

Annex II: The definition of trafficking in persons and the mandate for the Global Report

Trafficking in persons: universally defined in the UN Trafficking in Persons Protocol

The definition used in the Global Report is the one used in the United Nations Trafficking in Persons Protocol. The Protocol, which supplements the United Nations Convention against Transnational Organized Crime, is the primary instrument used by countries to tackle the crime of trafficking in persons. The Protocol contains provisions regarding the criminalization of the trafficking crime and the protection of victims, to mention some. The data collection for the Global Report is thus based on the common understanding of the trafficking crime as codified in the Protocol.¹

Article 3, paragraph (a) of the Protocol states that trafficking in persons “*shall mean 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, 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*”

Article 3, (b) states that: “*The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used.*”

Article 3, (c) states 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 subparagraph (a).*”

This definition has been adopted by the 169 United Nations Member States that have ratified the Protocol.² 153 countries have introduced legislation that criminalizes trafficking in persons according to this definition. Trafficking in persons is a process comprising three distinct elements: the act, the means and the purpose (which is always exploitation). The consent of the victim is irrelevant, and the exploitation may not necessarily take place if the traffickers’ intent to exploit can be verified in court.³

¹ A/RES/55/25, United Nations General Assembly, *United Nations Convention against Transnational Organized Crime; Annex II: The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, 8 January 2001.

² As of 9 June 2016.

³ For example, Austria reported a court case in which two Hungarian girls were recruited with the promise of jobs as cleaners in a hotel. The victims were transferred to Vienna, where the trafficker threatened them with a knife in order to coerce them into sexual exploitation. The frightened victims started walking along the street, and with the help of a passer-by, they managed to reach the nearest police station. The case was investigated and prosecuted, and the trafficker was convicted under trafficking in persons legislation, with a prison sentence of six years, even though the exploitation did not actually take place.

Each element of the trafficking process has a range of possible modes. The UN Trafficking in Persons Protocol states that “the act” is the recruitment, transport, transfer, harbouring or receipt of persons. “The means” refers to the method used to accomplish “the act”. Possible means are the threat or use of force, deception, coercion, abduction, fraud, abuse of power or a position of vulnerability, or giving payments or benefits. These terms are not necessarily precise from a legal point of view and may be defined differently in different jurisdictions. “The purpose” is always exploitation of the victim. The Protocol definition refers to a list of exploitative practices: sexual exploitation, forced labour, slavery and slavery-like practices, and removal of organs.

The Protocol also clarifies that the modes listed above comprise the minimum requirement for countries to fulfil their obligations in terms of Protocol compliance. National authorities have plenty of scope to broaden the range of exploitative practices to better tailor their legislation to the trafficking situation in their country. In fact, legislators and jurisprudence around the world are continuously reshaping the legal concept of trafficking in persons by including new forms of exploitation in national legal frameworks.

The mandate for the 2016 *Global Report on Trafficking in Persons*

Six years ago, the international community reaffirmed their political will and commitment to the international legal framework to combat trafficking in persons. In July 2010, the United Nations General Assembly adopted the Global Plan of Action to Combat Trafficking in Persons.⁴ The Global Plan reiterated the collective effort behind the UN Trafficking in Persons Protocol, as well as the role of UNODC and the Inter-Agency Coordination Group against Trafficking in Persons (ICAT)⁵ to prevent and suppress trafficking in persons. The Global Plan also gave UNODC the mandate to collect data and report biennially on trafficking in persons patterns and flows at the national, regional and international levels.

This edition of the *Global Report* is the third publication after this mandate was given. Like past editions data is collected from the national authorities who are normally in charge of detecting victims. Hundreds of institutions around the world detected, recorded and reported human trafficking cases from within their territory of competence. All this data is presented in the detailed country profiles available at the

⁴ A/RES/64/293.

⁵ The Inter-Agency Coordination Group against Trafficking in Persons (ICAT) is a policy forum set up to improve coordination among UN agencies and other relevant international organizations to facilitate a holistic and comprehensive approach to preventing and combating trafficking in persons, including protection and support for victims. ICAT is comprised of 17 member agencies: International Civil Aviation Organization (ICAO), International Criminal Police Organization (INTERPOL), International Labour Organization (ILO), International Organization for Migration (IOM), Office of the United Nations High Commissioner for Human Rights (OHCHR), Office of the United Nations High Commissioner for Refugees (UNHCR), Organization for Security and Co-operation in Europe (OSCE), United Nations Children's Fund (UNICEF), United Nations Department of Peacekeeping Operations (DPKO), United Nations Development Programme (UNDP), United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), United Nations Interregional Crime and Justice Research Institute (UNICRI), United Nations Joint Programme on HIV/AIDS (UNAIDS), United Nations Office on Drugs and Crime (UNODC), United Nations Population Fund (UNFPA) and the World Bank.

UNODC website.⁶ At the same time, the *Report* is global, not just in terms of data coverage, but also because the information is compiled and analysed from a global perspective.

⁶ See www.unodc.org/glotip.