims.



Temporary Residence and Repatriation (Art. 7-8)

- To adopt measures that permit victims of human trafficking to remain in the territory temporarily or permanently, in appropriate cases.
- To facilitate preferably voluntary return of victims of human trafficking.
 - Countries of origin shall facilitate and accept the return of victims without delay
 - Return shall be safe, consider the status of possible legal proceedings, and shall preferably be voluntary
 - States shall co-operate to facilitate the repatriation



Prevention (Art 9)

Member States should consider:

- **To implement together with NGO's and civil society, comprehensive policies and programmes to prevent and combat human trafficking and to protect the victims.**
- **To implement together with NGO's and civil society research, information and media campaigns and social and economic initiatives to prevent and combat trafficking in persons.**
- **To undertake measures to alleviate the vulnerability of people (women and children in particular) to human trafficking such as poverty, underdevelopment and lack of equal opportunity.**



Information exchange and training (Art. 10)

Member States should consider:

- To exchange information on human trafficking routes, means and methods of trafficking, traffickers profiles and victims identification.
- To provide training to relevant officials in the prevention, and prosecution of trafficking in persons and protection of the rights of the victims. The training shall take into account human rights aspects and be child- and gender sensitive



Border Measures and Documents (art. 11-13)

Member States should consider:

- To strengthen border controls to prevent and detect trafficking in persons.
- To undertake measures to prevent transport operated by commercial carriers to be used in the commission of human trafficking offences.
- To strengthen cooperation among border control agencies by, inter alia, establishing and maintaining direct channels of communication.
- Ensure secure travel documents.



Lack of legislation does not justify lack of action!

Recruitment	Transportation	Exploitation	Other crimes
Document Forgery	Document Forgery	Extortion	Money Laundering
Kidnapping / Abduction	Violations of Immigration Law	False imprisonment	Tax Evasion
Fraud	Corruption of Officials	Unlawful coercion	Corruption of officials
	Withholding of Documents	Violations of Immigration Law	Other forms organised criminal activities (e.g. drug smuggling)
	Sexual Crimes	Document Theft	
	Violence	Assault, Sexual Abuse and Rape	
		Torture and Death	



UNODC CURRENT ACTIVITIES ON TRAFFICKING IN PERSONS IN SOUTHERN AFRICA

- UNODC upon request assists Member States in the ratification and implementation of the Trafficking Protocol, through:
 - Promotion of Regional Cooperation: SADC and SARPCCO
 - Provision of Legislative Assistance: training of legal drafters
 - Capacity building: training of law enforcement, prosecutors and the judiciary.
 - Understanding the phenomenon: undertaking of legal and situational assessments.



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