



UNODC

United Nations Office on Drugs and Crime

TOOLKIT ON MAINSTREAMING GENDER AND HUMAN RIGHTS

IN THE IMPLEMENTATION OF THE
UNITED NATIONS CONVENTION AGAINST
TRANSNATIONAL ORGANIZED CRIME



UNITED NATIONS OFFICE ON DRUGS AND CRIME

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INTRODUCTION

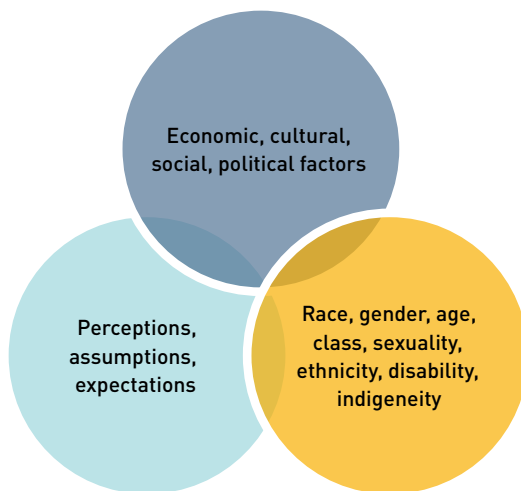
OVERVIEW

The purpose of this Toolkit is to support the mainstreaming of intersectional gender and human rights considerations into laws, policies and strategies against organized crime, in line with the United Nations Convention against Transnational Organized Crime (Organized Crime Convention) and other relevant international instruments.

Mainstreaming intersectional gender and human rights in laws, policies and strategies strengthens efforts against organized crime.

Gender and human rights dimensions of organized crime are relevant to its:

- *Causes*, in that gender inequality and human rights abuses and violations create fertile ground for organized crime to flourish
- *Consequences*, in that organized crime, in all its forms, impacts on the human rights of affected individuals in gendered ways
- *Solutions*, in that intersectional gender and human rights considerations are critical to effective responses



This Toolkit aims to show how legislation and policies that respond to the diverse experiences of people of all genders, ages, ability and disability, result in more nuanced and effective responses to the complex and evolving landscape of organized crime.¹

WHAT THE TOOLKIT DOES

This Toolkit supports legislative drafters and policymakers to mainstream gender and human rights considerations in legislation, policies and strategies to implement the Organized Crime Convention and other relevant international instruments.²

- The [introduction](#) provides an overview on how to use the Toolkit
- [Chapter 1](#) explains the relationship between the Convention and human rights and gender considerations
- [Chapter 2](#) outlines interrelated human rights and gender frameworks that guide the interpretation and implementation of the Convention

¹ United Nations Office on Drugs and Crime (UNODC), *Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), pp. 8–13; and UNODC, “Strategy for gender equality and the empowerment of women (2022–2026)” (Vienna, 2022).

² See, inter alia, [CTOC/COP/2022/9](#), chap. I, sect. A, resolution 11/1, annex I; resolution 11/2, annex II; and resolution 11/5. While the Toolkit does not explicitly address the three Protocols to the United Nations Convention against Transnational Organized Crime, it may be applied to efforts to implement those instruments.

- [Chapter 3](#) explains the role of law and policymaking in mainstreaming intersectional gender and human rights in measures against organized crime
- [Chapter 4](#) provides practical guidance in relation to key objectives of preventing and countering organized crime in line with the Convention
- [Chapter 5](#) offers budgeting considerations and indicators to adapt for monitoring, evaluation, learning and accountability of laws and policies
- [Chapter 6](#) provides checklists for reviewing policies and laws in line with gender and human rights considerations

The [annex](#) offers some advocacy points users can draw on in championing gender-responsive and human rights-based approaches, as well as entry points to mainstreaming gender and human rights considerations in the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols Thereto.

HOW TO USE THE TOOLKIT

While gender and human rights must be considered throughout all stages of policy and legislative drafting, which parts of the Toolkit users will find relevant will depend on their specific context, objectives and challenges.³ Some sections may be more relevant for policymakers, others for legislative drafters. All insights, analytical questions, case studies, best practices and building blocks of gender and human rights mainstreaming are offered for users to learn from and adapt as appropriate to their context. The checklists contained in chapter 6 may be useful in whole or in part, depending on which sections of law or policy users are analysing.

The importance of contextualization: Human rights and gender equality are near universal aspirations, but the legislative and policy paths taken to reach these goals differ from country to country. Differences in legal systems of States, institutions, capacity, and legislative and policy frameworks, mean that there is no one-size-fits-all approach to mainstreaming. Indeed, a tick box approach that simply mentions human rights and gender in law and policy documents is likely to be ineffective and may even be harmful to the humans affected by them. Users must therefore calibrate the practical guidance offered here to their own context.⁴

Relationship with other UNODC resources: The Toolkit supplements other resources UNODC has developed to support States in preventing and countering organized crime (see [Additional resources](#)). To achieve a more comprehensive understanding of the gender and human rights dimensions of implementing the Convention, users are encouraged to refer to those listed below and cross-referenced throughout the Toolkit.

³ For instance, policymakers working on crime prevention policies will find chapter 4.1 useful (and section 4.2 less relevant). Legislative drafters looking to review existing legislation in line with human rights obligations may find annex II a useful starting point.

⁴ In doing so, users may wish to seek technical assistance from UNODC Global Programme on Implementing the Organized Crime Convention: From Theory to Practice (email: implement.untoc@un.org).



UNODC, *Organized Crime Strategy Toolkit for Developing High-Impact Strategies* (Vienna, 2021) assists the development and implementation of national and regional strategies to counter organized crime



Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law (Vienna, 2022) details the relationship between the Convention and international human rights law



Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime (Vienna, 2022) explains the conceptual framework for gender mainstreaming on select issues in the implementation of the Convention



Model Legislative Provisions against Organized Crime, 2nd ed., (Vienna, 2021) offers model provisions and explanatory notes on different aspects of drafting legislation implementing the Convention

Additionally, the Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal serves as a living repository of legislation, policy, case law and other tools from around the world. Users can freely access the portal and contribute resources of their own for the benefit of others as part of their efforts to support cooperation against transnational organized crime.

The Toolkit draws on these and other resources, as well as benefiting from insights obtained at an expert group meeting convened in Vienna from 27 to 29 March 2023.⁵

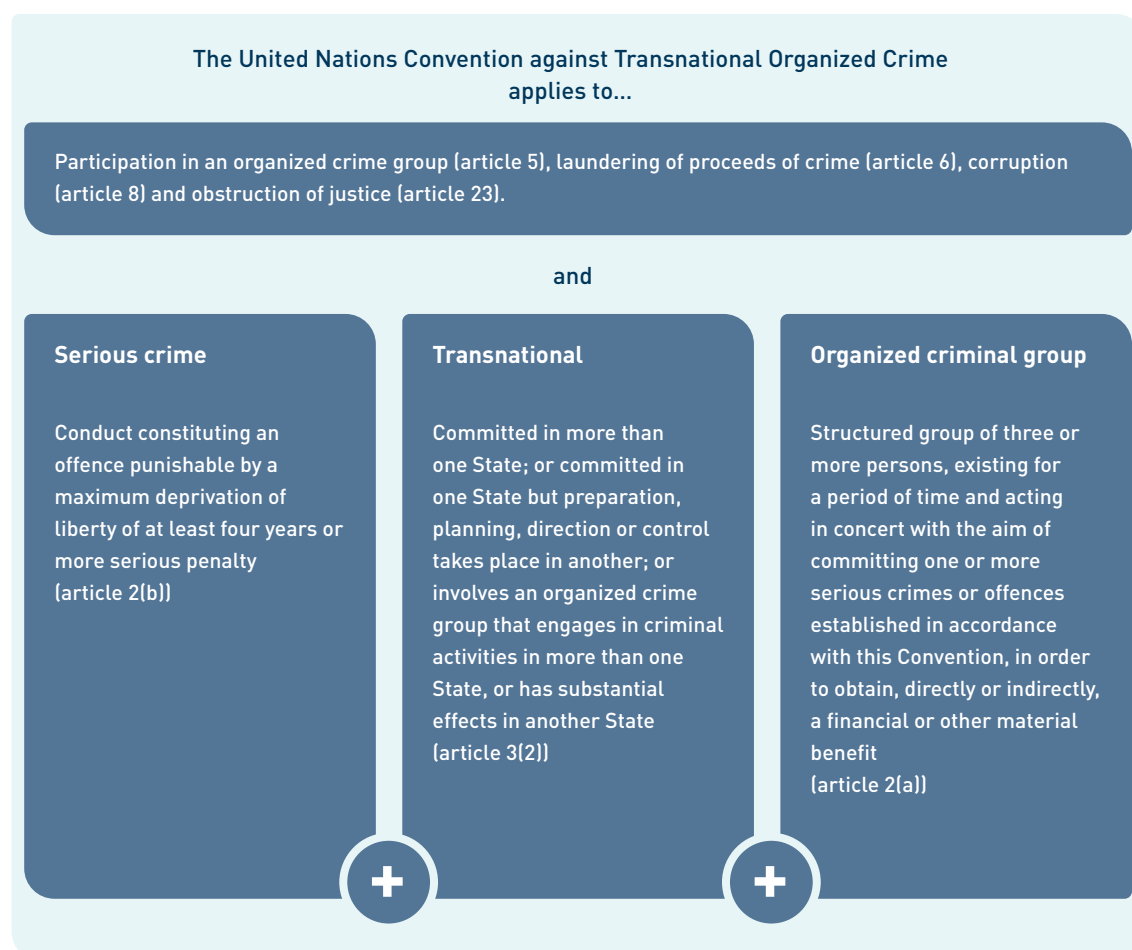
⁵The Toolkit has been drafted on the basis of the intersectional gender and human rights objectives of the United Nations that underpin the work of UNODC to support effective State response to implement the Convention. See UNODC, “Strategy for gender equality”; and [A/67/775-S/2013/110](#), annex.

Chapter 1.

UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME

The Convention applies to the prevention, investigation and prosecution of a range of criminal offences that are transnational in nature and involve an organized criminal group.

Figure 1. Scope of the Convention



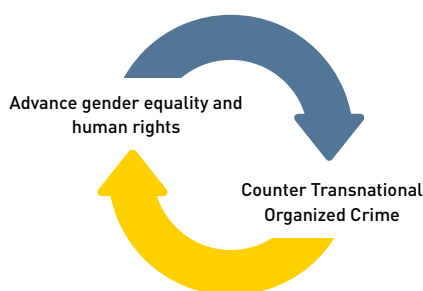
The understanding of organized criminal groups as acting with the purpose of obtaining a financial or other material benefit excludes terrorist organizations, humanitarian actors, or political or social groups whose activities are not financially or materially motivated. This element is therefore an important human rights safeguard against the Convention being misused to eliminate political rivals, criminalize protest and advocacy, or outlaw social groups.⁶

Table 1. Human rights and gender in the Convention

The United Nations Convention against Transnational Organized Crime and...	
HUMAN RIGHTS	GENDER
Interrelation between the Organized Crime Convention and human rights emerged from concern about negative human rights impacts of organized crime, which has subsequently been expressed in a number of resolutions of the Conference of Parties to the Convention. ⁹	Gender and other intersectional attributes (including age, sex, ethnicity, socioeconomic status, among others), are relevant to different people’s experiences with relation to organized crime, including how and by whom organized crime is perpetrated, what its impact is and how effective the measures against it are.
Where laws, policies and strategies are not responsive to these intersecting dynamics, it may result in making efforts to implement the Convention ineffective, counterproductive and harmful.	

⁹ See, inter alia, resolutions 5/1, 6/1, 10/6, 9/3 and 11.2 of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime.

Gender-based and human rights harms can result not only from the actions of criminals, but also from the actions of States in their efforts to prevent and counter organized crime. At a minimum, State efforts must do no harm, but the ultimate goal should be to advance gender equality and human rights. States are obliged to respect, protect and fulfil the human rights of victims, suspects, perpetrators, witnesses, informants, persons vulnerable to organized crime, as well as criminal justice actors and other respondents.⁷



There is a cyclical, mutually beneficial relationship between the obligations contained in the Convention and those contained in international human rights law. Countering organized crime and advancing gender equality and human rights are both ends in themselves and means by which the other can be achieved. As demonstrated by this Toolkit and the resources contained therein, laws, policies and strategies that are gender-responsive and human rights-compliant are generally more effective than those that are not.

The Convention offers a framework for the prevention of organized crime: criminalization, investigation, prosecution and adjudication of related offences; protection of and assistance to witnesses, victims, suspects and perpetrators; and cooperation against organized crime. Organizing these objectives into a “4P” framework anchored on the purposes of the Convention offers a structured way of identifying entry points for mainstreaming gender and human rights across efforts to:

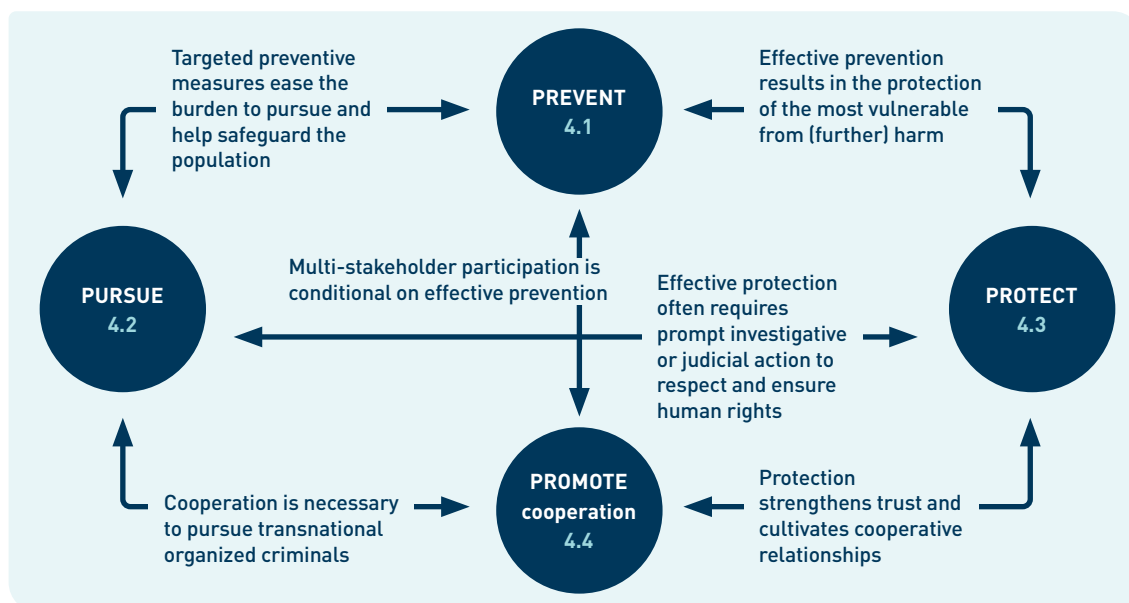
⁶ UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (Vienna, 2022), pp. 28 and 29.

⁷ State obligations stem from several international human rights treaties, including the Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination against Women.

- Prevent organized crime
- Pursue organized criminal groups
- Protect persons affected by organized crime
- Promote cooperation to these ends

Advancing these objectives in isolation is ineffective; they are integral and interrelated components of a comprehensive response that reinforce each other, including (but not limited to) in the ways noted in the figure below.

Figure 2. Comprehensive legal and policy framework against organized crime



Chapter 2.

INTERSECTIONAL GENDER AND HUMAN RIGHTS-BASED APPROACH

2.1 UNDERSTANDING INTERSECTIONALITY

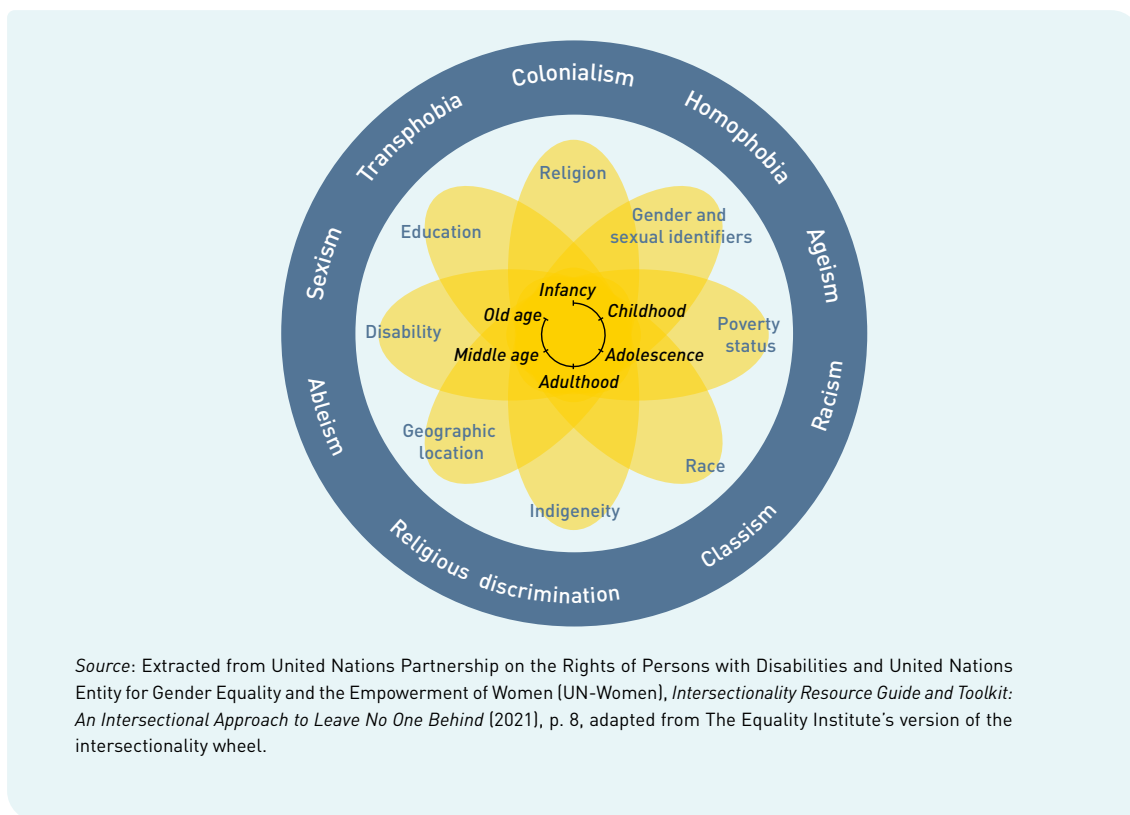
Intersectionality constitutes a framework to analyse how power and identity intersect to influence social relations and individual experiences.⁸ It emphasizes that the experiences of men, women and gender-diverse individuals interact with their class, race, age, ethnicity, sexual or other identities, thereby shaping the ways in which people are perceived in society. Intersectionality is always contextual: for example, caste, clan, tribe, ethnic or community identity may be determinative factors in some contexts, but less relevant in others.

The “intersectionality wheel” shown below is a useful resource to reflect how intersectionality impacts the ways in which legislators and policymakers approach their work. Thinking about who has privilege and power, under which circumstances – and who does not – allows for a more realistic and effective development of law policies and strategies against organized crime.

The terms “women, men and gender diverse people” and “women, men, girls and boys” are used interchangeably throughout the Toolkit. It is important to note that the intention is not to focus on binary categories or to ignore the realities of other genders, but rather to raise the visibility of gender in the Toolkit.

⁸ UNODC, *Issue Paper: Organized Crime and Gender*, p. 7 (see footnote 1). See also, United Nations Partnership on the Rights of Persons with Disabilities and United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), *Intersectionality Resource Guide and Toolkit: An Intersectional Approach to Leave No One Behind* (2021), p. 8, and Kimberlé Crenshaw, “Demarginalizing the intersection of race and sex: a Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics”, University of Chicago Legal Forum, vol. 1989, No. 1, art. 8 (1989).

Figure 3. Intersectionality wheel



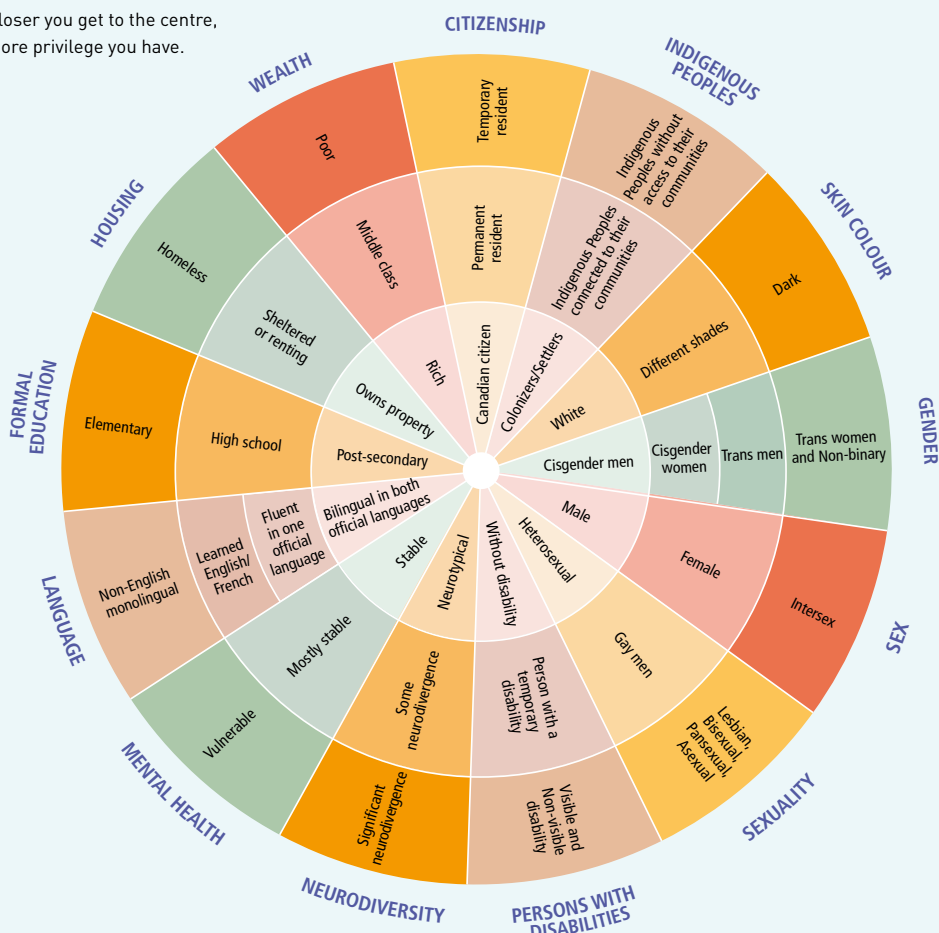
For a glossary of key terms relating to gender, see *Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), pp. 6 and 7

Exercise: Self-reflecting on privilege and power

The “wheel of privilege and power” shown below has been designed specifically for the Canadian context, as a starting point to reflect on intersecting factors that shape who has power in society^a.

Wheel of privilege and power

The closer you get to the centre, the more privilege you have.



Note: the categories within this wheel are only examples in the Canadian context, and we should not limit ourselves to them. Intersectionality is a broad concept, and this tool is only a beginning point.

Questions for self-reflection:

1. Which elements are not applicable to your country context and why?
2. What should be added to make this tool more applicable to your country context?
3. Does your position on the wheel reflect how you feel about the power you exercise in (a) your family, (b) your community, and (c) your work?
4. Do you think your position on the wheel is fair? Why or why not? To what extent do the factors that apply to you, relate to choices you have made?
5. How can the power imbalances you have identified be addressed in law and policy?

^a IRCC Anti-Racism Strategy 2.0 (2021-2024) – Change management, (Government of Canada, 2022).

2.2 APPLYING INTERSECTIONALITY TO ORGANIZED CRIME

Intersecting factors such as location, socioeconomic status, ethnicity, gender and indigeneity impact how people are affected by, or interact with, organized crime.

Table 2. Examples of intersecting discrimination and human rights harms of organized crime

ISSUE	INTERSECTING DISCRIMINATION	HUMAN RIGHTS HARM
Gang-related violence	Predominantly by and against boys on the basis of ethnicity, gender, place of residence, socioeconomic status	Physical integrity; right to education; economic rights
Wildlife and forest crimes	Against Indigenous people and those in rural areas on basis of place of residence, ethnicity and gender	Degradation of natural resources of indigenous, rural and urban communities; economic rights including right to adequate standard of living; participation in cultural life
Waste trafficking	People living in communities near waste disposal sites	Right to health negatively impacted (cancer, lung disease and birth defects) ^a
Falsified medical product-related crime	On the basis of literacy, economic status and gender, which may influence roles, status and entitlements, access to resources, care and support, and cultural norms leading to health risks ^b .	Right to health; right to information

^a See Philip J. Landrigan and others, "The Minderoo-Monaco Commission on Plastics and Human Health", *Annals of Global Health*, vol. 89, No. 1 (2023).

^b The European Committee on Crime Problems found that women tend to face increasing disadvantages due to these factors, and therefore more at risk from falsified medical products. See UNODC, *Issue Paper: Organized Crime and Gender: Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), p. 23.

Legislative drafters and policymakers should conduct a gendered analysis of how men, women, girls and boys, and gender-diverse persons are impacted by organized crime, so they can equip criminal justice practitioners with the tools that adequately correspond to realities. Intersectionality also impacts how organized crime is responded to. As members of society, legislators and policymakers are not immune from biases, social values, cultural patterns and practices that embed gender-based violence. For example, in some countries, violence against women may not be treated as being as serious as other forms of violence.⁹

Furthermore, an intersectional perspective enables practitioners to see that victims and perpetrators are not mutually exclusive categories as people shift between them or are both simultaneously. A teenage girl recruited into an organized criminal group may perpetrate violence as part of her engagement in criminal activities, but she may also be a victim of violence herself. Without evidence-based and gender-responsive indicators, authorities may fail to identify victims or misidentify them as offenders. In addition, failure to recognize that men can be victims and women can be perpetrators can result in secondary victimization by the justice system and failure to apprehend serious criminals.

By considering key "enablers" of intersectionality (highlighted in table 3), legislators and policymakers can – and should – analyse their context and challenge their (unconscious) biases, beliefs and assumptions.

⁹ See Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (General Assembly resolution 65/228, annex).

Table 3. Enablers of intersectionality^a

ENABLER	QUESTIONS FOR CONSIDERATION
<p>1. Reflexivity All of us have unconscious biases and beliefs. To minimize their detrimental impact in our work and how we engage with others, it is necessary to examine what these are. Reflexivity is the process by which we learn about our unconscious biases, beliefs, judgments and practices.</p>	<ul style="list-style-type: none"> • How is our understanding of organized crime shaped by gender and other stereotypes? • How can we critically reflect on how our biases, attitudes and beliefs influence our opinions and actions in relation to organized crime? • How does our privilege directly or indirectly disadvantage others we work with or encounter in our work against organized crime, including potential victims and perpetrators? • What can we do to address these issues in the development and implementation of law and policy measures?
<p>2. Dignity, choice and autonomy Respect and uphold the dignity, choice and autonomy of all people. This cannot be assumed on behalf of others and decision-making cannot be substituted.</p>	<ul style="list-style-type: none"> • Who has independence and who does not in organized crime groups? Who has full control over how they live their life and who does not? How does this impact on the roles people play in organized crime and their engagement with the criminal justice system? • Who shares their perspectives about organized crime and response to it, and who does not? • Who shares their perspectives with criminal justice practitioners and why?
<p>3. Accessibility and universal design Take a universal design approach, ensuring accessibility and reasonable accommodation.^b</p>	<ul style="list-style-type: none"> • What is the composition of our criminal justice system? How do staff profiles align with the intersecting identities of people we encounter in our work? How may this composition impact on how people outside the criminal justice system interact with it? • How can we ask people what they need to participate in efforts to address organized crime? • How can we remove physical, transportation, information and communication barriers or provide reasonable alternatives to such participation? • How can we address attitudinal, environmental and institutional barriers to such participation?
<p>4. Diverse forms of knowledge Prioritize and learn from people with diverse forms of knowledge who are typically excluded from expert roles. There is a relationship between power and knowledge production and design.</p>	<ul style="list-style-type: none"> • How do we know what we think we know about organized crime? Who told us? • Who has and has not been consulted? Are we consulting with various communities impacted by organized crime? • What voices may be missing from the discussion due to structural inequalities?
<p>5. Intersecting identities Consider how diverse identities interact to create unique social effects to that vary according to time and place. Identities are not singular and distinct, nor are they additive.</p>	<ul style="list-style-type: none"> • What are the intersecting identities of the individuals who are engaged in organized crime as victims, perpetrators and respondents? • Who is missing?

Table 3. Enablers of intersectionality (*continued*)

ENABLER	QUESTIONS FOR CONSIDERATION
<p>6. Relational power Be aware of and challenge relational power, including your own. People may experience power in one context/ time and oppression in another.</p>	<ul style="list-style-type: none"> • Who holds power and makes decisions, and in what circumstances in organized criminal groups? • How are they held to account for their decisions? • Who holds power and in what circumstances in the criminal justice system? • Who makes decisions in the criminal justice system about the response to organized crime? • How are decision makers in criminal justice systems held to account for their decisions?
<p>7. Time and space Recognize the influence of time and space. Nothing is static, privilege and disadvantage are fluid and influenced by social position and location.</p>	<ul style="list-style-type: none"> • Does the way we perceive who has <i>privilege and power</i> look different in this location? How does this influence participation in organized criminal groups but also increase vulnerabilities for victimization? Does this privilege and power change across different types of organized crime and organized criminal groups? • Does <i>discrimination</i> look different in this location? Across different generations? Across different types of organized crime? Across different sectors of the criminal justice sector?
<p>8. Transformative and rights-based Promote human rights and address inequalities by transforming social structures and changing the way resources and relationships are produced and allocated.</p>	<ul style="list-style-type: none"> • How can we improve the way that laws and policies are developed and/or implemented in responding to organized crime? • How can we change the way resources are allocated to address inequalities? • How can we transform relationships within broader society that perpetuate intersectional inequalities? How can this support the prevention of organized crime and the achievement of a more just and gender-responsive criminal justice sector?

^aAdapted from United Nations Partnership on the Rights of Persons with Disabilities and United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), Intersectionality Resource Guide and Toolkit: An Intersectional Approach to Leave No One Behind (2021), (2021), pp. 13 and 14.

^b Reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure that persons with disabilities are treated equally to others with respect to the enjoyment or exercise of human rights and fundamental freedoms. Universal design means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. Universal design shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

Data collection can support the analysis of enablers of intersectionality. This includes periodically analysing the manifestations of organized crime at the national level, but also State responses to organized crime. Such data should ideally be disaggregated by factors such as gender, age, racial or ethnic group, nationality, education level and disability status.

To ensure an intersectional approach, legislative drafters and policymakers should engage with pivotal questions in relation to organized crime, such as:

2.2.1 Causes

- How do intersectional identities including ethnicity, race, religion, culture, age, sexual orientation, disability, gender identity and class compound discrimination and human rights harms based on sex and gender roles and the meanings given to them?¹⁰
- What attitudes do people in society have towards people of various intersecting identities (gender, age, nationality, ethnicity, economic status, etc)?
- What role do these factors play in who perpetrates organized crime and the roles they play, as well as who is victimized and their experiences of victimization?
- How can law and policy play a role in addressing these causes?

2.2.2 Consequences

- What are the experiences, needs, priorities and capabilities of men, women, boys, girls and gender-diverse people involved in organized crime as both victims and perpetrators?
- How are men, women, gender-diverse and differently-abled people impacted by normative frameworks owing to inequalities such as ableism, racism, homophobia, xenophobia and discrimination on the basis of health status?¹¹
- To what extent do these intersecting factors determine who works in the criminal justice system, and how they engage with the people they encounter in their work?
- How can law and policy play a role in redressing imbalances and ensuring gender-responsive and human rights-based criminal justice approaches, and the more equitable enjoyment of human rights of people in contact with the justice system?

2.2.3 Solutions

- How are these factors reflected or not, in existing laws and policies?
- How can laws and policies on organized crime better respond to these factors?
- How can men, women, girls, boys, gender-diverse and differently-abled people be engaged to inform normative frameworks?

¹⁰ UNODC, “Strategy for gender equality”, p. 8.

¹¹ Ibid., pp. 8 and 9.

2.3 GENDER AND HUMAN RIGHTS MAINSTREAMING

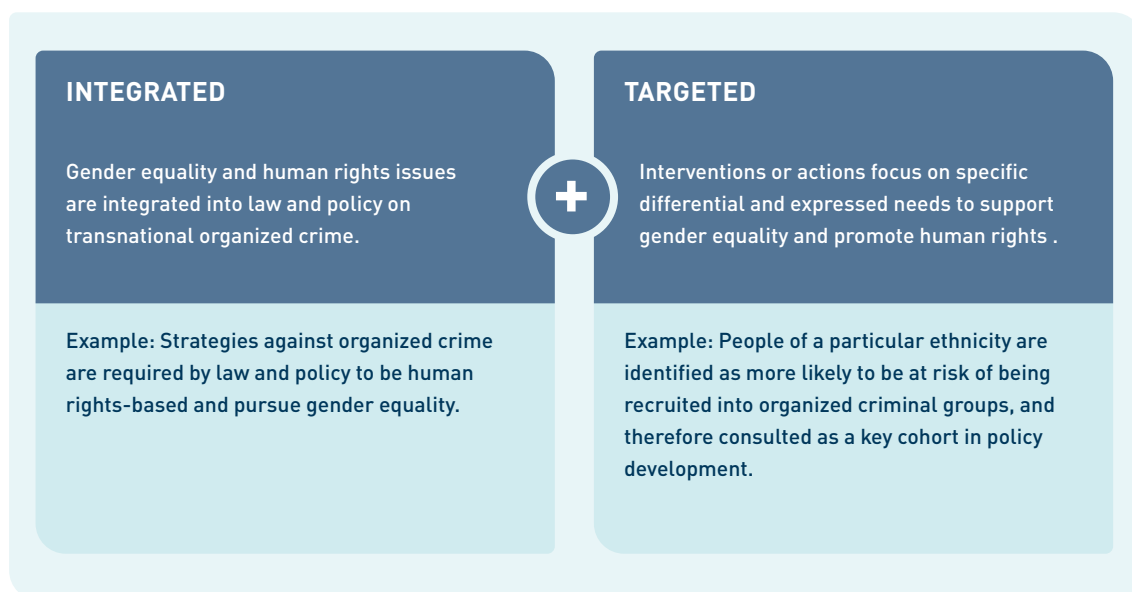
Gender and human rights mainstreaming is not about simply adding women to efforts that have predominantly been about men – or mentioning gender and human rights in legislative and policy documents.¹² Rather, it requires States to take concerted, consistent and considered measures to fulfil their obligations to address the impunity of organized criminals, and achieve transformative change in human rights and gender equality. Legislative drafters and policymakers must understand their obligations to respect, protect and fulfil human rights, and the principles of fairness, equality, non-discrimination and inclusion that underpin them.¹³



To understand the conceptual framework for mainstreaming gender into the implementation of the Convention, see *Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), pp. 8–13

A “twin-track” approach that combines both targeted and integrated measures is required to effectively address multifaceted dimensions of identified issues.¹⁴

Figure 4. Twin-track approach to mainstreaming



¹² Gender-responsive approaches are relevant for people of all genders, but because women and girls are often in more vulnerable situations relative to men and boys, pursuing gender equality in criminal justice response often emphasizes empowerment of women rather than of men.

¹³ *Respect*: Negative obligation not to harm or interfere with human rights (do no harm). *Protect*: Positive obligation to protect human rights. *Fulfil*: Positive obligation to adopt measures to advance and realize human rights.

¹⁴ For more on gender mainstreaming, see UN-Women, *Handbook on Gender Mainstreaming for Gender Equality Results* (2022), p. 18.

The following analytical questions are useful to determine the integrated and targeted approaches required to address identified gaps and barriers:

- Obligations – what are the State’s existing obligations under international law?
- Gaps – what gaps in human rights protection exist in domestic law?
- Barriers – who faces particular barriers to the enjoyment of human rights?



See [checklist 6.2.1](#), on mapping gaps in existing gender and human rights normative frameworks



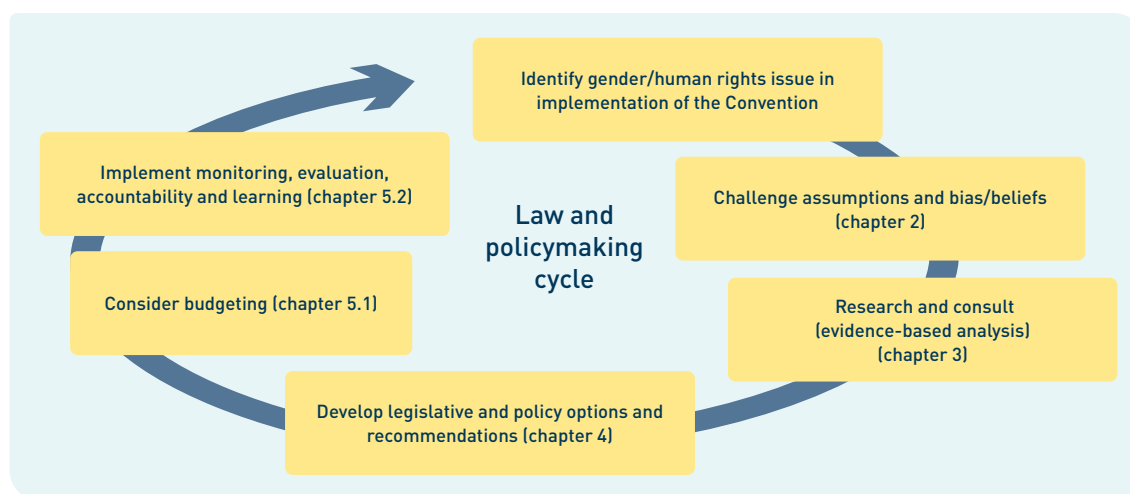
For more on components of international human rights obligations, see UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (Vienna, 2022), pp. 12–15

Chapter 3.

LAW AND POLICYMAKING

There are opportunities at all stages of the law and policymaking processes to mainstream gender and human rights – some of these are identified in the figure below.

Figure 5. Law and policymaking cycle



3.1 EVIDENCE-BASED ANALYSIS

In order for law and policy to effectively alter the dynamics of transnational organized crime and achieve transformative change, these measures must be evidence-based. An evidence-based analysis needs to identify human rights and gender risks, gaps and opportunities to amend or enact new instruments.¹⁵ Without intersectional gender-disaggregated data, there is a risk that assumptions will go unchallenged and explanations will be overlooked.¹⁶

¹⁵ The need for a new law may be identified in policy, or a government department may become aware of a problem that needs to be addressed in legislation. Other interested groups such as international organizations, private sector or civil society groups may also become aware of issues that can be addressed through legislation.

¹⁶ Gender disaggregated data is not only sex disaggregated, but also relates to people's specific needs, opportunities and contributions; concepts and definitions that reflect diversity; and data-collection methods that take account of gender and other bias (UNODC, *Issue Paper: Organized Crime and Gender*, p. 13 (see footnote 1)).



For more on gender statistics and gender-responsive analysis of data in mainstreaming gender in implementation of the Convention, see UNODC, *Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), pp. 13–15

When States regularly collect, analyse and compare data, they can measure how an issue changes over time and determine whether laws and policies are fit for purpose and for the people they affect. Where indicators reveal that an organized crime type is increasing or is stagnant, or that efforts to address crimes are detrimental to gender equality and human rights, this may suggest that laws and policies need to be changed or are not being effectively implemented. Crucially, research and data collection must be carried out in ways that are themselves human rights-based and gender-responsive. Table 4 offers an overview of the key steps that need to be taken for the achievement of gender-sensitive and human rights-based approaches in law and policy.

Table 4. Key steps in mainstreaming gender and human rights in law and policy^a

1. Explore	<ul style="list-style-type: none"> Understand intersectionality (chapter 2) and familiarize yourself with gender and human rights dimensions of the issue.
2. Ask	<ul style="list-style-type: none"> Ask probing questions to challenge your bias and assumptions (chapter 2) and to determine: Who will be impacted by the law/policy? Who will be excluded by it? What are possible unintended consequences? What barriers exist and how can they be overcome? Consult with those who are affected and who have expertise and experience (see below).
3. Gather	<ul style="list-style-type: none"> Gather disaggregated qualitative and quantitative data to identify populations/groups affected by the law/policy describing and measuring the possible impact of the law/policy; and answering questions posed above at step 2.
4. Analyse and develop	<ul style="list-style-type: none"> Assess the gender equality and human rights impact of the law/policy by analysing the data gathered at step 3 and answers to your questions against the options you are considering. On the basis of abovementioned analysis, determine if there are differential impacts on various groups of people. Explore possible consequences and consider recommendations to mitigate potential negative consequences.
5. Implement, monitor and evaluate	<ul style="list-style-type: none"> Consider gender and human rights impact throughout implementation, monitoring and evaluation of the law/policy. Determine whether law/policy implementation is advancing the human rights and gender equality of the groups impacted. Consider unintended impacts and barriers on the basis of analysis of disaggregated data.
6. Account	<ul style="list-style-type: none"> Comply with any reporting requirements, including in relation to accountability for discrimination or human rights violations.
7. Learn	<ul style="list-style-type: none"> Document processes, findings and data used, as a basis for determining whether changes in law, policy or implementation are required.

^a The above has been adapted from Canada, Department of Justice, “Policy on gender-based analysis plus: applying an intersectional approach to foster inclusion and address inequities,”

In addition to the Government's own data, independent research and data is available from international organizations, academics, civil society groups, think tanks, investigative journalists, media outlets and others. This breadth of information is a valuable resource for evidence-based development, implementation and evaluation of gender-responsive and human rights-based law and policy. Legislators and policymakers who are serious about achieving change should consult and use diverse, reputable sources.

3.1.1 Analysing research and data sources

The following questions are offered to legislators and policymakers to analyse existing data sources and to identify entry points for mainstreaming gender and human rights.

Official (government) sources:

- What are the existing mechanisms of data collection on organized crime?
- Does the State have a national database on organized crime incidents?
- What information is recorded, how is it recorded, and who has access to it?
- Does information collected about victims and perpetrators, include gender, age, ethnicity, sexuality, disability and other factors to achieve an intersectional approach?
- Who is responsible for data entry and maintenance?
- Who is responsible for data analysis and with what methodology?
- Is the analysis of the data shared back with those who provided it?
- Which laws and policies govern data regulation and protect the rights of data subjects?
- Are privacy and data sovereignty considerations respected?
- If data gaps are identified, which are being addressed and which are not?
- What data is available to researchers outside government?
- How can data-collection systems be made more gender-responsive and human rights-based?

Independent (academic, civil society, international organizations, media) sources:

- What independent research on human rights and gender aspects of organized crime has been undertaken, by whom, and what aspects need further research?
- What are the key findings and research outcomes of relevant analyses, and what relevance do those findings have for law and policy?
- Are systems in place to evaluate and utilize information from these sources for policy development and law-making?

Case study 1. Intersectional “Gender-Based Analysis Plus” in Canada

The Government of Canada uses an analytical process called “Gender-based Analysis Plus” (GBA Plus), to ensure that federal government legislation, policies, programmes and other initiatives are responsive, inclusive and reflective of diverse experiences and realities in order to address inequities and barriers. The “plus” acknowledges that a rigorous assessment goes beyond gender and sex to include consideration of multiple identity factors such as age, disability, economic status, education,



gender, sex and sexual orientation, geography, language, racialization and ethnicity and religion and spirituality, among others. The Department of Justice maintains a performance monitoring dashboard that presents an overview of the state of the criminal justice system, based on data which can be disaggregated by sex and/or gender, race and other characteristics to better reflect the growing diverse population of Canada and to support its commitment to GBA Plus.^a

^aSee Canada, Department of Justice, “Policy on gender-based analysis plus: applying an intersectional approach to foster inclusion and address inequities”, 6 May 2022; Canada, Department of Justice, “Gender-based Analysis Plus (GBA Plus)”, 13 October 2022; and Public Safety Canada, “Gender-based Analysis Plus”, 29 June 2023.

Case study 2. Use of data in influencing gender-informed firearms policy

In 2016 the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) published a study offering an evidence base on the gendered impact of small arms and light weapons in that region. The study



supported the mainstreaming of gender into the regional *Road map for a sustainable solution to the illegal possession, misuse and trafficking of Small Arms and Light Weapons and their ammunition in the Western Balkans by 2024*.^a

^aUNODC, “Supporting evidence-based action to counter illicit firearms trafficking and related forms of crime” (Vienna, 2020), p. 5. See also resolutions 8/3, 9/2, 10/2 and 11/6 of the Conference of the Parties to the Organized Crime Convention, highlighting the urgent need for States parties to consider gender and age dimensions of firearms-related crimes.

3.2 CONSULTATION

Laws and policies must respond to the realities of those responsible for implementing them. Legislators and policymakers must therefore consult with practitioners, experts, survivors and affected communities as well as people with lived experience including men, women and gender-diverse people. Inviting input from diverse stakeholders results in more informed, evidence-based outcomes, and helps the people affected by organized crime to see themselves as an integral part of the response to it. Consultation can ease the operationalization of law and policy by achieving buy-in from those responsible for their implementation.¹⁷

Laws and policies that are gender-responsive and human rights-based must be created through processes that are also gender-responsive and human rights-based. Accordingly, consultation must be participatory, inclusive and accessible, so that people affected by laws and policies and responsible for their implementation are involved in their development. A critical concept here is *nihil de nobis, sine nobis*, or: “nothing about us without us”. An overview of potential stakeholders can be found below.

Table 5. Potentially relevant stakeholders to consult with

STATE ACTORS FROM DIFFERENT AGENCIES	NON-STATE ACTORS
<ul style="list-style-type: none"> • Legislative drafters and policymakers • Criminal justice practitioners from authorities with mandates relevant to organized crime (police, immigration, customs, tax, labour, prison services, prosecutors judiciary, others) • Representatives of ministries and government entities outside the criminal justice and law enforcement system whose work has an impact on organized crime dynamics (education, health, socioeconomic development, etc.) • Representatives of other ministries involved in the implementation of law and policy 	<ul style="list-style-type: none"> • International organizations, civil society organizations^a • Academia and researchers with expert knowledge about aspects of crime • Representatives of the private sector and industries affected by organized crime • Online intermediaries used to facilitate organized crime • Local communities/Indigenous groups affected by crime^b • Youth groups, women’s groups, migrant groups, persons with disabilities groups • Religious and cultural leaders • Victims and survivors of organized crime and victim-rights groups • Detained and incarcerated populations and/or others who have been involved in the perpetration of organized crime

^a See also, **subchap. 4.4.1 “National coordination”** for more on civil society organization engagement.

^b For instance, women, children, Indigenous Peoples, persons with disabilities, workers, the poor, migrants and minorities are particularly affected by waste trafficking (UNODC, *Combating Waste Trafficking: A Guide to Good Legislative Practices* (Vienna, 2022), p. 19).

¹⁷ Consulting and seeking input from stakeholders does not diminish or remove government responsibilities. The Government remains the duty bearer for its human rights obligations in efforts against transnational crime.

3.2.1 Who to engage in mainstreaming gender and human rights in law and policy?

The following questions are offered to invite legislators and policymakers to be self-reflective about who needs to be engaged in mainstreaming gender and human rights in laws and policies on organized crime:

- Who has expertise of gendered dimensions of organized crime?
- Who has expertise on human rights implications of organized crime?
- Who has lived experience of gendered and human rights implications of organized crime?
- Who has experience of implementing laws and policies against organized crime?
- Who is/will be affected by laws and policies on organized crime?
- What physical, economic, cultural, societal, political and other barriers exist to including these people in the development of human rights-based and gender-responsive law and policy?
- How can those barriers be removed to enable their inclusion and participation in the process of informing law and policy?

When answering the questions above, it is important to recognize that unconscious biases may shape who we perceive as key actors in the development of law and policy. Where relevant, we should strive for gender parity among key stakeholders throughout the design and implementation of law and policy.

Case study 3. Private sector consultation on cybercrime

In 2019, the General Assembly adopted a resolution to create the Ad Hoc Committee to Elaborate a Comprehensive International Convention on Countering the Use of Information and Communications Technologies for Criminal Purposes. Inputs were solicited from diverse stakeholders, from civil society organizations, academic institutions and private sector organizations. The third consultation,



held in November 2022, was attended by representatives of 61 multi-stakeholders. Participants engaged on aspects of responding to cybercrime, including: how to integrate human rights approaches into law enforcement response; rights-based approaches to protecting children; enhancing the role of the private sector while upholding and safeguarding human rights.^a

^a [Conference room paper A/AC.291/CRP.14.](#)

Chapter 4.

LAW AND POLICY OBJECTIVES

This part of the Toolkit offers guidance on mainstreaming gender and human rights in normative efforts to implement the Convention, against objectives to:

- PREVENT organized crime (4.1)
- PURSUE organized criminals (4.2)
- PROTECT victims, witnesses and other affected persons (4.3)
- PROMOTE partnerships and cooperation at all levels to these ends (4.4)¹⁸

Human rights and gender equality are not only the ends of these objectives, but are powerful means by which these objectives can be achieved.

Figure 6. Building blocks of law and policy analysis for Convention implementation



¹⁸These objectives are anchored on the purposes and provisions of the Convention (see [chapter 1](#)) and offer a structured way to domesticate it.

4.1

PREVENT OBJECTIVES

KEY TAKEAWAYS:

- ▶ Preventing organized crime involves strengthening the integrity and resilience of people, communities and institutions; raising awareness; and reducing vulnerability.
- ▶ Law and policy to address root causes of organized crime must take a long-term approach, and mitigate harms that may result from crime prevention efforts.
- ▶ Those most affected by organized crime, such as marginalized groups and people in vulnerable situations, must be included in the development of laws and policies to prevent it.
- ▶ Applying an intersectional gender and human rights lens helps identify and understand specific needs, and tailor rehabilitation and reintegration to individual offenders.
- ▶ Effective information and awareness-raising campaigns are those developed in ways that are inclusive, gender-responsive and human rights-based; convey messages that promote gender equality and human rights; and empower their audiences to act.

Snapshot of 4.1: Dimensions of holistic approach to preventing organized crime



Steps to mainstream human rights and gender in prevention

Step 1

Take stock of existing legislation and policy in place to prevent organized crime, including through crime prevention strategies, integrity and resilience mechanisms, information and awareness-raising, and strategies to address root causes

Step 2

Analyse the extent to which existing instruments integrate gender and human rights
Identify gaps in prevention of organized crime
Identify gender and human rights risks that arise from the implementation of the existing normative frameworks

Step 3

Determine how identified gaps can be filled and risks can be mitigated through new and/or amended legislation, policies and strategies on prevention

4.1.1 Alleviating the root causes of marginalization and vulnerability

Human rights and gender considerations in diagnosis of root causes

Criminality does not emerge in a vacuum but in a complex landscape of inequality and lack of economic, cultural, social, civil and political rights. For instance:

- Conflict, corruption and climate change exacerbate vulnerability to organized crime and criminal opportunity.
- Depletion of livelihoods (e.g. fish stocks) can push communities that depend on them to look for alternative sources of income (e.g. illegal, unreported and unregulated fishing and piracy).
- Economic and political instability in fragile and crisis-affected States creates opportunities for and may even necessitate illicit activity.

The gendered dimensions of who perpetrates organized crime and who is victimized by it must be understood to be prevented.



Consideration of intersectional human rights and gender factors (chapter 2), and evidence-base and multidisciplinary consultation (chapter 3) are valuable diagnostic tools for understanding and addressing root causes.

Table 6. Determinants of vulnerability to organized crime

STRUCTURAL FACTORS	INDIVIDUAL FACTORS
<i>Economic factors:</i> Insufficient regulation of vulnerable sectors and industries; finance and tax laws vulnerable to misuse; limited access to legal economies	<i>Individual factors:</i> Intersectional age, gender, ethnicity, indigeneity, disability and other individual traits that are not protected/considered in legislation and policy
<i>Political factors:</i> Insufficient legislative and policy protection of political rights to promote plural perspectives and diverse voices in public discourse	<i>Social factors:</i> Discriminatory laws, policies and practices entrench gendered norms, expectations and inequalities; discriminatory access to protection; lack of social services

Where the State is incapable of creating circumstances in which human rights can be equally enjoyed or where there is selective application of the law, organized criminal groups may fill resulting gaps. Organized criminal groups may provide sources of stability, identity, belonging and employment and livelihood opportunities that the State has failed to provide or has only provided for some. Legislators and policymakers must confront two challenging realities:

- Firstly, a long-term development approach is required to address root causes, and
- Secondly, combating or dismantling organized crime when no viable socioeconomic alternative has been provided can have negative human rights impacts on the people who depend on it.¹⁹

¹⁹ See Organized Crime Convention, art. 30.

Case study 4. Climate change exacerbating organized crime in coastal communities

In parts of the world as diverse as the Horn of Africa, South-East Asia and the Caribbean, climate change and extreme weather events have destroyed fisheries and fishing vessels, forcing fishers to seek alternative sources of income, often turning to piracy or illegal, unreported and unregulated



fishing. Organized criminal groups come to monopolize the fishing industry, wielding power in coastal communities and even in State institutions. As resources and economic opportunities decline, young males have more incentives to accept recruitment offered by groups operating in such illicit economies.⁹

⁹See, inter alia, RUSI, "[Illegal, unreported and unregulated fishing and climate change](#)", 13 December 2021; Kehinde Bolaji, "[Climate-related security risks and violent crime in Caribbean 'frontier' coastal communities: issues, challenges and policy options](#)", United Nations Development Programme Oslo Governance Centre, Issue Brief, No. 15/2020 (November 2020); and Jay Bahadur, *FISHY BUSINESS: Illegal Fishing in Somalia and the Capture of State Institutions* (Geneva, Global Initiative against Organized Crime, 2021).

Human rights and gender considerations in addressing root causes

Legislators and policymakers must introduce laws and policies to reduce the vulnerability of:

- Individuals, by addressing exclusion, discrimination and inequality
- Political, economic and social systems, by strengthening integrity and resilience

Laws and policies must advance human rights and gender equality, and not exacerbate marginalization and vulnerability. In short, legislation and policy should transform the landscape in which organized crime thrives. Consultation with affected communities, engagement with civil society groups and robust evidence informed by gender-disaggregated data on which to build law and policy is critical to mainstreaming gender and human rights in ways that are responsive to how marginalized groups are uniquely impacted by organized crime (see [chapter 3](#)).

Table 7 offers an overview of the differences between policies that are shaped by gender and human rights considerations compared to laws and policies that exclude them.

Table 7. Exclusion to inclusion in prevention policy

EXCLUSION	INCLUSION
Marginalized groups are not included in the development and implementation of laws and policies that affect them.	Laws and policies to prevent and combat organized crime at national/provincial/local levels benefit from and strengthen participation of marginalized and groups in vulnerable situations.
Laws and policies are not responsive to the intersectional issues that determine what people need and how they may experience different laws and policies.	Laws and policies to prevent and combat organized crime specifically respond to identified needs of particular groups.
Laws and policies are not informed by gender-disaggregated data for the development of evidence-based preventative approaches.	Laws and policies to prevent organized crime are informed by data that has been disaggregated by factors such as gender, race, ethnicity, age, economic status, education level and disability status.

Table 7. Exclusion to inclusion in prevention policy *(continued)*

EXCLUSION	INCLUSION
Particular groups (children and young people, minorities, women, men, other) are marginalized and face barriers to social protection.	Laws and policies to prevent and combat organized crime include social protection interventions for marginalized groups.

Case study 5. Positive masculinities to empower boys against recruitment into gangs

Preventing recruitment of children into organized criminal groups requires boys, girls and adolescents to be educated about equality-based gender relations, and through means such as being exposed to positive masculinities to increase their resilience to and rejection of *maras* (youth gangs) and organized crime. Examples include the *South-Side Youth Success* programme in Belize that combines



mentoring, training and employment opportunities to prevent the recruitment of young boys in armed gangs. *Centro de Prevención de la Violencia (CEPREV)* works to destigmatize non-violent masculinities and build capacity of targeted cohorts in Argentina, Chile, El Salvador, Honduras, Mexico, Nicaragua, Uruguay and elsewhere. CEPREV also offers manuals to promote violence-free masculinities.^a

^aPathfinders, Women’s International League for Peace and Freedom and Gender Equality Network for Small Arms Control, “Men and masculinities in gender-responsive small arms control”, Issue Brief, No. 2 [2022], p. 17.



See [chapter 6.1: checklist](#) for reviewing policy

4.1.2 Integrity and resilience

Reducing opportunities for organized criminal groups

Article 31 of the Convention requires States parties to strengthen the integrity and resilience of State and private institutions to guard against infiltration and misuse by organized criminal groups.²⁰ Measures to implement this provision that are discriminatory cannot be justified on the basis of preventing organized crime. By way of example:

Table 8. Examples of discriminatory law and policy

CAUSE (law and policy)	CONSEQUENCE (in implementation)
Strategy to prevent money-laundering involves requirements for identification documents and income source checks	Women – who, due to gendered norms in some contexts, are less likely to have access to services and information or to fulfil standard requirements to obtain documents – are disproportionately impacted
Legislation against wildlife and forest crime, crimes in the fisheries sector as well as illegal mining regulates the use of natural resources	Local and Indigenous communities who depend on natural resources are disproportionately impacted

A balance must be struck between denying organized criminals access to lawful markets and political institutions, and upholding the human rights of individuals to participate in economic, cultural, social and political life.

Case study 6. Impact of crime prevention on rights of Indigenous and local communities

Legislation to protect wildlife, forests, fisheries, metals and minerals against organized crime is essential to the sustainability of natural resources and ecosystems.^a Law and policies must consider the rights of Indigenous and local communities who depend on those resources for cultural practices, food, shelter and medicine. For instance, customary or traditional relationships that local Indigenous populations may have with fisheries must be taken into account in efforts to prevent illegal possession of fish or fish



products. Those rights must be balanced against the need to protect and conserve ecosystems, wildlife and fish species and prevent organized crime. Indigenous and local communities must be engaged as allies in law- and policymaking to prevent wildlife and forest crimes, to mainstream economic, social and cultural human rights considerations into law and policy, and to identify and address root causes of vulnerability, including by directing benefits of natural resources back to the communities most affected.^b

^a UNODC and International Consortium on Combating Wildlife Crime, *Wildlife and Forest Crime: Analytic Toolkit*, 2nd ed. (2022), p. 13.

^b *Ibid.*, pp. 233 and 234. See UNODC, *Responding to Illegal Mining and Trafficking in Metals and Minerals: A Guide to Good Legislative Practice* (Vienna, 2023).

²⁰ Measures taken to implement this part of the Convention may include those to prevent misuse of public tender proceedings and legal persons, and disqualification of persons convicted of offences under the Convention from acting as directors of legal persons incorporated in their jurisdiction.

Strengthening resilience of people and communities

Beyond strengthening the integrity of public and private institutions, prevention requires resilience.²¹ Legislators and policymakers should determine how evidence-based empowerment initiatives can be integrated into laws, policies, plans and strategies to prevent organized crime, to transform at-risk groups into agents of change. Local ownership of crime prevention programmes is critical to ensuring initiatives are fit for purpose and for the people and communities they serve.²²

Case study 7. Advancing minority rights as key to prevention

In some countries, members of ethnic, religious or linguistic minorities (including children among them) may be overrepresented in the criminal justice system. In parts of Europe, Roma men and women are overrepresented in prisons, owing to their involvement in organized crimes including human trafficking, drug trafficking and money-laundering.



Complex linkages between social exclusion and discrimination are key to prevention. For instance, inclusion programmes to support school attendance of Roma children adhere to obligations in international human rights law, and may have significant preventative impact by reducing risk of children being victimized by crime or perpetrating it.^a

^a Lorena Molnar, "The imperative need for criminological research on the European Roma: a narrative review", *Trauma, Violence and Abuse*, vol. 24, No. 2 (April 2023), pp. 1016–1031; and OHCHR, "Minorities in the criminal justice system", contribution of the United Nations Network on racial discrimination and protection of minorities to the eighth session of the Forum on Minority Issues, held in Geneva on 24 and 25 November 2015.

Case study 8. Strengthening community resilience to crime in times of crises

Conflict and crises offer fertile ground for recruitment into organized criminal groups. *Rescue Me* – a Lebanese non-profit organization – prevents crime through social development and the creation of more connected communities. Following the Beirut explosions on 4 August 2020, *Rescue Me*



mobilized to respond to trauma, provided social support and launched a rapid response to mental health crises. By doing so, it provided adults and children with the psychosocial support they needed to rehabilitate their community, and strengthen their resilience to crime.^a

^a International Civil Society Action Network, "[Lebanon's rescue me: psychosocial support as emergency response](#)", 19 November 2020.

Case study 9. Inclusive neighbourhoods to reduce harms among victims in vulnerable situations

In Finland, community stakeholders including authorities, non-governmental organizations and people who use drugs are engaged in harm reduction. The approach marries communication, community spirit, coordinated social and health



outreach services with community policing, to innovatively engage people in public spaces, to improve the situation of particularly vulnerable women and young people, and to lower the threshold for reporting offences.^a

^a See Sarah Bosman, "[Toolbox on high-risk victim groups](#)" (Brussels, European Crime Prevention Network, 2022), p. 15.

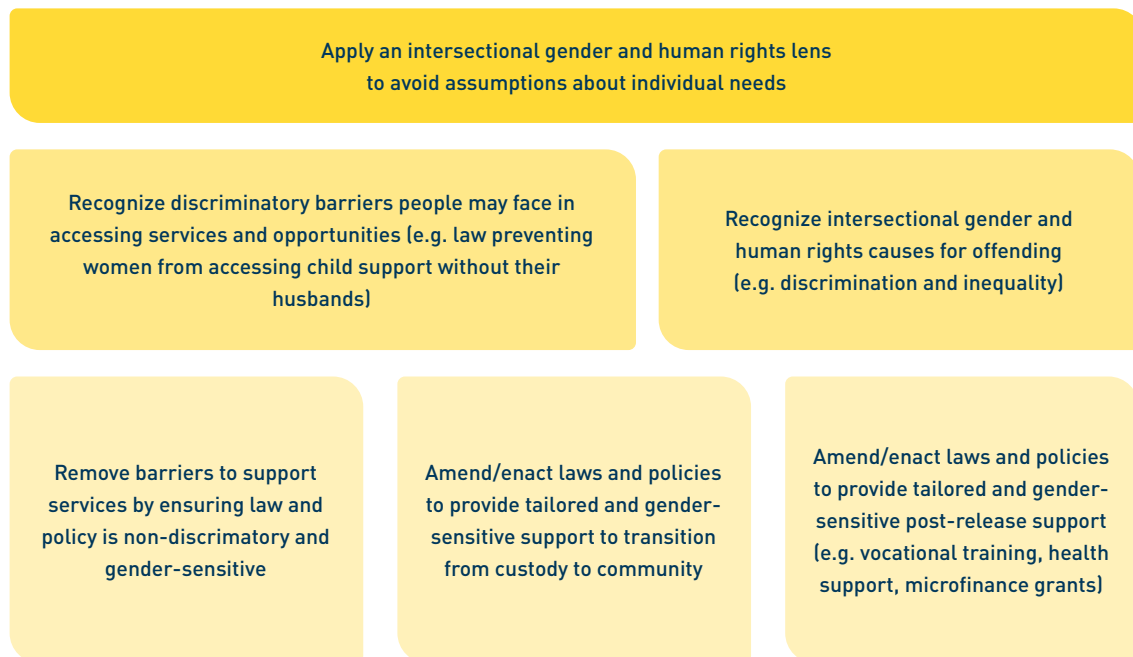
²¹ For the purposes of this Toolkit, "resilience" refers to the capacity to withstand, resist or adapt to threats posed or adversity created by organized crime. Nevertheless, it is important to understand the limits of the concept of resilience. While it can empower individuals, communities and institutions to reduce the negative effects of the threat, it cannot address the systematic violence that leads to survival behaviours in the context of organized crime.

²² The consultative approach promoted in chapter 4 is vital to tailoring prevention policy to local contexts, traditions, social, cultural and gender norms.

Supporting reintegration and rehabilitation of offenders

Rehabilitation and the economic and social reintegration of offenders in line with article 31 (3) of the Convention is a critical prevention strategy. An intersectional gender and human rights-based approach ensures efforts are tailored to individuals, and effectively prevent recidivism.²³

Figure 7. Building blocks for mainstreaming in rehabilitation and reintegration of offenders



Case study 10. Reducing return-to-prison rates of criminalized Indigenous women

Sisters Inside is an Australian independent community organization advocating for human rights of criminalized women and girls, and their families. It successfully campaigned against legislation in Western Australia that jailed people for unpaid fines, which had a disproportionate and discriminatory effect



^a Melissa Lucashenko and Debbie Kilroy, "A Black woman and a prison cell: working with Muri women in Queensland prisons" (Sisters Inside Inc., Brisbane, Australia, 2005).

on Indigenous women. It has reduced return-to-prison rates through programmes to provide post-release health support for criminalized women, and by helping mothers in prison to maintain relationships with their children while in prison, and supporting them in parenting following their release.^a

²³ See: UNODC, "Prison research: a pilot study on the causes of recidivism in Albania, Czechia and Thailand" (Vienna, 2022).

4.1.3 Information and awareness-raising

Mainstreaming human rights and gender in information and awareness-raising

Information and awareness-raising campaigns to prevent organized crime that are not gender-responsive and human rights-based may be significantly less effective. Messages that are inaccurate or are not calibrated to their audience mean trust is lost in the source of the message, or that the message is not received. Human rights- and gender-based harms can result where stereotypes are perpetuated. For instance, depictions of young men of a particular ethnicity in a campaign about crime may unintentionally create or reinforce stereotypes of men from particular groups being more prone to violence and can subsequently lead to secondary victimization. Beyond harming the group depicted, such stereotyping fails to prevent organized crime but instead benefits criminals, as law enforcers overlook those who fall outside of perpetuated stereotypes. Examples of effective information and awareness-raising tactics can be found in table 9 below.

Table 9. Mainstreaming gender and human rights in information and awareness-raising

	MESSAGES SHOULD NOT	Unintended consequences	MESSAGES SHOULD
How messages are designed	Collect, use or disseminate identifying data including images, video or audio, without fully informed consent of subject.	Privacy violations; harassment or ostracization by family or community; identification by organized criminals; trust lost in source of message.	Accord with privacy and data protection laws; be based on evidence and consultation with representatives of the target audience and their inclusion in design and development of messages.
What messages say	Stigmatize or discriminate against groups or individuals by how people are depicted, for instance of particular ethnicities, genders, sexualities or other traits.	Harmful stereotypes reinforced; assumptions and bias confirmed; persecution fuelled; messages inaccurate and ineffective against organized crime; trust lost in source of messaging.	Challenge narratives and stereotypes that generalize who is involved in organized crime as victims or as perpetrators; empower audience to take positive action on the basis of the message.
How messages are conveyed	Be conveyed in ways that are inaccessible to the target audience whether for reason of age, education, gender, disability, language or other factors; exclude civil society groups and independent media from public discourse.	Messages not understood by target audience; lack of access to technology/social media-based messaging means women and girls do not access social media messages; civil society groups and media not supportive of messaging and/or disseminate conflicting messages; trust in source of messaging is lost.	Be accessible and calibrated (as appropriate to target audience) to elderly people and children, people of diverse genders, language groups and education standards, geographical locations and make reasonable accommodation for people with disabilities; positively engage with civil society and media in content dissemination.

Case study 11. Visual exploration of masculinities

A photography competition hosted by the Women's International League for Peace and Freedom invited submissions on the theme of militarized masculinities and their alternatives, with a view to challenging gender roles – especially rigid ideas about manhood – to promote gender equality and non-violence. The winning entrant, Colombian photographer Carolina



Navas Gutiérrez, offered a series of images portraying vulnerabilities of young men living in the Tumaco region of the Pacific Coast of Columbia, one of the most violent regions of the country. Her portraits show how young Afro-Colombian men use dance and music to confront violence, lack of opportunity, abandonment and poverty related to the drug trade.⁹

⁹ Women's International League for Peace and Freedom, "Mobilising men for feminist peace" (2022).

Promoting diversity and pluralism in information and awareness-raising

A key role of States is to amplify diverse voices about the threat of organized crime. Risks of inadequate and inaccurate information are exacerbated where States silence and repress independent media and social media. States are obliged by international law not to interfere with freedom of expression through over-regulation, and to positively protect freedom of expression, and the right to receive and impart information.²⁴

Case study 12. Role of the media in countering organized crime and supporting victim rights

Media and investigative journalism are essential to prevent organized crime. Powerful transnational organized crime groups are generating billions of dollars from poly-criminality in special economic zones in South-East Asia, including corruption, money-laundering, drug trafficking, wildlife and forest crimes, and transnational human trafficking to



enslave people in cyberscamming. It is largely through the work of the media that the industrial scale of this organized crime, the severity of human rights abuses and violations perpetrated there, and the complicity of corrupt State actors has been brought to light.⁹

⁹ See Women's International League for Peace and Freedom, "Mobilising men for feminist peace" (2022).

Some States have mechanisms in place to protect human rights defenders and journalists. In others, particularly where armed groups and organized crime are rife and have power to corrupt authorities, human rights defenders are particularly vulnerable to attacks. Human rights defenders, journalists and their sources, and civil society activists are even murdered for raising awareness and sharing information about organized crime, as others courageously step up to their place.²⁵

²⁴ See, for instance, resolutions adopted by the Human Rights Council on the safety of journalists, available at www.ohchr.org/en/safety-of-journalists/resolutions.

²⁵ See 4.3.1 below. See also the work of the Global Initiative against Transnational Organized crime to document assassinations by organized crime groups. Available at <https://assassination.globalinitiative.net/about/>.

Figure 8. Building blocks of gender-equal and human rights-based laws and policies to protect journalists, activists, human rights defenders and others who raise awareness about organized crime

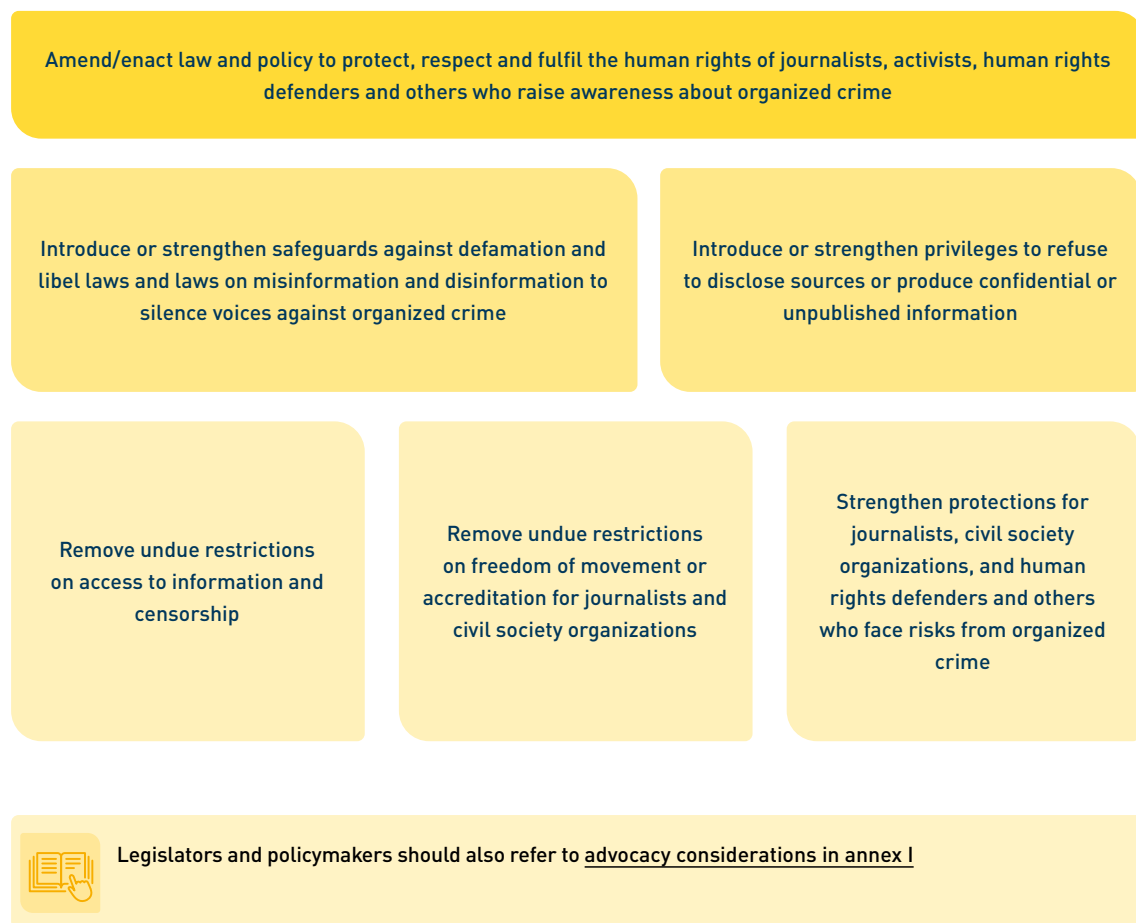
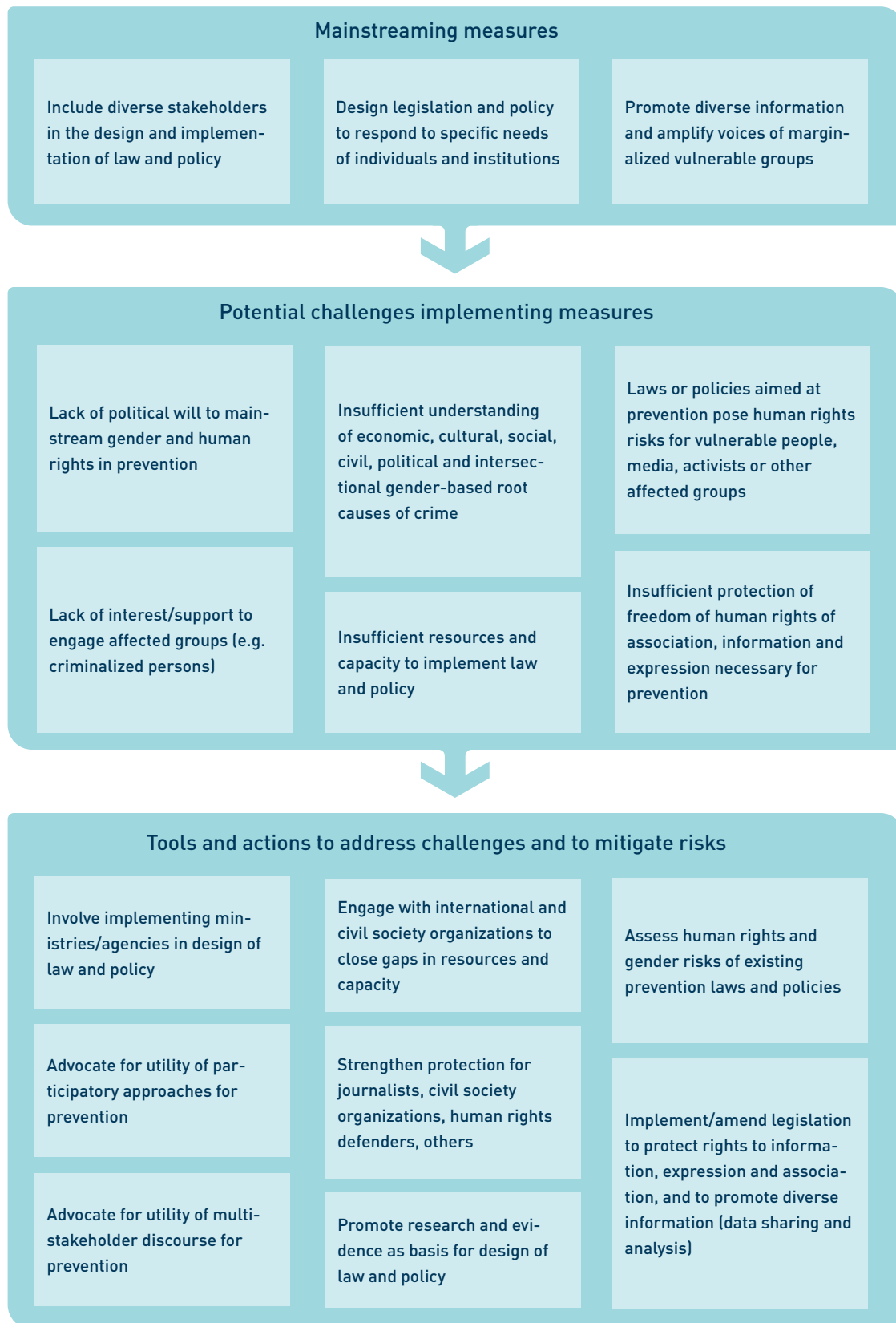


Figure 9. Mainstreaming gender and human rights in prevention



4.2

PURSUE OBJECTIVES

KEY TAKEAWAYS:

- ▶ Pursuing organized crime in ways that are gender-responsive and human rights-based also serves prevention and protection objectives.
- ▶ Criminalization provisions must not be discriminatory on any grounds, and must mitigate the risks of human rights harms resulting from their interpretation or application.
- ▶ Equipping investigators with gender-responsive and human rights-based law and policy reduces their risk of violating international and domestic obligations, and strengthens their ability to effectively investigate and prevent organized crime.
- ▶ Prosecution, adjudication and sanctions that are gender-responsive and human rights-based for victims, perpetrators and others who come into contact with the criminal justice process are more effective against organized crime than those that are not.

Snapshot of 4.2: Opportunities for legislators and policymakers to support gender-sensitive and human rights-based pursuit of organized criminals



Steps to mainstream human rights and gender in pursuing organized crime

Step 1

Take stock of existing legislation and policy instruments relevant to pursuit of organized crime, including domestic legislation on organized crime, criminal procedure, and law enforcement powers

Step 2

Analyse the extent to which existing instruments integrate gender and human rights considerations

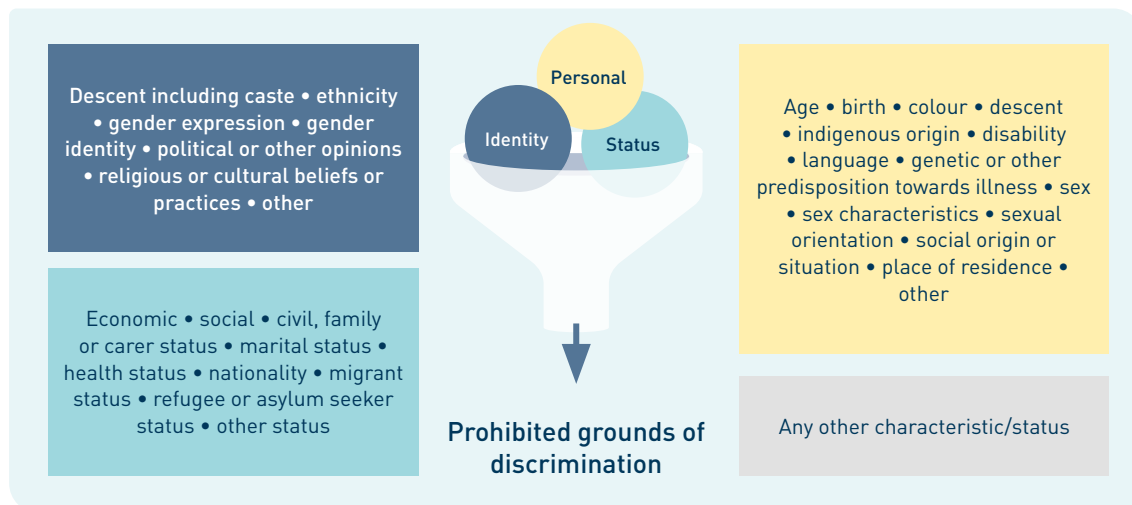
Determine gender and human rights risks that arise from implementation of existing normative frameworks

Identify mechanisms for accountability for failure to fulfil gender and human rights responsibilities of criminal justice practitioners

Step 3

Determine how identified gaps can be filled and risks can be mitigated through new and/or amended legislation, policies and strategies on prevention

Figure 10. Non-exhaustive prohibited grounds of discrimination



For more information, see *Protecting Minority Rights: A Practical Guide to Developing Comprehensive Anti-Discrimination Legislation* (United Nations publication, 2023) and *Model Legislative Provisions against Organized Crime, 2nd ed.* (Vienna, 2021), pp. 9 and 10.

4.2.1 Criminalization and scope

Implementing the criminalization provisions of the Convention without due regard for human rights considerations can result in discrimination, human rights harms and the criminalization of victims.²⁶ For example:

Table 10. Examples of discriminatory law and policy

CAUSE (law and policy)	CONSEQUENCE (in implementation)
Offers and provision of bribes are both criminalized, but demanding sexual bribes (sextortion) in exchange for preferential treatment or other benefits is not.	Victims of sex-related abuse (who are very often women and girls) are prosecuted for corruption-related offences. ^a
Wildlife crimes are criminalized without any human rights-based exemptions provided for in legislation.	Marginalized groups and people in vulnerable situations whose food security and participation in cultural life depends on use of listed species are prosecuted as organized criminals. ^b
Persons engaging in prostitution or sex work are criminalized.	Victims of trafficking for sexual exploitation (who are predominantly women and girls) are detained and prosecuted as criminals. ^c

^a UNODC, *The Time is Now: Addressing Gender Dimensions of Corruption* (Vienna, 2020), pp. 45 and 46.

^b See UNODC, *Guide on Drafting Legislation to Combat Wildlife Crime* (Vienna, 2018), p. 26.

^c See UNODC, *Toolkit for Mainstreaming Human Rights and Gender Equality into Criminal Justice Interventions to Address Trafficking in Persons and Smuggling of Migrants* (Vienna, 2021).

²⁶ Participation in an organized crime group (article 5); money-laundering (article 6); corruption (article 8; and obstruction of justice (article 23).

In order to mitigate these risks through gender and human rights mainstreaming, legislators and policymakers must carry out intersectional gendered analysis of how people experience and engage in crime. That analysis must be based on evidence and consultation, including with those most affected (see chapter 3).

Figure 11. Building blocks for ensuring criminalization provisions are non-discriminatory



Statements of principles

Statements of human rights-based principles calibrated to specific crime types and cultural and social contexts, can be useful to guide gender-equal and human rights-based interpretation and implementation of legislation. For instance, capturing the non-punishment principle in domestic legislation allows criminal justice practitioners to not arrest, detain, incarcerate, prosecute, convict or imprison a person who is not criminally responsible for unlawful activities they have been involved in.

Case study 13. Statements of principles in environmental laws

In Lesotho and Zambia, environmental legislation sets out principles that guide the interpretation and implementation, including the polluter pays principle, precautionary principle, principles of



ecosystem integrity, public participation in the development of environmental policies and plans, and inter- and intra-generational equity.^a

^aSee UNODC, *Combating Waste Trafficking: A Guide to Good Legislative Practices* (Vienna, 2022), pp. 27 and 28.



Legislative drafters who are reviewing and/or drafting criminalization provisions should refer to [checklist 6.2.2](#)



For model criminalization provisions, see Model Legislative Provisions against Organized Crime, 2nd ed. (Vienna, 2021), chap. II, pp. 29–46



For more on mainstreaming human rights in criminalization, see UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law*



For gendered dimensions of criminalization, see *Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), pp. 17–22

4.2.2 Investigation

Law and policy must guard against bias and discrimination that violates human rights and is detrimental to the pursuit of organized criminals.²⁷ For instance:

Table 11. Examples of discriminatory law and policy

CAUSE (law and policy)	CONSEQUENCE (in implementation)
Legislation criminalizes sexual violence against women, but not against men and boys.	Investigators assume men are not subject to sexual violence by organized criminals, and lack appropriate gender-responsive skills to interview victims to obtain information. ^a
Law and policies have not kept pace with evidence and the diversification of criminality.	Investigators make outdated assumptions about gender, ethnic or cultural affiliation of members of particular crime groups.
Laws and policies allow or do not prohibit racial and ethnic profiling.	Investigators are distracted from evidence-based investigation and treat people in ways that are discriminatory and otherwise violate human rights.

^a See Office of the United Nations High Commissioner for Human Rights (OHCHR), *Integrating a Gender Perspective into Human Rights Investigations: Guidance and Practice* (New York; Geneva, 2018), pp. 33 and 34.

To guard against these consequences, investigators should be equipped with gender-responsive and human rights-based legal and policy frameworks, to help them challenge their bias and assumptions and strengthen their capacity to pursue organized crime.

²⁷ OHCHR, “Minorities in the criminal justice system”, contribution of the United Nations network on racial discrimination and protection of minorities to the eighth session of the Forum on Minority Issues, held in Geneva on 24 and 25 November 2015.

Case study 14. Legislation against racial profiling

The Californian Racial and Identity Profiling Act of 2015 prohibits racial and identity profiling by law enforcement, and requires law enforcement agencies to report data to the Attorney General's office on complaints alleging racial and identity



profiling. It also establishes a multidisciplinary advisory board on profiling, and provides recommendations for a range of stakeholders including law enforcement and policymakers, to advance the goals of the legislation.^a

^a United States, State of California Department of Justice, "Eliminating racial and identity profiling in law enforcement requires everyone's participation!", Office of the Attorney General, 2015.

Case study 15. Racial and ethnic profiling violates human rights

In some European States, people of migrant backgrounds or Roma and Sinti minorities are subject to disproportionate use of stop-and-search procedures, sometimes accompanied



by excessive use of force.^a Similarly, in Brazil, a culture of racial profiling has been found to exist across the justice system, with more force used against Afro-Brazilians in comparison to others.^b

^a Organization for Security and Co-operation in Europe, Office for Democratic Institutions and Human Rights, *Police and Roma and Sinti: Good Practices in Building Trust and Understanding*, Strategic Police Matters Unit Publication Series, vol. 9 (Vienna, 2010), p. 33.

^b A/HRC/27/68/Add.1

Figure 12. Building blocks of human rights-based law and policy to investigate organized crime



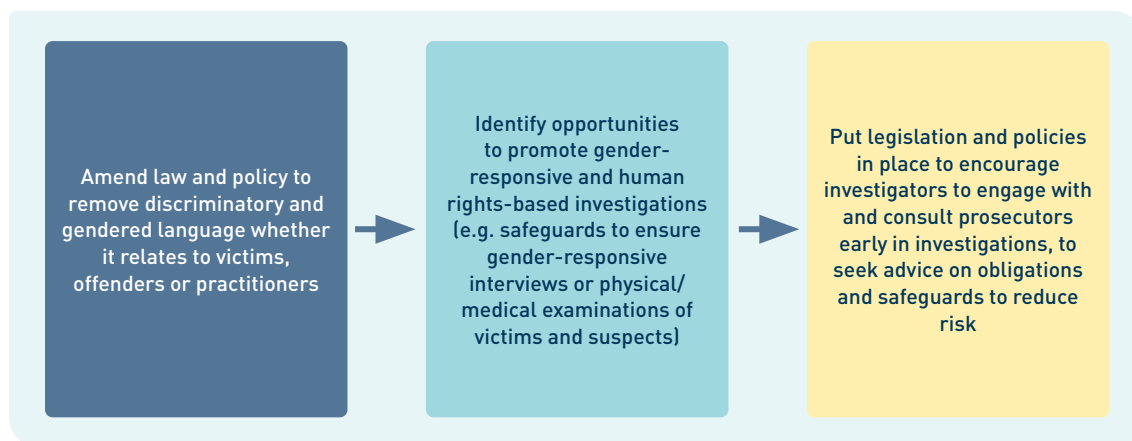
Understanding investigation as a basis for mainstreaming gender and human rights in law and policy

- What is the role of police, customs, immigration and border officials in pursuing organized crime? Do community police forces exist? Do they include age, gender and other specialized services? Do they have an understanding of the cultural context in which they work?
- What are the key human rights and gender issues in investigations of organized crime?
- How do laws and policies recognize the impact of trauma and reduce the risk of re-traumatization in investigating organized crime?
- What vulnerability risk assessment and mitigation models are used by investigators and how can meaningful law and policy be developed to support good practice?
- How can laws and policies be amended to support police to exercise legislative powers in ways that are trauma-informed and responsive to intersectional vulnerability-related risk, gender-responsive and protective of human rights?
- What is the gender and diversity composition and gender and human rights mainstreaming capacity of the police? How can law and policy promote more representative and more responsive police forces?



Evidence and consultation will be required to answer the above questions (see [chapter 3](#)).

Figure 13. Tips for mainstreaming in law and policy on investigation



An array of resources is available to support carrying out gender-responsive and human rights-based investigations. Table 12 offers several resources to address human rights and gender challenges in interviews and information gathering.

Table 12. Resources for developing gender-responsive and human rights-based approaches to interviews and information gathering by investigators

HUMAN RIGHTS/GENDER CHALLENGE	RECOMMENDED RESOURCE
Interviews of victims/suspects that are coercive, violate human rights and result in inaccurate information.	Mendez Principles: The <u>Principles on Effective Interviewing for Investigations and Information Gathering</u> (OSCE 2021) promotes review of legal frameworks and policy documents that regulate interviews, to ensure conformity with international legal obligations, in particular, prohibition of torture and other ill-treatment.
Survivors of sexual violence are often unnecessarily re-interviewed, not informed of their options, and not given time and space to decide on whether to support prosecutions. Such treatment fails to put their needs first and works against justice and accountability.	Murad Code: The <u>Global Code of Conduct for Gathering and Using Information about Systematic and Conflict-Related Sexual Violence</u> (named the Murad Code, in honour of Nadia Murad) supports gathering information from survivors in ways anchored in their fundamental human rights to dignity, privacy, health, security, access to justice, truth and an effective remedy.
Investigators lack training and/or resources to apply gender-responsive approaches to their interactions with people, including women and girls subjected to violence.	Chapter 12 of the Handbook on <u>Gender-responsive Police Services</u> for Women and Girls subject to Violence offers insight into the role of legislation. Module 3 of the <u>Essential Services Package for Women and Girls subject to Violence</u> offers insight into gender-responsive collection of information. ^a

^a For insights on how investigators can recognize and respond to risks when working with vulnerable people, see, inter alia, resources of the United Kingdom College of Policing.

Trauma-informed and vulnerability responsive investigations

Investigators who recognize and respond to adverse effects of organized crime on the victims or perpetrators they encounter in investigations are more effective in investigating organized crime.²⁸ Human rights- and gender-based approaches to investigations can increase the likelihood that evidence collected will support prosecution, and be admissible and persuasive in court. Therefore, they must be equipped with laws and policies that are trauma-informed, gender-sensitive and responsive to vulnerability-related risks.²⁹

Table 13. Determining whether law and policy on investigations is trauma-informed, gender-sensitive and responsive to vulnerability-related risks

	TRAUMA-INFORMED Do laws and policies ...	VULNERABILITY-RESPONSIVE Do laws and policies ...
REALIZE	Support practitioners to realize the wide-spread impact of trauma on victims, offenders and others affected by organized crime and how this may impact women, men and gender-diverse people differently?	Respond to the vulnerability and gender-related risks to victims, offenders and others affected by organized crime?
RECOGNIZE	Equip practitioners to recognize the signs and symptoms of trauma in victims, offenders, families, staff and others involved in investigating organized crime and how these may appear different among women, men and gender-diverse people?	Equip practitioners to recognize intersectional vulnerability-related risks to victims, offenders, families, staff and others involved in investigating organized crime?
RESPOND	Equip practitioners to respond by integrating knowledge about trauma in investigative efforts, including through differential treatment of offenders?	Equip practitioners to respond to vulnerability-related risks by designing and implementing gender-responsive risk-mitigation strategies including through adequate resourcing?
RESIST	Equip investigators to actively resist re-traumatization through intersectional gender and human rights-based investigations?	Equip practitioners to avoid creating additional vulnerability risks for those they encounter in their work, including through adequate training and resourcing?

Inclusive and diverse recruitment of investigators

Gender-responsive criminal justice institutions are essential to achieve transformative change for gender equality, and are better equipped to pursue organized crime. Legislators and policymakers should consider how they can promote inclusive and diverse recruitment including of women and minorities as investigators of organized crime.³⁰ Women’s representation in law enforcement has been linked to more effective, victim-centred responses to organized crime. Legislation excluding women or others from serving as law enforcers, or imposing discriminatory entry requirements contrary to the right to equality should be urgently amended.³¹

²⁸ See, for instance, Katherine L. Maldonado-Fabela, “In the spirit of struggle: a barrio pedagogy compass of love, care, and compassion”, *Journal of Criminal Justice Education* (2023).

²⁹ For more on trauma, see, inter alia, United States, Substance Abuse and Mental Health Services Administration, Department of Health and Human Services, “SAMHSA’s concept of trauma and guidance for a trauma-informed approach” (2014).

³⁰ UNODC, *Organized Crime and Gender* pp. 30 and 31 (see footnote 1).

³¹ See Convention on the Elimination of Discrimination against Women, art. 15.

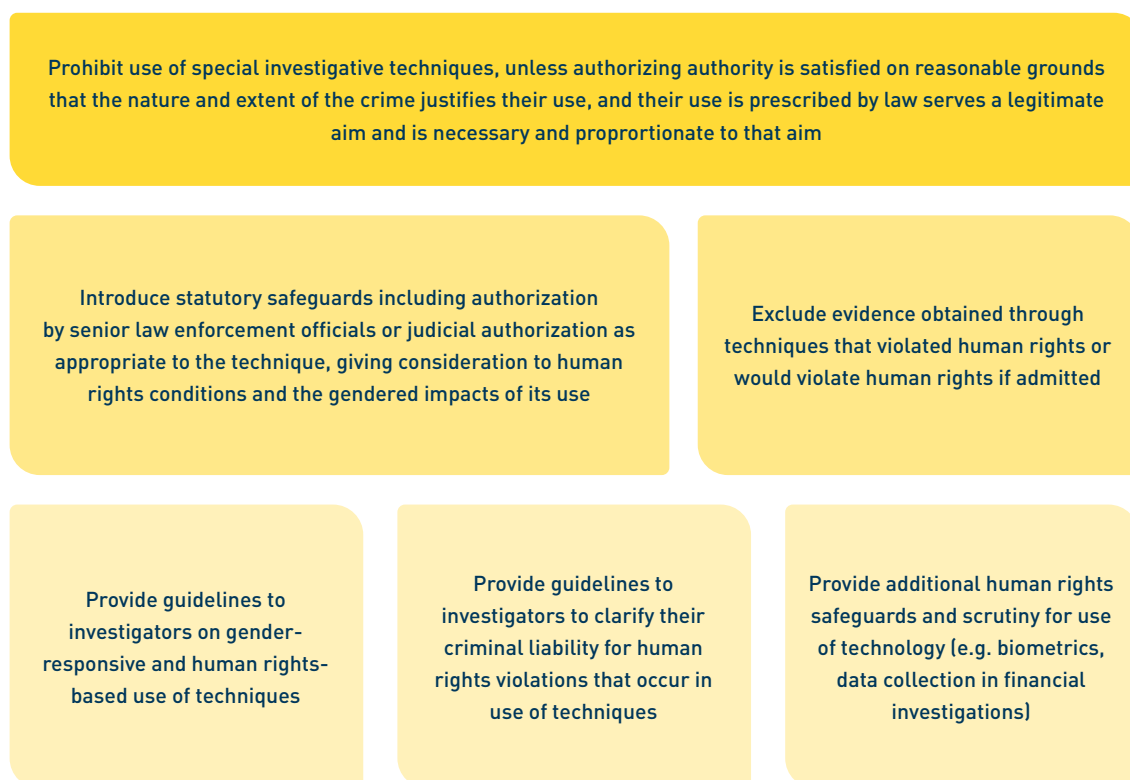


Those reviewing legislation to guard against human rights violations during investigation should refer to [checklist 6.2.2](#)

Special investigative techniques

The special investigative techniques included in article 20 of the Convention have human rights implications for persons under investigation, victims and the investigators applying them.³² Misuse of special investigative techniques can result in violations of privacy rights, fair trial rights and the right to life among others. In extreme examples, undercover investigators have abused their power to commit physical and sexual assault and gender-based violence and governments have misused surveillance techniques to persecute people. Human rights safeguards are clearly needed.³³

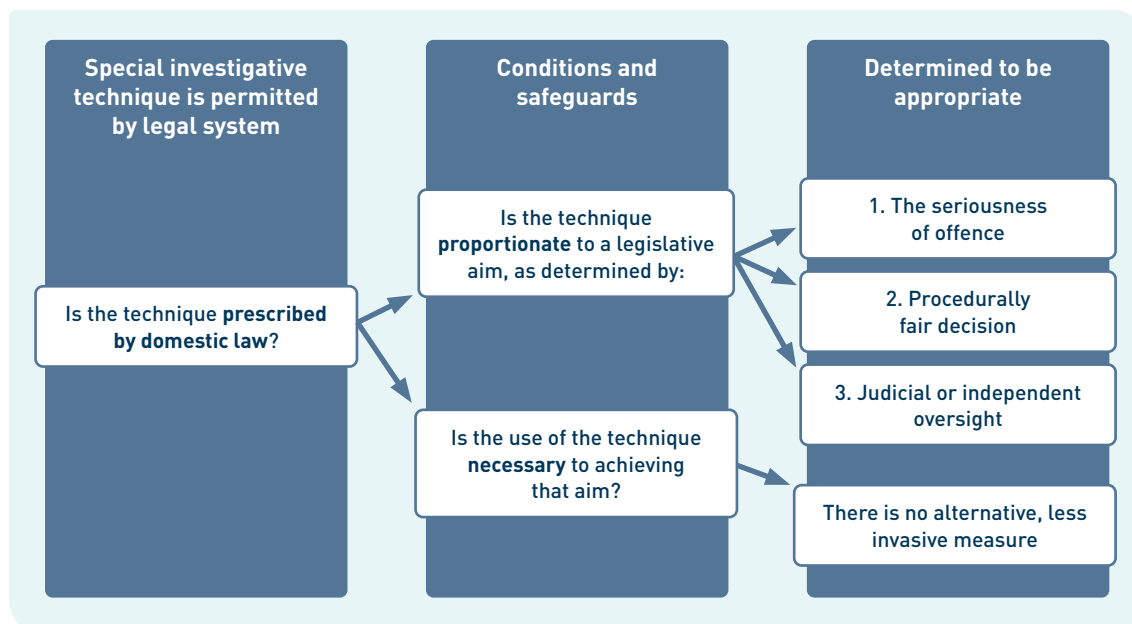
Figure 14. Building blocks for balancing the interests of justice in pursuing organized criminals with human rights, including of those being pursued



³² Techniques listed in article 20 are non-exhaustive and include controlled delivery, electronic or other forms of surveillance, undercover operations and use of informants.

³³ See [CTOC/COP/2022/9](#), resolution 11/1, annex I, of the Conference of the Parties to the Organized Crime Convention and [CTOC/COP/WG.3/2020/3](#), paras. 62–65.

Figure 15. Determining whether special investigative techniques can be used



Case study 16. European standards of use of surveillance

The European Commission of Human Rights has developed minimum safeguards that should be introduced in law to avoid abuse of power in the use of surveillance:

- The nature of the offence that may give rise to a surveillance order
- The categories of people liable to be subject to any such measure
- A limit on the duration of surveillance
- Procedures to be followed for examining, using and storing data obtained
- Precautions to be taken when communicating the data to other parties
- Circumstances in which recordings may or must be erased or destroyed



It also requires that the body issuing authorizations be independent and that there is judicial control or control by an independent body over the issuing body. Accordingly, a public prosecutor should not be able to order surveillance without any prior approval by a judge.^a In countries outside the European Union, due process may not involve a judge.

^a [CTOP/COP/WG.3/2020/3](#), para. 27, referring to European Commission of Human Rights, *Malone v. United Kingdom*, Application No. 8691/79, judgment of 2 August 1984, para. 67; *Huvig v. France*, Application No. 11105/84, judgment of 24 April 1990, para. 33; *Amann v. Switzerland*, Application No. 27798/95, judgment of 16 February 2000, para. 60; and *Lordachi and others v. Moldova*, Application No. 25198/02, judgment of 10 February 2009, para. 40.



For more on mainstreaming human rights in the use of special investigative techniques, see UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (Vienna, 2022), pp. 35–38



For model legislative provisions to support the use of special investigative techniques, see *Model Legislative Provisions against Organized Crime*, 2nd ed. (Vienna, 2021), chap. III

Asset confiscation and disposal

Convention provisions relating to seizure, confiscation and disposal of proceeds of crime or property (articles 12, 13 and 14) may give rise to human rights and gender concerns. Survival of families may depend on the proceeds of crime.³⁴ Confiscation may have disproportionate gendered effects, for instance where women are used by organized crime groups to conceal assets.³⁵ Conversely and ideally, States can reuse confiscated assets and criminal proceeds to advance human rights and gender equality, by enhancing the pursuit of organized criminals, funding victim compensation and restitution, and empowering people and communities in efforts to prevent organized crime.³⁶

Figure 16. Building blocks of gender-responsive and rights-based disposal of confiscated proceeds and assets



³⁴ In this respect, articles 12 (8) and 13 (8) guarantee that the confiscation must not be construed to prejudice the rights of bona fide third parties.

³⁵ UNODC, *Issue Paper: Organized Crime and Gender*, p .35 (see footnote 1).

³⁶ See section 4.1 on prevention. Civil society organizations can refer to Partners Albania for Change and Development, “A practical guide for NPOs: establishment of social enterprises in confiscated assets from organized crime” (Tirana, 2020).

Case study 17. Confiscated assets used for social purposes in the Western Balkans

Most countries in the Western Balkans have mechanisms in place to allow for confiscation of assets and their reuse for social purposes. In Albania, legislation establishes a fund to use confiscated assets for State and social community crime prevention, legal education and social enterprises.^a An example of such an enterprise is a project jointly implemented with the Global Partnership on Drug Policies and Development, through which confiscated cars that previously belonged to criminal actors are converted into mobile libraries that



travel to remote areas where children can borrow the books.^b In Bosnia and Herzegovina, Montenegro and Serbia, assets that are not sold can be donated for humanitarian purposes or entrusted to authorities to reuse. In North Macedonia, seized food, clothing and drinks can be gifted to civil society. Examples involve properties confiscated from criminals in Serbia being repurposed as a safe space for juvenile ex-offenders, a home for people with autism, and a treatment centre for children suffering from cancer.^c

^a Saša Đorđević, “Resilient Balkans: social reuse of confiscated assets” (Geneva, Global Initiative against Transnational Organized Crime, 2022), pp. 10–12.

^b Global Partnership on Drug Policies and Development, “Albania: making a living – the transformation path from illicit to licit economic income”, 2023.

^c Đorđević, “Resilient Balkans”, pp. 10–12.

Case study 18. Recovered assets used to support vulnerable communities

Investigations carried out after the death in June 1998 of General Sani Abacha, President of Nigeria from 1993 to 1998, revealed that he had stolen billions of dollars from the people of Nigeria, which



were laundered through several countries. Some US\$800 million was recovered in cash and assets, and used by the Government for housing projects and education in 36 states of Nigeria.^a

^a Ignacio Jimu, Managing Proceedings of Asset Recovery: The Case of Nigeria, Peru, The Philippines and Kazakhstan, Working Paper Series, No. 06 (Basel, Switzerland, Basel Institute on Governance and International Centre for Asset Recovery, 2009), p. 7.

4.2.3 Prosecution, adjudication and sanctions

Prosecution, adjudication and sanctions imposed by the criminal justice system must be gender-responsive and human rights-based for victims, perpetrators and others who come into contact with it. Article 11 of the Convention should be implemented in line with due process rights. Where pretrial detention occurs without due process, the result may be arbitrary detention and violation of the presumption of innocence, which in turn can risk the overturning of convictions, subsequently impacting the rights of the victims. Pretrial detention can also interfere with the accused person’s ability to prepare for trial, contrary to the right to a fair trial and the interests of justice. Policies that allow for extrajudicial actions against crime are contrary to States obligations in international law.³⁷






For more on human rights considerations in pretrial detention, see UNODC, Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law (Vienna, 2022), pp. 38–40

³⁷ For instance, alleged extrajudicial actions in relation to “wars on drugs” raise human rights concerns. See International Criminal Court, “ICC Pre-Trial Chamber I authorises Prosecutor to resume investigation in the Philippines”, 26 January 2023.

Gender-responsive and human rights-based sanctions

Sanctions imposed must take into account the gravity of the offence, in line with article 11(1) of the Convention, in ways that align with the State's human rights obligations. Accordingly, sanctions must achieve justice for victims, without violating the human rights of the perpetrator and thus avoiding arbitrary deprivation of liberty or cruel, inhuman or degrading treatment or punishment, including through the imposition of the death penalty.³⁸ Sanctions must also take into consideration the gendered human rights implications of punishments. The victimization history of many women offenders and their caretaking responsibility may be relevant here.

INDIVIDUAL IMPACT	SOCIAL IMPACT	IMPACT ON RESPONSE
 <ul style="list-style-type: none"> • What impact do punitive sanctions have on individuals, taking into account intersectionality? • What role do trauma and vulnerability play in a person's experience of imprisonment and their prospects of rehabilitation? 	 <ul style="list-style-type: none"> • What impact does the incarceration of a sole income earner, primary carer or breast-feeding parent have on their families (elderly parents/ children)? • What is the economic and social impact on the community of incarceration? 	 <ul style="list-style-type: none"> • How do sanctions impact on efforts to pursue organized crime? • What impact do punitive sanctions have on recidivism? • What impact do punitive sanctions have on the social marginalization and inequality on which organized crime thrives?

Case study 19. Imprisonment rising, particularly of women

UNODC research has found prison overcrowding in half of all countries, with the number of people detained in prisons growing globally (11.7 million by the end of 2019). While most people in prison are men (93 per cent), the relative number of women is increasing at a faster pace.^a In several places, the rate of women being imprisoned is rising particularly in relation to drug-related offences. In Thailand, 84 per cent of incarcerated women are serving time for drug offences.^b Imprisonment of women, particularly where



they are educationally and economically disadvantaged, and/or primary carers of children and aging parents, can have human rights impacts on their families. Where they are low-level offenders, their incarceration does little to disrupt organized crime groups involved in the drug trade, but perpetuates the cycle of disadvantage it feeds off.^c These realities should enliven legislators and policymakers to the human rights and gendered dimensions of imprisonment.

^aUNODC, "Nearly twelve million people imprisoned globally, nearly one-third unsentenced with prisons overcrowded in half of all countries", Data Matters No. 1 (Vienna, 2021) pp. 3 and 4.

^bThai Institute of Justice and Griffith University, *Women's Pathways Into, Through and Out of Prison: Understanding the Needs, Challenges and Successes of Women Imprisoned for Drug Offending and Re-turning to Communities in Thailand* (Bangkok, 2021), p.8.

^cUNODC, *Issue Paper: Organized Crime and Gender*, p. 37.

Considering such questions is critical to ensuring that law and policy allows criminal justice practitioners to take gender-responsive, human rights-based approaches that confront rather than exacerbate the factors that fuel organized crime.³⁹

³⁸ UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime*, pp. 40–44 (see footnote 6); and OHCHR, "Death penalty: the international framework". Available at www.ohchr.org/en/topic/death-penalty/international-framework.

³⁹ See, for instance, Maldonado-Fabela, "In the spirit of struggle" (see footnote 28).

Non-custodial measures and restorative justice approaches

Policymakers and legislative drafters should provide criminal justice practitioners with opportunities to allow for non-custodial measures. Gender-specific alternatives, including but not limited to economic sanctions, house arrest, community service and non-institutional treatment, among others, may be useful. A non-exhaustive overview of potential measures can be found in table 14 below.⁴⁰ Non-custodial sentences provided for in law and policy must have a punitive element that is appropriate to the organized crime issue, and comply with human rights norms and standards.⁴¹ Consideration can also be given to restorative approaches to justice for victims, offenders and the community.⁴²

Table 14. Gender and human rights-based considerations for laws and policies on sanctions

LAWS AND POLICIES SHOULD NOT	LAWS AND POLICIES SHOULD
Include mandatory minimum sentences that violate human rights obligations.	Provide sanctions that take into account the gravity of the offence in line with article 11(1) of the Convention.
Impose sanctions that are purely punitive and do not serve public interests, because they do not serve any rehabilitative purpose nor reduce recidivism.	Impose sanctions that are preventative as well as punitive, and allow sentencing judges to consider mitigating as well as aggravating factors in line with the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (the Bangkok Rules) and the Convention on the Rights of the Child for children in conflict with the law.
Discriminate against male, female or gender-diverse offenders on any grounds.	Take into consideration age, disability, gender and other intersectional dynamics of incarceration and imposition of criminal records through sentencing measures that allow for appropriate decisions to be based on individual circumstances (rather than, for instance, allowing non-custodial measures for women only).
Impose corporal or capital punishment contrary to obligations in international law. ^a	The death penalty hinders progressive human rights. In the few States that have not yet abolished it, international human rights law requires as a minimum, full compliance with the clear restrictions prescribed in the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child.

^a UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (2022), pp. 40–44; and UNODC, *Issue Paper: Organized Crime and Gender*, pp. 37 and 38.

⁴⁰ See United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) (General Assembly resolution 65/229, annex), rule 57. See also rule 8.2 of the United Nations Standard Minimum Rules for Non-Custodial Measures (the Tokyo Rules) (General Assembly resolution 45/110, annex), for a comprehensive list of alternatives to imprisonment; and UNODC, *Handbook on Basic Principles and Promising Practices on Alternatives to Imprisonment*, Criminal Justice Handbook Series (Vienna, 2007).

⁴¹ See UNODC, *Handbook on Basic Principles and Promising Practices*. Laws and policies should also provide for timely and effective access to justice to reduce delays in the criminal justice system particularly for those in pretrial detention, including by providing access to legal aid to accused persons in line with the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (General Assembly resolution 67/187, annex).

⁴² See UNODC, *Handbook on Restorative Justice Programmes*, 2nd ed. (Vienna, 2020).

Aggravating and mitigating factors in sentencing

Aggravating and mitigating factors should be informed by intersectional gender and human rights-based analysis of how organized crime groups operate. Aggravations can relate to, for example, human rights abuses and gender-based violence. Circumstances that may be considered as mitigating include the offender being under the influence of coercion, intimidation or exploitation, or while suffering reduced mental capacity (for instance, owing to disability). The non-punishment principle should apply at the sentencing phase to ensure that a person is not held criminally responsible where he or she lacks the requisite mens rea (criminal intent element).

Case study 20. Mitigating factors in wildlife crimes in Malawi

Malawi provides [Sentencing Guidelines for Wildlife Crimes in Malawi Courts](#) (October 2017), in relation to offences committed under the [National Parks and Wildlife \(Amendment\) Act 2017](#). Section 110A of that Act concerns crimes related to endangered species which can attract a term of imprisonment of 30 years. The aggravating and mitigating factors demonstrate the efforts of legislative drafters to balance competing interests. Aggravating



factors include the offence taking place in concert with others, committed for commercial purpose, posing high risk to public health, the accused being a public officer, and impact on the community. The mitigating factors include evidence that the offender was not a mastermind, that no injury was inflicted on the animal, the offender being involved through coercion or intimidation, and the purpose being for subsistence of the offender and his immediate family.

Table 15. Considerations for applying an intersectional gender-responsive lens to developing laws and policies to implement article 11 of the Convention

PRETRIAL	<ul style="list-style-type: none"> • What might a person’s motivation be for committing a crime? • What intersectional factors such as class, ethnicity, economic status and gender determine whether a person has access to resources for legal aid and the ability to pay bail or engage in plea bargaining? • What is the likely impact on a person of pretrial detention, in the light of their age (young or old) and gender? • What impact might pretrial detention have on the person’s fair trial rights?^a • What might a person’s special needs be to access their rights in pretrial detention? • When and how should a person be diverted from prosecution? Who can make that determination and on what basis?
TRIAL	<ul style="list-style-type: none"> • How might judges view different perpetrators on the basis of their sex or gender and how will their views impact on their decisions? • What evidence is required to determine levels of agency in the commission of offences? • What evidence is required to determine who benefits from the commission of the crime? • What aggravating and mitigating circumstances should be relevant, and what sources of insight equip judges to make determinations about them?
POST-TRIAL	<ul style="list-style-type: none"> • How can sanctions appropriately take into account an individual’s intersectional characteristics, gender identity, including as a parent and/or carer? • When might alternatives to imprisonment be appropriate, for instance for parents/carers who may need to be close to their families? • How do incarceration and the imposition of criminal records impact men, women and people of diverse sexual and gender identities, as well as people of different ethnicities and immigration status? • What barriers might people of different identities face in accessing post-release care, and how might legislation and policy address these barriers? • Is the post-release care appropriate to the intersectional needs of men, women and people of all genders? How can these needs be identified?

^aA 2022 [study](#) in Mexico, “Conviction without trial: gender and abbreviated proceedings in the Mexican criminal justice system – executive summary”, found that use of abbreviated procedures disadvantaged women perpetrators of federal crimes and did not allow for gender considerations to be properly upheld in criminal justice proceedings.



Consultation and evidence will be useful to answer the above questions (see [chapter 3](#)).

Case study 21. Scottish standards for children in conflict with the law

In June 2021, the Government of Scotland published its Standards for those working with children in conflict with the law 2021. The standards provide for flexibility in relation to alternatives to prosecution, court and judicial proceedings, and deprivation of liberty, among other topics. The standards



also offer practitioners domestic legislation and policy guidance to fulfil their responsibilities in line with human rights obligations, including article 40 of the Convention on the Rights of the Child, that protects the rights of children accused of committing a crime.

Case study 22. The achievement of a child-friendly justice system in Kenya

A child-friendly justice system is one that upholds the fundamental rights of children in conflict with and in contact with the law. The Constitution of Kenya and the relevant international child rights instruments to which Kenya is a party, support the achievement of a child-friendly justice system in Kenya. The Office of the Director of Public Prosecutions, Kenya



developed *A Prosecutor's Guide to Children in the Criminal Justice System*. The guide aims to increase awareness and understanding of the rights of children in conflict with or in contact with the law and serves as a practical framework to guide prosecutors on how to handle cases involving children in the criminal justice system.

Case study 23. Legal aid in Africa

The African Charter on Human and Peoples' Rights stipulates the right to defence and provision of legal aid in criminal cases. The Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa call on States to ensure that accused persons have the right to legal assistance. The Constitutions of several countries protect the right to legal assistance. Legal aid is constitutionally protected at State expense in Cabo Verde (article 33 (3)); Egypt (article 67); Ethiopia (article 52); the Gambia; Malawi



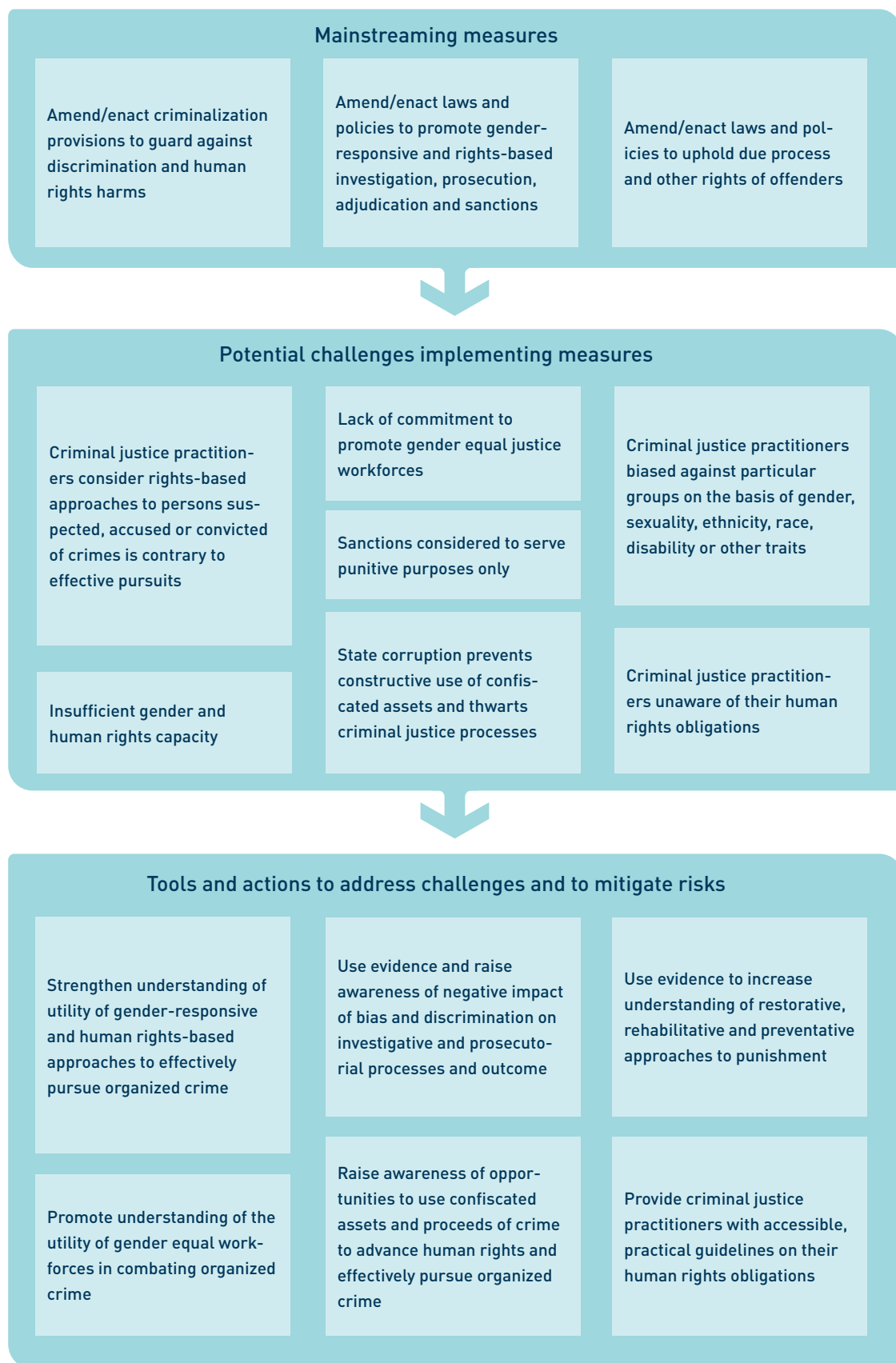
(section 42 (1) (c)); Mozambique (article 62 (2)), Uganda (article 28 (3) (e)), and without clarification on who bears the expense in Angola (article 36 (1)); Burkina Faso (article 4); the Democratic Republic of the Congo (article 19); Djibouti (article 10); Ghana (19 (2) (f)); Lesotho (chapter II, 12 (2) (d)); Mali (article 9); Namibia (article 12 (1) (e)); Nigeria (chapter IV, 36 (6)); Sao Tome and Principe (article 40 (1) and (3)) and Sierra Leone (article 23 (5) (c)).^a

^a UNODC, *Access to Legal Aid in Criminal Justice Systems in Africa: Survey Report* (Vienna, 2011), annex I.



See Model Law on Legal Aid in Criminal Justice Systems with Commentaries (UNODC, 2017) and Handbook on Ensuring Quality of Legal Aid Services in Criminal Justice Processes: Practical Guidance and Promising Practices (UNODC, 2019)

Figure 17. Mainstreaming gender and human rights in pursuing organized criminal groups



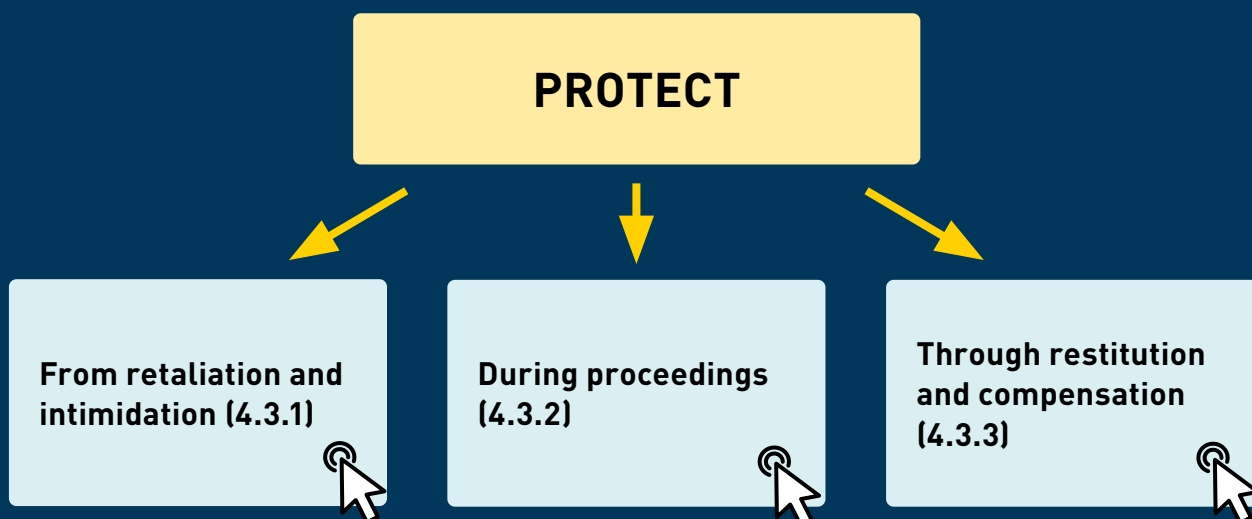
4.3

PROTECT OBJECTIVES

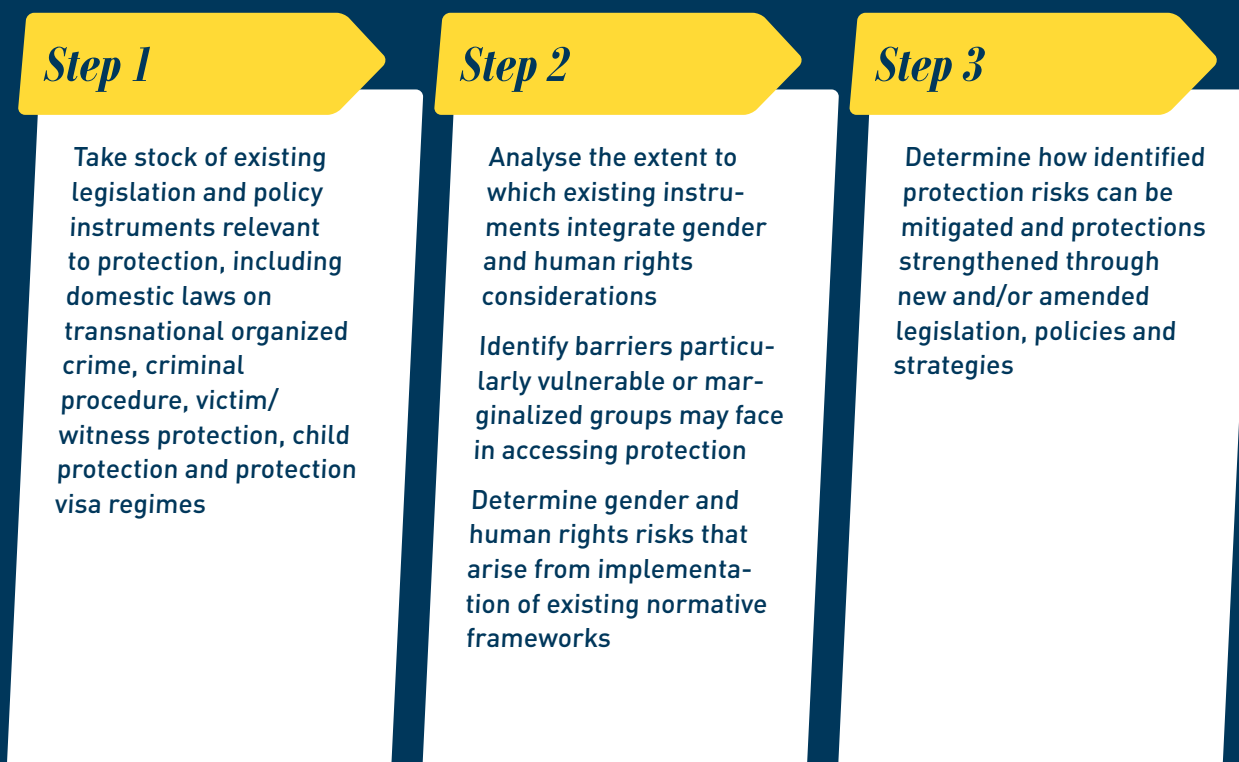
KEY TAKEAWAYS:

- ▶ **Protection approaches that are gender-responsive and human rights-based are more effective, and also serve the objectives of pursuing and preventing organized crime.**
- ▶ **Understanding gendered dimensions of retaliation and intimidation by organized crime groups, increases States' ability to fulfil obligations to protect those at risk.**
- ▶ **Victim-centred and gender-responsive approaches reduce the risks of human rights harms caused by criminal justice processes, and strengthen criminal justice outcomes.**
- ▶ **Gender-responsive and human rights-based compensation and restitutions provide effective support to victims by reducing burdens associated with long-term impact of crimes, and are more cost-effective for States.**

Snapshot of 4.3: Protection components in legislation and policy



Steps to mainstream human rights and gender in protection



WHO IS A VICTIM? WHO IS A WITNESS?

The terms “victim” and “witness” are used in the Convention but not defined by it. In line with that instrument, the Toolkit uses the term “victim”, while acknowledging that the term “survivor” may be considered more appropriate in different contexts.⁴³ A victim-centred approach means that the most appropriate term is the one preferred by the individual.⁴⁴ The term “witness” is understood broadly for the purposes of this Toolkit to mean any person, irrespective of their legal status (informant, witness, judicial official, undercover agent or other), who possesses information that may be relevant as evidence. Legislators and policymakers should check how these terms are defined or understood in their jurisdiction.

4.3.1 Protection from retaliation and intimidation

Article 24 (1) and 25 (1) of the Convention require that witnesses and victims are protected from retaliation or intimidation. Not all protection measures require legislation, but some do. Many cases against organized criminals fail without the testimonies of victim/witnesses, making their protection instrumental in the pursuit of justice. The stakes are high; murder of witnesses and even criminal justice practitioners is commonplace.

Protection measures relate to real people. Environmental activist, Chut Wutty, was murdered in 2012 while he was documenting illegal logging in the Koh Kong Province of Cambodia.⁴⁵ International Press Freedom awardee, Javier Valdez Cárdenas was murdered in 2017 in Sinaloa, Mexico for covering organized crime and corruption in Mexico. Marielle Franco, who rose from a favela in Rio to become city councillor, was gunned down with her driver in 2018, leaving behind her fiancé and her ten-year-old daughter. People like these – and those whose deaths will follow – should remind legislators and policymakers of the gravity and urgency of their responsibility to provide protection.⁴⁶



Local artist-activist Dante Aguilera working on a community-organized mural commemorating the fifth anniversary of the murder of the journalist Javier Valdez Cárdenas in Culiacán, Sinaloa, Mexico.

Photo by Dr. Michael Lettieri, May 15, 2022.



Finished mural of Javier Valdez Cárdenas with the rallying cry “Here nobody forgets. Javier Valdez lives on”.

Photo by Cecilia Farfán-Méndez, May 15, 2022.

⁴³ Some suggest that the term “victim” implies passivity or weakness and fails to recognize resilience and agency. Many people who have experienced organized crime do not want the stigma of having been “victimized”. Others find the term “survivor” problematic because it denies victimization and overlooks the reality that not all victims of crime survive.

⁴⁴ See, inter alia, UN-Women, *Essential Services Packages for Women and Girls Subject to Violence: Core Elements and Quality Guidelines* (2015).

⁴⁵ See Global Initiative against Organized Crime, *Faces of assassination*, “Chut Wutty”, 26 April 2012.

⁴⁶ The *Global Assassination Monitor* records assassinations of journalists, activists, police officers and community leaders for their work against organized crime. Its *Faces of Assassination* report is a sobering reminder of the fact that thousands of men, women and even children have lost their lives.

Figure 18. Building blocks for mainstreaming human rights and gender into protection legislation



Retaliation can be heavily gendered; in macho mafia cultures, testimony from a woman – and female-lead criminal justice procedures – can be seen as an affront to the honour codes of criminal clans ruled by sexist gender rules.⁴⁷

Case study 24. Gender and sexual orientation as a risk factor in organized crime groups

Honour killings have been committed against male members of organized criminal groups for infidelity with women attached to other members, or for homosexuality, as in the case of the brutal murder of John D'Amato in 1992, a senior member of the DeCavalcante crime family. In retaliation for an argument, D'Amato's girlfriend told another member of the group of D'Amato's sexual activities with men as well as women. One of his murderers, Anthony Capo, reportedly told the court "Nobody's



going to respect us if we have a gay homosexual [sic] boss sitting down discussing La Cosa Nostra business."^a Central American gangs such as Barrio 18 and MS-13 (Mara Salvatrucha-13) initiate male members through severe beatings and give female initiates the choice of severe beating or sexual relations with multiple gang members; the former is considered to bestow membership on the basis of pseudo-masculinity for demonstrating traits of strength, endurance and courage.

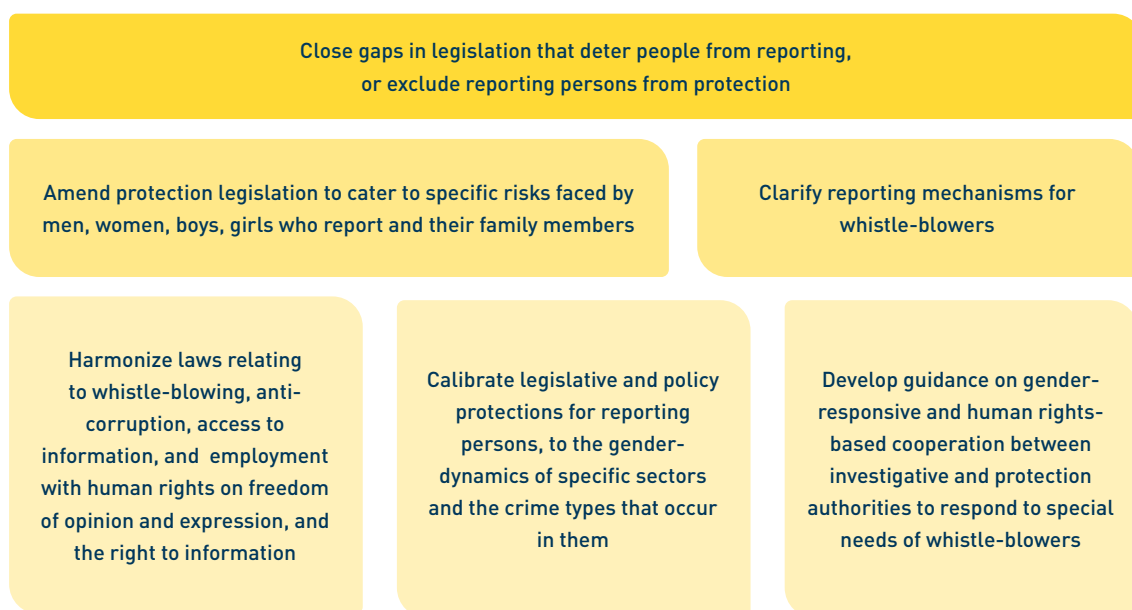
^a Antonio Nicaso and Marcel Danesi, *Organized Crime: A Cultural Introduction* (Abingdon, Oxon, United Kingdom; New York, Routledge, 2021), pp. 152 and 153. See also Alan Feuer, "Telling court he's gay, mob informer crosses line", *The New York Times*, 20 October 2009.

⁴⁷ Antonio Nicaso and Marcel Danesi, *Organized Crime: A Cultural Introduction* (Abingdon, Oxon, United Kingdom; New York, Routledge, 2021), pp. 153 and 154.

Whistle-blowers and informants

While protection of whistle-blowers and informants is not an explicit Convention requirement, article 34 invites States to go beyond minimum standards. Given the nexus between corruption and organized crime that results in retaliation against people who report, States may wish to provide for protections to whistle-blowers in line with article 33 of the Convention against Corruption.⁴⁸ Furthermore, the State’s international human rights commitments mean that life should be protected irrespective of who is at risk. Risks are acute where the State’s criminal justice apparatus is involved in organized crime.

Figure 19. Building blocks for mainstreaming gender and human rights in protecting whistle-blowers



Case study 25. Protecting whistle-blowers of falsified medical product-related crime

To protect whistle-blowers in specific relation to falsified drugs, cosmetics and medical devices, the Ministry of Health and Family Welfare of India introduced legislation to incentivize whistle-blowing and protect whistle-blowers



for that industry specifically. The law provides a reward in some cases to be administered by the Central Drug Standards and Control Organization, and requires the protection of the identity of whistle-blowers.^a

^a UNODC, *Combating Falsified Medical Product-Related Crime: A Guide to Good Legislative Practice* (Vienna, 2019) p. 69.

⁴⁸ There is no international definition of “whistle-blower” but the term is understood broadly to include those who report illegal, unethical or illegitimate practices of organizations they are members of to the public or media. See UNODC, *Model Legislative Provisions against Organized Crime* (Vienna, 2021), p. 125 and UNODC, *Resource Guide on Good Practices in the Protocol of Reporting Practices* (Vienna, 2015).



Mainstreaming gender and human rights into legislation to protect people – including whistle-blowers and informants – is more effective when based on evidence and consultation with relevant stakeholders.

See [chapter 3](#).



See [Resource Guide on Good Practices in the Protection of Reporting Persons](#) (Vienna, 2015)



See: [Speak up for Health! Guidelines to Enable Whistle-Blower Protection in the Health-Care Sector](#) (Vienna, 2021)

4.3.2 Protection during criminal proceedings

Victim-centred approaches prioritize victims' interests across all stages of the criminal justice response, to avoid both revictimization by organized criminals, and secondary victimization by criminal justice processes. Legislation and policy that respond to intersectional dimensions including age, gender, language, ethnicity and other factors throughout proceedings will be more effective. Table 16 provides an overview of steps that can be taken to achieve victim-centred approaches during criminal proceedings.

Table 16. Legislative provisions to mitigate risks to victims and witnesses

RISKS TO VICTIMS/WITNESSES	LEGISLATIVE PROVISIONS TO MITIGATE RISKS
<p>Revictimization (by criminals)</p> <p>Retaliation, intimidation or harassment by organized criminals or their associates.</p>	<ul style="list-style-type: none"> Physical protection of witnesses Relocation of witnesses, including financial and social support to allow witnesses to remain under State protection Non-disclosure or limitations on disclosure of witnesses and their whereabouts
<p>Secondary victimization (by the State)</p> <p>Court procedures or treatment by criminal justice or other officials that revictimize and/or retraumatize victims.</p>	<ul style="list-style-type: none"> Admissibility of pretrial statements in lieu of court testimony Testimony via video link/behind screen/closed hearings Allowing support persons to attend Making professional gender-responsive support available Allowing children to communicate and be communicated with in ways appropriate to them Reasonable accommodation for disability Interpretation into required languages



Victim-centred



Fair trial



Measures to protect victims/witnesses in proceedings must be balanced against the defendant's right to a fair trial, including the presumption of innocence, and in some jurisdictions, the right of a person to confront witnesses testifying against them.

Case study 26. Examination of children through intermediaries

Article 212 of the Costa Rica Code of Criminal Procedure (Law No. 7594) allows for assistance of family members or specialized experts such as child workers or child protection specialists when children give testimony. Similarly, article 351 allows for experts to accompany minors giving testimony. Measures are to be taken in the best interests of the minor and to avoid or reduce revictimization. Minors



are to be assisted by appropriate experts, and receive professional services. Underage victims of sexual crimes may be accompanied by medical personnel, psychiatrists and psychologists (article 120 and 121 of Law No. 7739). The Code of Criminal Procedure, allows courts to reduce formalities to receive testimony of children. In applying all such measures, the right of the defence is to be safeguarded.

Case study 27. Judicial decision-making with a gender perspective

In 2013, Mexico published a protocol for judges to apply a gender perspective to their work, in a manner that respects their independence and autonomy. The Protocol was updated in 2020 on the basis of broad consultation. In July 2022, at an event to create the First Inter-American Network of Gender



Liaisons of the Judiciary. Judge Patricia Pérez Goldberg, a member of the Inter-American Court of Human Rights, described the Mexico protocol as a pioneering work in mainstreaming gender into federal justice.^a

^a Inter-American Court of Human Rights, "Judge Patricia Pérez Goldberg opened the seminar held in Mexico to create the First Inter-American Network for Justice with a Gender Perspective and presented its keynote speech", July 2022.

Case study 28. Victim-centred, trauma-informed and child-friendly services for victims

By removing formal hearings and simplifying application processes, the Financial Assistance Scheme in Victoria, Australia reduces re-traumatization of victims of violent crime. An intermediary programme supports adults with cognitive disabilities and children in accessing justice. Specialist support is provided for children to prepare them to be witnesses. Victim support workers and staff are assisted by leaders



on cultural sensitivity to support Indigenous victims of crime through the victim assistance programme. Court support dogs (Kiki and Lucy) have been trained to support witnesses, including children, during police interviews and in both remote witness rooms and on witness stands in court, to reduce traumatization. The Scheme is also working to improve its accessibility for members of the LGBTIQ+ community.^a

^a Australia, Victoria State Government, Victim Support Update (Melbourne, Victorian Government, 2021); State Government of Victoria, "New court dog 'Kiki' to support children giving evidence", 8 February 2021; John Silvester, "They all love Lucy: how a four-legged friend can help us in court", *The Age* (Melbourne, Australia), 14 May 2021; and Australia, Justice Facility Dogs, "Making the justice system more trauma sensitive, one dog at a time". Available at <https://justicefacilitydogs.asn.au/>.



For more on human rights considerations in victim/witness protection, see *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (Vienna, 2022), pp. 60–68



For gendered dimensions of victim/witness protection, see *Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), pp. 46–49



Legislative drafters who are reviewing and/or drafting provisions relating to victim/witness protection, should refer to checklist 6.2.3.

4.3.3 Victim restitution and compensation

The right to compensation is protected in international human rights instruments, as well as in the Convention.⁴⁹ Article 25 (2) of the Convention requires States to have procedures in place to provide victims of organized crime with access to compensation and restitution.⁵⁰ Accordingly, law and policy should make criminal and civil restitution and compensation frameworks accessible to victims irrespective of their age, gender, ethnicity, indigeneity, disability, language, immigration status, nationality or other factors, and address any barriers to access.

1. What existing mechanisms are in place for victim restitution and compensation?
 - What is the source of funds for restitution and compensation?
 - Is that source sustainable? Has the State allocated a sufficient budget?
 - Who has access to those mechanisms and who does not?
2. To what extent have victims of organized crime received restitution and compensation under the scheme? Have victims faced secondary victimization or other harms when accessing compensation?
3. What barriers do they face in accessing restitution and compensation (to be analysed for all relevant domestic laws/policies identified at point 1)?

Table 17. Analysis to identify and address barriers to victim restitution and compensation

BARRIER	EXAMPLES OF BARRIERS	EXAMPLES OF HOW LAW AND POLICY CAN ADDRESS IDENTIFIED BARRIERS
Structural	Restitution and compensation mechanisms do not exist or are insufficiently funded; mechanisms are overly regulated with eligibility criteria that limit access of particular victims of certain organized crime types; information about services is hard to access and procedures are lengthy and bureaucratic.	For example, restitution considered part of sentencing hearing; where permitted, compensation provided by State independent of criminal process; application processes made as simple and accessible as possible ^a .
Individual	Individual's right to information about their right to compensation/restitution not upheld; information is not available in languages victims speak; does not make reasonable accommodation for disability; not conveyed in child-friendly ways; not conveyed to victims who have returned to countries of origin.	For example, where possible, legal aid and other forms of assistance made available; relevant information translated into relevant languages; information explained to victims in a way they can understand.
Practical	Victims of transnational crime do not know how to apply to funds in foreign jurisdictions; eligibility criteria differ between jurisdictions.	For example, where possible, cooperation with practitioners in foreign jurisdiction to provide advice.

^a See, UN-Women, [Essential Services Packages for Women and Girls Subject to Violence](#) (Module 3, chap. 3, Essential service 6 [Perpetrator accountability and repatriations]).

⁴⁹ Article 2 of the International Covenant on Civil and Political Rights, article 6 of the International Convention for the Protection of All Persons from Enforced Disappearance, article 14 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, article 39 of the Convention on the Rights of the Child, and article 8 of the Universal Declaration of Human Rights.

⁵⁰ Restitution restores a victim to their situation before the crime. Compensation pays them for loss or damage.

Case study 29. Rights-based victim compensation in the European Union

Facilitating victims' access to compensation is a key priority area under the European Union Victims' Rights Strategy for 2020–2025. Legislators and policymakers can learn from the actions set out for Member States in this policy, to:

- Evaluate national compensation schemes, and eliminate existing procedural hurdles
- Reflect fair and appropriate State compensation for victims in national budgets
- Take actions to avoid secondary victimization during the compensation procedures
- Cooperate with other members in cross-border cases^a



^aEuropean Commission, "[Questions and answers: victims' rights – new strategy to empower victims](#)", 24 June 2020.

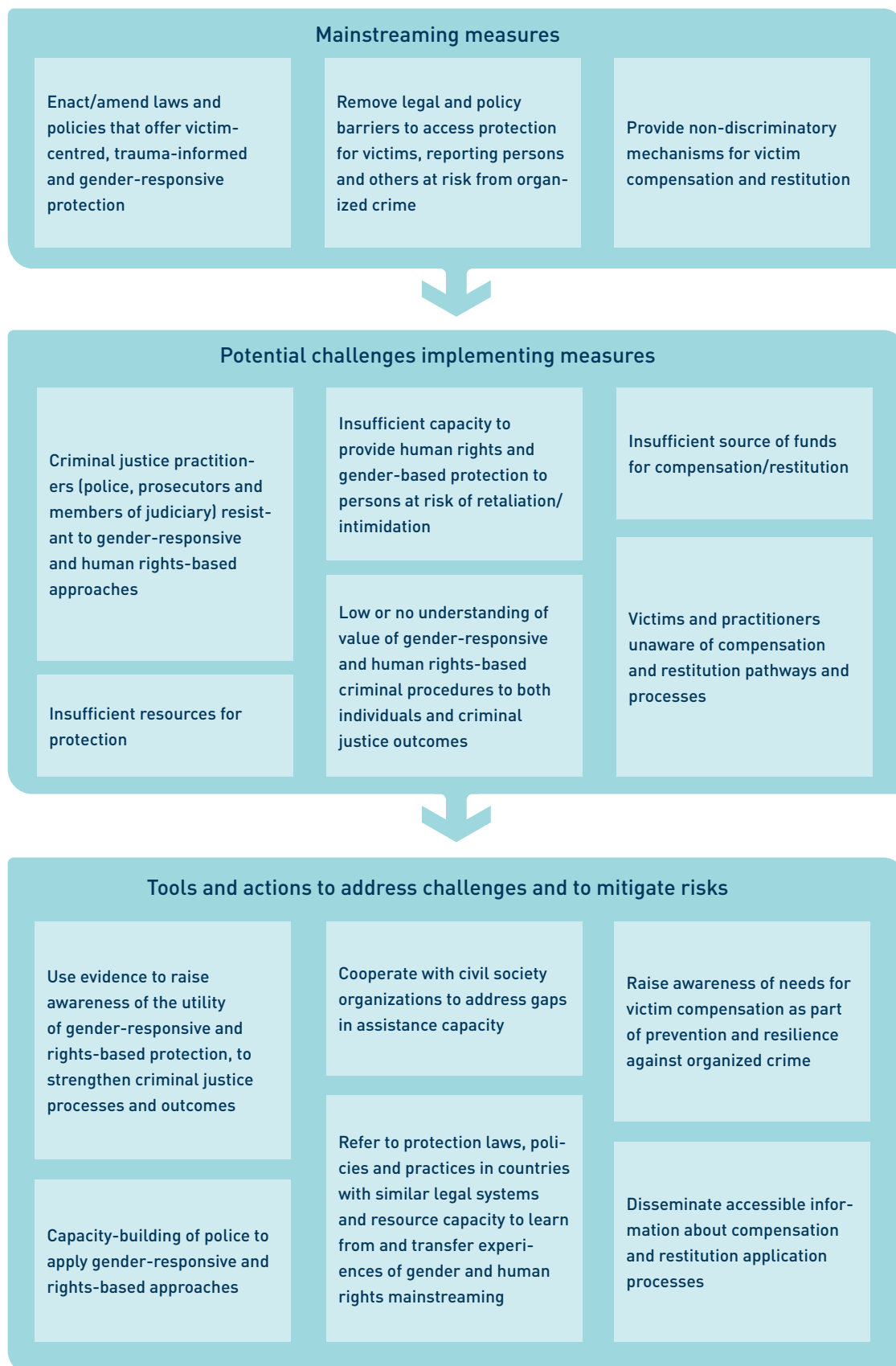


See [Model Legislative Provisions against Organized Crime](#), 2nd ed., (Vienna, 2021), art. 29, chap. V, pp. 128 and 129



Legislative drafters who are reviewing and/or drafting provisions relating to victim restitution and compensation, should refer to [checklist 6.2.3](#)

Figure 20. Mainstreaming gender and human rights in protection



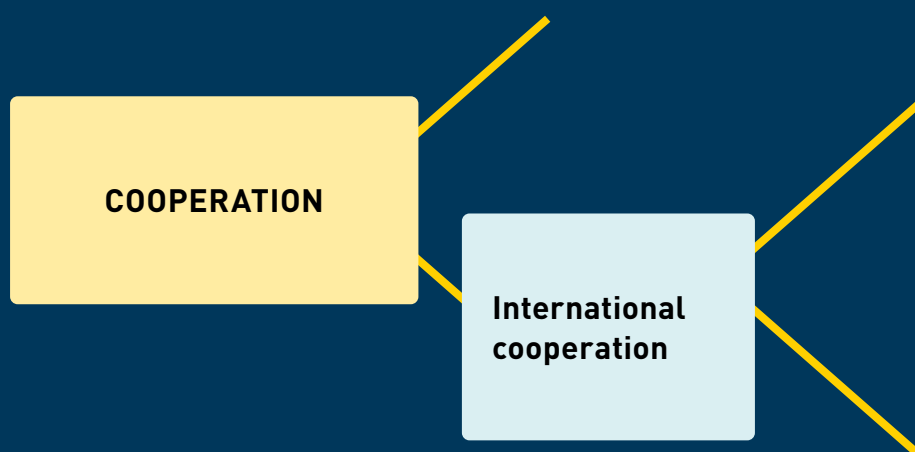
4.4

PROMOTE OBJECTIVES

KEY TAKEAWAYS:

- ▶ **States that adhere to international human rights standards are in a better position to close governance gaps that organized criminal groups exploit, and are perceived as more trusted partners for international cooperation.**
- ▶ **Legislators and policymakers can mainstream gender and human rights in the conditions for informal cooperation; how information is collected, shared and used; whether evidence is admissible; and by ensuring accountability for human rights violations.**
- ▶ **Legislators and policymakers should consider gender and human rights-based reasons why cooperation should be actively sought, or conversely, should be prohibited.**
- ▶ **Cooperation States should strive to comply with whichever States have set the highest human rights and gender equality standards, not default to lower standards.**

Snapshot of 4.4: Cooperation in response to organized crime



Steps to mainstream human rights and gender in cooperation

Step 1

Take stock of existing legislation and policy instruments relevant to national coordination and international cooperation, including relevant domestic laws on transnational organized crime, international cooperation and bilateral and regional memorandums of understanding and other agreements

Step 2

Analyse the extent to which existing instruments integrate gender and human rights considerations including conditions and limitations on cooperation

Determine the gender and human rights risks that arise from implementation of existing normative frameworks

Step 3

Determine how risks can be mitigated and protections can be strengthened through new and/or amended legislation, policy and bilateral or regional agreements or arrangements

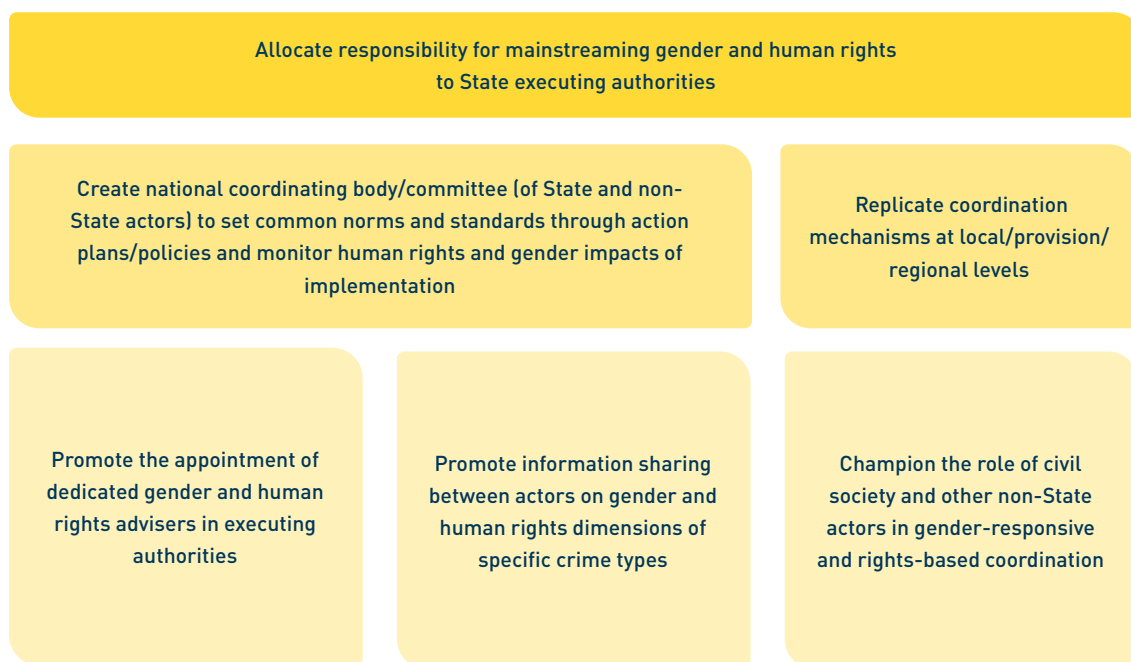


Cooperation must also be promoted in relation to PREVENT, PURSUE and PROTECT objectives, increasing inclusivity in their development and strengthening their overall impact

4.4.1 National coordination

Legislation and policy can champion the multi-agency, whole-of-society approach required to effectively mainstream gender and human rights at the national level.

Figure 21. Building blocks for mainstreaming gender and human rights into national coordination against organized crime



Inclusion of civil society organizations, the private sector, community-based stakeholders, academia and other non-State actors is vital to support States to mainstream gender and human rights efforts to prevent, pursue and protect. Their role should be championed and concretized in law and policy, and their expertise brought to bear in its development.

Opportunities to strengthen engagement of civil society organizations

- Consult with civil society organizations, women's and other interest groups and academia in development of law and policy against organized crime (see chapter 4) including through discussions in working groups and focus groups.
- Remove legislative and policy barriers that civil society organizations may face in operating, including onerous registration requirements and restrictions to freedoms of assembly, association and expression.
- Include civil society organizations as members of national coordinating bodies on organized crime.
- Identify and mitigate risks that civil society organizations face from organized crime groups through their day-to-day work and owing to their involvement in development and implementation of legislation and policy against organized crime.

Case study 30. Multi-agency response to organized crime

In Australia, organized crime groups have infiltrated the National Disability Insurance Scheme. By creating fake accounts and intimidating people living with disabilities, organized criminals steal billions of dollars intended to benefit the most marginalized groups in society. In response, the Australian Government established a police task force to dismantle organized crime groups. Through



coordinated multi-agency operations between Australian Federal Police, Nationality Disability Insurance Agency, Services Australia and the Australian Transaction Reports and Analysis Centre (AUSTRAC), more than 2 million Australian dollars in criminal assets were seized including cars, cryptocurrency and gold bullion.^a

^a Australia, National Disability Insurance Scheme, "Australian government moves to protect NDIS from organized crime", 22 April 2021.



See *Model Legislative Provisions against Organized Crime*, 2nd ed. (Vienna, 2021), art., chap. VII, p. 152 for a model provision to establish a national coordinating committee

4.4.2 Joint investigations and informal (police-to-police) cooperation

Informal cooperation (meaning police in two or more jurisdictions cooperating directly without going through formal channels) often takes the form of conducting certain inquiries, and providing and exchanging information (article 27 of the Convention).⁵¹ Legislative provisions may be needed to equip law enforcers, prosecutors and the judiciary with an adequate framework to protect human rights when cooperating with foreign jurisdictions and when handling of evidence obtained from them.⁵² Cooperating States should not default to whichever State has the lower human rights and gender equality standards, but strive to meet the standards set by the highest.

Table 18. Opportunities to mainstream human rights in informal cooperation

CONDITIONAL	PROCEDURAL	ACCOUNTABLE	ADMISSIBLE
Make joint investigation, inquiring and information exchange arrangements conditional on adherence to human rights norms and standards in international, regional and/or domestic law. Putting safeguards in place to prevent discrimination in joint investigation where requests are based on discrimination.	Ensure that information collection, exchange and analysis is governed by human rights standards. Specify data protection, privacy and due process rights that apply in relation to information exchanged between law enforcement agencies, including in relation to electronic data and information. Translate information where relevant.	Clarify the civil and criminal liabilities of law enforcement officers who engage in cooperative arrangements that result in human rights violations both territorially and extra-territorially. Clarify the liabilities of foreign law enforcement officers who violate human rights in the territory or in the context of the cooperative arrangement.	Specify human rights-based rules of admissibility of evidence obtained through cooperative arrangements. Make evidence (including digital evidence) inadmissible if it has been collected in ways that contravene human rights, or would violate human rights in either jurisdiction if it were admitted.

⁵¹ UNODC, *Issue Paper: Organized Crime and Gender*, pp. 42 and 43 (see footnote 1). See also UNODC, *Model Legislative Provisions against Organized Crime*, chap. III, in relation to law enforcement cooperation and joint investigations.

⁵² UNODC, *Model Legislative Provisions against Organized Crime*, p. 95. See also case studies on use of digital evidence in Ulrich Garms and Conor McCarthy, *Module 4: Human Rights and Criminal Justice Responses to Terrorism*, Counter-Terrorism Legal Training Curriculum (Vienna, 2014), pp. 98 and 99.

Article 28 of the Convention also calls States to develop and share analytical expertise with each other and through regional and international organizations, as well as consult in such analysis scientific and academic communities. It also calls on States to monitor the effectiveness and efficacy of policies to address organized crime. Gender-responsive and human rights-based information adds value to that analysis.⁵³

Case study 31. INTERPOL and International law enforcement cooperation

In 2022, in the context of its ENACT initiative, the International Criminal Police Organization (INTERPOL) launched womENACTion to address the underrepresentation of women in criminal intelligence analysis in Africa. This virtual networking environment enables female officers working in the field of organized crime, to share experience, tools and



resources, and engage in exercises to improve their analytical skills. Two womENACTion webinars were organized in 2022 with 155 participants from 34 African countries.^a

^a See also INTERPOL, “Women as actors of transnational organized crime in Africa” (Lyon, France, 2021).

4.4.3 International judicial cooperation

International judicial cooperation (through extradition, mutual legal assistance, confiscation of assets, and transfer of sentenced persons) raises risks and opportunities for mainstreaming gender and human rights. Legislative drafters and policymakers are called to provide for the widest possible cooperation under the Convention while mitigating human rights and gender risks, and ideally advancing both.⁵⁴



See UNODC, *Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime* (Vienna, 2022), pp. 39–43 and



UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (Vienna, 2022), pp. 46–59

Understanding potential cooperation partners

Before entering into cooperative agreements or arrangements on organized crime with a foreign jurisdiction, an evidence base is strongly encouraged to be built about that State’s human rights profile. Relevant issues include:

- The international human rights treaties which the State is party to (see [checklist 6.2.1](#))
- The capacity of the State to fulfil its human rights and gender equality obligations
- The human rights and gender equality record of the State’s criminal justice system

Relevant publicly available sources of information include OHCHR [country profiles](#), the United Nations Human Rights Council [Universal Periodic Review](#), and independent reports of organizations such as [Human Rights Watch](#).

Law and policy must require that international cooperation be carried out in ways that protect, respect and fulfil human rights, including of persons who are the subject of international cooperation measures. Accordingly, bilateral or regional agreements or ad hoc arrangements must guarantee that persons subject to

⁵³ See, for instance, “Case study: intersectional ‘Gender-Based Analysis Plus’” above at chapter 3.

⁵⁴ UNODC, *Issue Paper: Organized Crime and Gender*, pp. 39 and 40.

mutual legal assistance, extradition or transfer will be protected in line with their human rights and align with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).⁵⁵

*Transfer of sentenced persons*⁵⁶

Law and policy should encourage that the transfer of persons sentenced and imprisoned abroad is actively sought on human rights grounds.

Figure 22. Human rights-based reasons to seek transfer



Gender-responsive law and policy promotes transfer of women prisoners to their home country as early as possible during their imprisonment, especially if they have children in their home countries or if the woman applies, in line with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial measures for Women Offenders (the Bangkok Rules).

Case study 32. Treatment of persons in accordance with their human rights in bilateral agreement on transfer of sentenced persons

In 2009, Uganda and the Government of the United Kingdom of Great Britain and Northern Ireland entered into a bilateral agreement on the transfer of sentenced persons. Article 9 of that agreement states “Each Party shall treat all sentenced persons



transferred under this Agreement in accordance with their applicable international human rights obligations, particularly regarding the right to life and the prohibition against torture and cruel, inhuman or degrading treatment or punishment.”^a

^a Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Republic of Uganda on the transfer of sentenced persons, Uganda Series, No. 1 (2009).

⁵⁵ See also resolution 10/4, para. 11, of the Conference of the Parties to the United Nations Convention against Transnational Organized Crime.

⁵⁶ See the UNODC, *Handbook on the International Transfer of Sentenced Persons*, Criminal Justice Handbook Series (Vienna, 2012).

Human rights grounds for prohibiting extradition or transfer of sentenced person

Legislative and/or policy measures should be taken to prohibit extradition and transfer of a sentenced person where authorities know, or ought to know, that the person concerned would face a genuine risk of human rights violation.⁵⁷ Legislators and policymakers should consider prohibiting transfer/extradition where it:


- Is discriminatory on any ground
- Relates to conduct that is not criminalized in domestic law
- Threatens life or freedom contrary to the customary principle of non-refoulement
- Risks ill-treatment including on the basis of gender identity or sexual orientation
- Threatens freedom on account of race, religion, nationality, membership of a particular social group or any other ground
- Relates to a criminal charge that carries the death penalty (unless credible and effective assurances are obtained that it will not be imposed)


Law and policy can champion practical measures to secure human rights in the execution of international cooperation.

Table 19. Mainstreaming in relation to coercive measures in mutual legal assistance requests

MINIMUM RIGHT OF PERSON SUBJECT TO COERCIVE MEASURE	MEASURE TO MAINSTREAM HUMAN RIGHTS AND GENDER
The right to be informed of the charges against them and the measures requested, except where providing such information is likely to frustrate requested measures.	Removal of discriminatory laws and policies that may pose barriers to access to legal aid and interpretation including for foreign perpetrators. Requirement for information to be provided in a way the person can understand, in the light of language, education and any disability.
The right to be heard on the arguments they invoke against measures on international cooperation.	
The right to be assisted by a lawyer, and have free assistance, if they do not have sufficient means to pay, as well as the free assistance of an interpreter.	

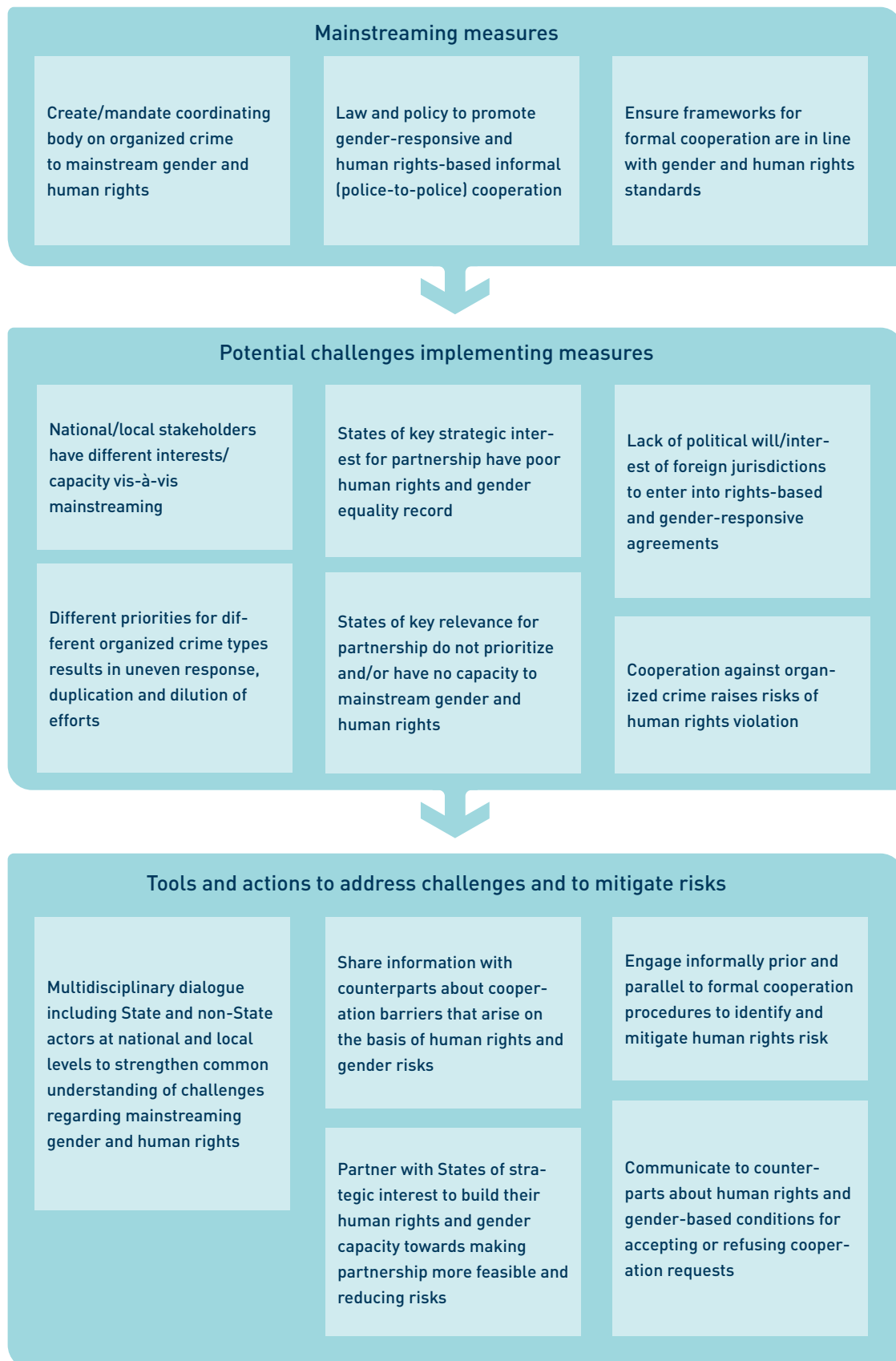
See: CTOC/COP/WG.3/2018/5, paras. 15 and 16.

 See UNODC, *Revised Manuals on the Model Treaty on Extradition and on the Model Treaty on Mutual Assistance in Criminal Matters; Manual on Mutual Legal Assistance and Extradition* (2012); *Manual on International Cooperation for the Purposes of Confiscation of Proceeds of Crime* (2012); and *Handbook on the International Transfer of Sentenced Persons* (2012)

 Legislative drafters who are reviewing and/or drafting provisions relating to formal international cooperation, should refer to [checklist 6.2.4](#).

⁵⁷ Including torture (including by being placed on death row), violation of right to life, flagrant breach of the right to liberty and security, or flagrant denial of justice in relation to their fair trial.

Figure 23. Mainstreaming gender and human rights in promoting cooperation



Chapter 5.

KEY CRITERIA TO SUPPORT MAINSTREAMING IN LAW AND POLICY

5.1 BUDGETING

Budgeting is the starting point for transformative change. Sufficient budgets are needed to create an enabling environment for mainstreaming gender and human rights. Laws and policies that mainstream gender and human rights, but do not allocate budgets, create obstacles for the ministries expected to implement them and deprive them of constant funding to fulfil obligations throughout political cycles.⁵⁸ The likely result is that gender and human rights mainstreaming does not occur, or that only low-cost, low-impact measures are taken with little, no, or negative impact.

Budget constraints do not mean that gender and human rights mainstreaming should be deprioritized. On the contrary, human rights and gender considerations should be determinative in how resources are allocated. **Laws and policies should aspire to advance equality and human rights, not concretize and entrench deficiencies.** Mainstreaming gender is not a “luxury item” that only wealthy jurisdictions can afford. On the contrary, mainstreaming gender is central to limiting and precluding the activities of organized crime.

5.1.1 Availability and allocation

Sufficient funds must be allocated to achieve evidence-based analysis of the State’s human rights and gender challenges over time, and to respond to those findings in law and policy. The economic health of the State; crisis; conflict; security; levels of corruption and the extent to which the State and its agents benefit from organized crime, are factors that determine whether sufficient resources are available and whether there is political will to allocate them to mainstreaming. Insufficient funds may be allocated where the human rights and gender dimensions of organized crime are not recognized, or where mainstreaming is not understood as a long-term process requiring long-term investment.



See the [annex I](#) for points to advocate for the value and utility of mainstreaming.

⁵⁸ Only 26 per cent of countries have comprehensive systems in place to track gender-budget allocations (Sustainable Development Goal 5 (Achieve gender equality and empower all women and girls)).

Practical tips for seeking budget to mainstream human rights and gender:

- Appoint finance officers to prepare, promote and defend budget lines for mainstreaming gender and human rights
- Link funding requests to existing national strategies, policies, international standards and obligations in international law
- Link funding requests to donor interests in human rights and gender equality
- Use verifiable data to show the scale and impact of organized crime and its implications for gender and human rights (see below)
- Use verifiable data to show the socioeconomic costs to society of not budgeting for gender-responsive and human rights-based approaches to organized crime

5.1.2 Sourcing

Funding sources may be internal (provided by the government through allocation of budget), external (provided by other governments, international organizations or the private sector) or a combination of both. Funds can also be obtained through creative use of confiscated assets (see 4.2.2 above). Overreliance on particular sources can mean that implementation is not sustainable and vulnerable to political and personnel changes. The source of funding can have implications for mainstreaming as donors influence priorities by what they fund or do not, and the conditions they impose. The result can be to advance or detract from human rights and gender equality.

Budgeting considerations for legislative drafters and policymakers:

Diagnosis

- Identify the State budget available for gender and human rights mainstreaming in the development and implementation of law and policy on transnational organized crime
- Identify sources of funding for gender and human rights mainstreaming and determine their sustainability
- Identify who is responsible for mainstreaming human rights and gender in policy and legislative development
- Identify how implementing agencies are financed, their budgets, as well as funding shortfalls and needs

Intervention

- Take measures to align law and policy with resources and realities
- Include budget lines for mainstreaming gender and human rights into legislative and policy frameworks
- Identify alternative sources of funding to mainstream gender and human rights in the development and implementation of law and policy

Evaluation

- Indicators for monitoring and evaluating accountability and learning (section 5.2)

Case study 33. Gender-responsive budgeting in Mexico

The Mexican civil society organization *Equidad de Género* supports government authorities on how to generate and allocate resources to benefit people equitably, and spend money more effectively. This process involves (1) gender diagnostics to determine differentiated conditions of the population and inequalities within it; (2) programmatic revision by the government institution itself; (3) prioritizing actions; (4) budget re-allocation on the basis of priorities; and



(5) follow-up and adjustment as appropriate. Gender-responsive budgeting has had a positive impact on issues ranging from health to mobility. In crime prevention, *Equidad de Género*'s work has reduced assault and harassment through the installation of safety booths, lighting and panic buttons along a deserted highway, and introduced differentiated transportation in the subway and bus system.^a

^aGrace Jennings-Edquist and Emilia Reyes, "Good practice case study: *Equidad de Género* and gender-responsive budgeting in Mexico" (New York, Women's International League for Peace and Reform, n.d.).

Case study 34. Gender-budgeting in Canada 2021 National Budget

As part of the commitment of the Government of Canada to building a country free of gender-based violence, the development of a National Action Plan to End Gender-Based Violence was included in the 2021 budget. These investments will directly benefit women and girls, in particular women and



girls with disabilities, black, indigenous, and racialized women and girls, and LGBTIQ+ people. These are groups that face a significantly higher risk of experiencing gender-based violence and increased barriers in accessing support and services.^a

^aCanada, Budget 2021.

5.2 MONITORING, EVALUATION, ACCOUNTABILITY AND LEARNING

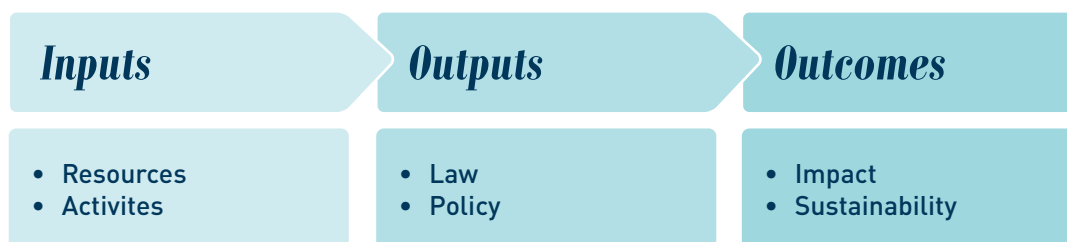
Monitoring and evaluation are central to ensuring the effective character of law and policy. At the same time, these activities are ineffective unless lessons are learned and applied. Findings from monitoring and evaluation should be used to:

- Inform legislative and policy changes and developments
- Strengthen accountability of those responsible for designing and implementing laws, policies and strategies
- Achieve buy-in from national stakeholders by demonstrating the added value of mainstreaming gender and human rights to both people and to crime prevention

Monitoring the impact of law and policy is challenging, given the disconnect between legislative and policy instruments and their implementation. Nevertheless, quantitative and qualitative indicators can offer insight into the role law and policy play in promoting human rights and gender equality.

An independent/external gender and human rights audit should be conducted from the outset. Baseline and targets on human rights and gender equality indicators should be regularly collected so that changes can be measured over time. What constitutes an appropriate time frame for collecting data depends on the inputs, outputs, expected outcomes and pragmatic considerations relating to resources and capacity.

Figure 24. Inputs, outputs and outcomes of mainstreaming

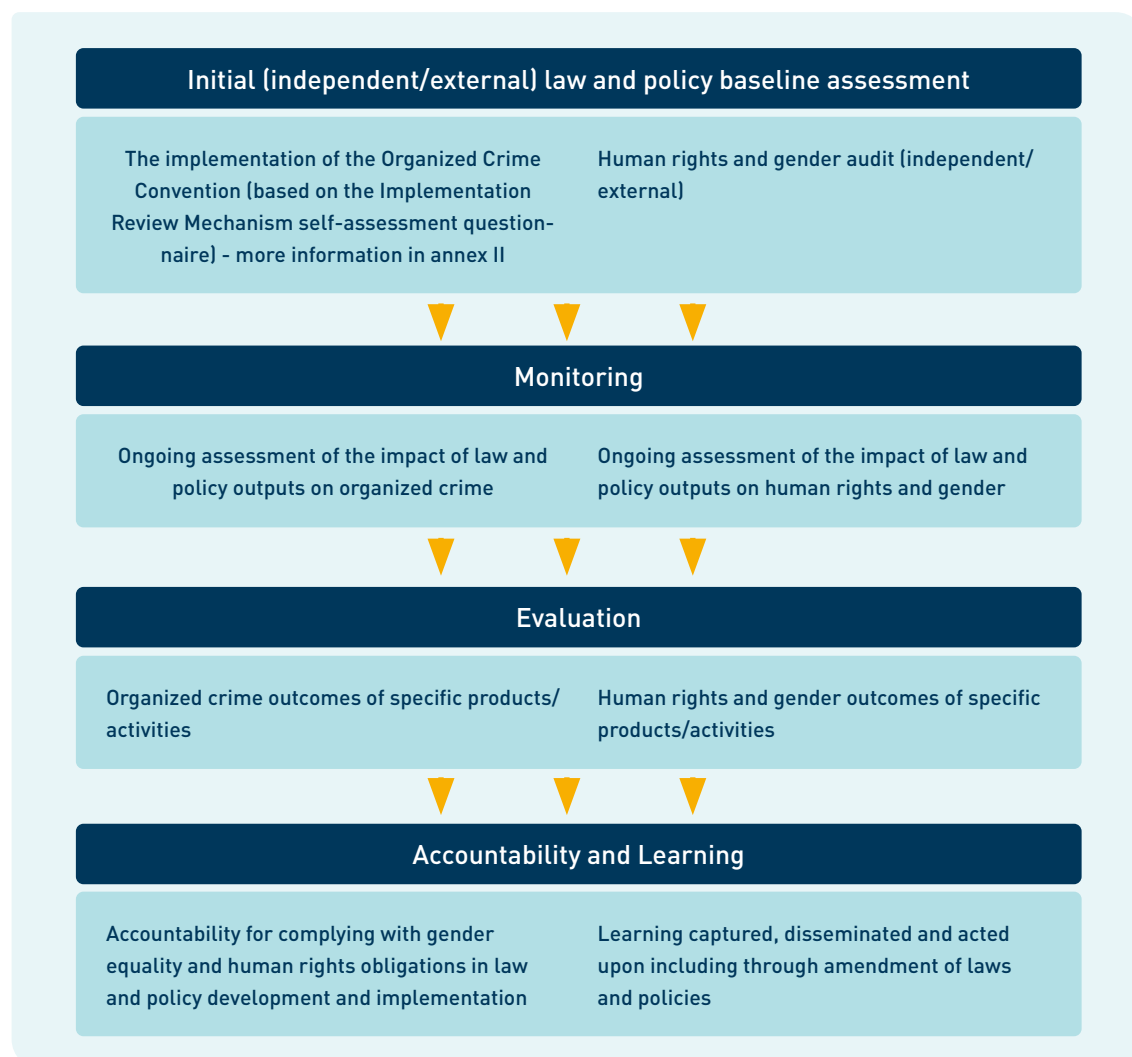


The indicators below are offered to monitor and evaluate activities that:

- Specifically aim to mainstream human rights and gender, and
- Are not gender and human rights-specific, but impact either or both.

Users are to calibrate these indicators to their context and, to determine the extent to which their legislation and policy delivers on human rights and gender equality objectives.

Figure 25. Monitoring, evaluation, accountability and learning



The Conference of the Parties to the United Nations Convention against Transnational Organized Crime established a Mechanism for the Review of Implementation of the Organized Crime Convention and its Protocols

Legislative drafters and policymakers will find the [Self-assessment questionnaire for the United Nations Convention against Transnational Organized Crime and the Protocols thereto](#) useful to achieve a baseline for assessing implementation of discrete articles of the Organized Crime Convention

Even though information on gender and human rights mainstreaming is not explicitly requested through the Implementation Review Mechanism, States can overlay human rights and gender considerations onto their assessments and report on these dimensions (see [annex II](#)).



Gender-responsive and human rights-based indicators can be developed on the basis of international instruments that the State is obliged to implement (see [checklist 6.2.1](#)) as well as resources including the [UNODC Handbook: Framework to Measure and Report on Gender-Related SDG Results](#) (Vienna, 2021)

Table 20. Indicative examples of metrics and indicators for law and policy

ASSESSMENT	QUALITATIVE JUDGMENT OF OVERALL IMPACT DURING A DEFINED PERIOD BASED ON THE FOLLOWING INDICATORS	
Objective Domain within which the impact is measured	PREVENT Measuring the extent to which law and policy that prevents transnational organized crime is gender-responsive and human rights-based	PURSUE Measuring the extent to which law and policy pursues transnational organized criminals in gender-responsive and rights-based ways
Outcome-level indicators	Number of institutions to have taken gender-responsive and human rights-based measures to reduce opportunities for organized crime Awareness raised among target audience of organized crime risks Reduced recidivism rates of convicted organized criminals Reduced rates of involvement in organized crime of people from marginalized communities or communities in vulnerable situations Number and result of gender-responsive and human rights-based consultations with persons affected by organized crime	Number of investigations, prosecutions and convictions of organized criminals that apply gender and human rights norms and standards Positive changes in awareness, skills, attitudes and capacity of criminal justice practitioners (police, prosecutors, judges, service providers) to apply gender-responsive and human rights-based approaches Increased gender-responsive and rights-based sanctions imposed on organized criminals Increased gender equality and diversity in criminal justice staffing
Output-level indicators	Number of public and private institutions with gender-responsive and rights-based policies against organized crime Number of awareness-raising products or campaigns that are evidence-based, gender-responsive and human rights-based Number of marginalized people or persons in vulnerable situations benefiting from prevention campaigns	Legislation in place to criminalize Convention provisions in line with international human rights law Safeguards in place to ensure gender-responsive and human rights-based use of special investigative techniques Laws and policies in place to allow for victim-sensitive and child-friendly court procedures, including to address special needs
Input-level indicators	Resources allocated to gender and human rights mainstreaming in prevention campaigns Policies in place to promote gender-responsive and rights-based reintegration and rehabilitation of organized criminals Number of civil society groups and others consulted in design of prevention policy Use of gender and human rights research and data in evidence base for law and policy development	Law enforcement resources (financial and human) allocated to gender and human rights mainstreaming in investigation of organized crime Number of investigations and prosecutions pursued on the basis of gender-informed and rights-based criminalization provisions Gender-responsive and human rights-based application of special investigative techniques

ASSESSMENT	QUALITATIVE JUDGMENT OF OVERALL IMPACT DURING A DEFINED PERIOD BASED ON THE FOLLOWING INDICATORS	
Objective Domain within which the impact is measured	PROTECT Measuring the extent to which law and policy promotes gender-responsive and human rights-based protection of victims, witnesses, informants and whistle-blowers	PROMOTE Measuring the extent to which law and policy promotes gender-responsive and human rights-based cooperation
Outcome-level indicators	Number of victims, witnesses, informants and whistle-blowers protected against retaliation from organized criminals Number of criminal justice proceedings that apply victim-centred, child-friendly and accessible approaches Number of gender-responsive and human rights-based whistle-blower/reporting mechanisms Number of victims (disaggregated by age, gender, ethnicity, indigeneity, nationality, disability, migration and other status) to receive restitution and compensation	Perception and profile of public, private and civil society actors of gender and human rights responsibilities, in cooperating against organized crime Number of joint investigations and police-to-police operations entered into and refused on human rights grounds Quantifiable increase in incoming and outgoing requests for formal cooperation and gender-responsive and rights-based execution of requests
Output-level indicators	Legislation and policy in place to close gaps and reduce barriers to access to protection for victims, witnesses, informants and whistle-blowers Policies/plans in place to increase funding for and reduce barriers to restitution and compensation Legislation contains non-exhaustive non-discrimination clauses, human rights and gender-responsive provisions	National action plans/policies that mainstream gender-responsive and human rights-based approaches to organized crime Number of bilateral and multilateral memorandums of understanding or other agreements that explicitly mention gender and human rights Laws and policies include gender- and human rights-based grounds for refusing formal cooperation
Input-level indicators	Number of applications made for compensation or restitution and profile of victims seeking compensation and restitution (disaggregated by age, gender, ethnicity, indigeneity, nationality, disability, migration and other status) Amount and source of compensation allocated to victims of organized crime Structures and capabilities to protect victims, witnesses, informants and whistle-blowers in accordance with gender and human rights considerations	Inter-agency coordination body mandated to mainstream gender and human rights across response Number of joint operations and informal operations that apply gender-responsive and human rights-based approaches Number of requests for formal cooperation (for MLA, extradition or transfer of sentenced person) made, received, refused and executed in accordance with human rights standards

Chapter 6.

CHECKLISTS

6.1 CHECKLIST FOR REVIEWING POLICY

The following checklist is offered to support the review and design of policies against organized crime, in line with international gender and human rights norms and standards. Regardless of the policymaking approach in a given country, policymakers must give consideration to their role in shaping:



PREVENTION OF ORGANIZED CRIME	
<i>Framework:</i> Evidence-based policies in place to prevent organized crime address intersectional economic, cultural and social root causes of marginalization and vulnerability, including gender inequality and barriers to human rights.	
<i>Institutional:</i> Policies specify which government agencies are responsible for preventing organized crime (including those involved in security, health, child protection; environmental protection and women's issues) and clarify the role of non-State actors such as civil society organizations.	
<i>Implementation:</i> Relevant government agencies have human rights and gender policies in place, are aware of and have sufficient resources (including allocated budget) to mainstream gender and human rights in implementing and evaluating their prevention responsibilities.	

PURSUIT OF ORGANIZED CRIMINALS	
<i>Framework:</i> Policies are in place to ensure that persons who are involved in organized crime as victims and/or as perpetrators are not discriminated against, including by building the capacity of criminal justice respondents to challenge their intersectional gender and other bias, and to diversify and achieve gender equality in workforces and through criminal justice activities.	
<i>Institutional:</i> The normative framework in place clarifies which government agencies are responsible for the pursuit of organized criminals, their responsibility for mainstreaming gender and human rights in pursuing organized criminals, their opportunities to fulfil human rights and gender equality, and the sanctions that apply for their violation of human rights.	
<i>Implementation:</i> Criminal justice practitioners understand their responsibilities and opportunities to uphold human rights obligations, pursue gender equality, take victim-centred approaches and face the consequences of violations of human rights in the pursuit of organized criminals	
PROTECTION OF PERSONS AFFECTED BY ORGANIZED CRIME	
<i>Framework:</i> Policies are in place to provide a victim-centred approach to protect persons affected by organized crime before, during and after criminal justice proceedings, in line with human rights and gender equality obligations, balancing the rights of victims with the rights of defendants.	
<i>Institutional:</i> Normative framework specifies protection roles for criminal justice practitioners as well as officials involved in physical and mental health, child protection, women’s issues and others. These include disability, minorities, rescue, rehabilitation and reintegration as relevant.	
<i>Implementation:</i> Agencies involved in protection of victims, witnesses, informants and whistle-blowers understand their role in protection and have been allocated sufficient resources (including budget) to provide protection in line with human rights and gender obligations, and to calibrate protection on the basis of ongoing risk assessment before, during and after criminal justice proceedings.	
PROMOTION OF COOPERATION	
<i>Framework:</i> Policies in place against organized crime set out whole-of-society national cooperation, including State actors beyond criminal justice actors and non-State actors, to promote a victim-centred approach and mainstream gender and human rights. Policies in place on international cooperation to mainstream gender and human rights considerations into decisions, and to seek, accept and/or refuse formal and informal international cooperation on organized crime, including in bilateral and multilateral agreements.	
<i>Institutional:</i> National coordination body created to respond to organized crime, mainstream gender and human rights standards across stakeholders, convey information between them, and monitor gender and human rights impacts of actions. Relevant stakeholders have common understanding and harmonized approaches to mainstreaming. Policies and procedures in place to allow for collaboration between central authorities and other agencies responsible for the execution of international cooperation requests, in line with human rights and gender standards.	
<i>Implementation:</i> State and non-State partners understand their gender and human rights obligations in cooperative efforts at domestic, bilateral or multilateral levels. International cooperation policies and procedures available and accessible for foreign counterparts. Informal channels of communication are in place with foreign counterparts to enable exchange of procedures, legal requirements and conditions and human rights standards for international cooperation.	

6.2 CHECKLISTS FOR REVIEWING LEGISLATION

Checklist 6.2.1 Mapping normative frameworks

Notes on using the checklist: The following checklist supports users to map gaps in the existing gender and human rights normative frameworks of the relevant State:

- Adherence status and reservations the State may have entered into can be found at links provided for each treaty, or through the [United Nations Treaty Body Database](#) or the United Nations Human Rights Office [Interactive Dashboard](#).
- The checklist is not comprehensive; users are encouraged to identify additional human rights obligations under optional protocols to these parent instruments, as well as in domestic and regional instruments.

INTERNATIONAL INSTRUMENTS THE STATE IS PARTY TO		GAPS AND CHALLENGES IN DOMESTICATION
<u><i>United Nations Convention against Transnational Organized Crime</i></u> (2000)		
<u><i>Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the Convention</i></u> (2000)		
<u><i>Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention</i></u> (2000)		
<u><i>Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their parts and Components and Ammunition, supplementing the Convention</i></u> (2000)		
<u><i>International Covenant on Civil and Political Rights</i></u> (1966)		
<u><i>International Covenant on Economic, Social and Cultural Rights</i></u> (1966)		
<u><i>International Convention on the Elimination of All Forms of Racial Discrimination</i></u> (1966)		
<u><i>Convention on the Elimination of all forms of Discrimination against Women</i></u> (1979)		
<u><i>Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment</i></u> (1984)		
<u><i>Convention on the Rights of the Child</i></u> (1989)		

INTERNATIONAL INSTRUMENTS THE STATE IS PARTY TO		GAPS AND CHALLENGES IN DOMESTICATION
<u><i>International Covenant on the Protection of the Rights of All Migrant Workers and Members of their Families</i></u> (1990)		
<u><i>Convention on the Rights of Persons with Disabilities</i></u> (2006)		
<u><i>International Convention for the Protection of All Persons from Enforced Disappearance</i></u> (2006)		

IS THIS RIGHT PROTECTED IN DOMESTIC LAW?		IN WHICH INSTRUMENT? (e.g. the Constitution? Human rights law? Criminal code? Other?)
Right to life		
Right to a fair trial		
Right to equality before the law and equal protection of the law		
Freedom from arbitrary detention		
Freedom from torture and other cruel, inhuman or degrading treatment or punishment		
Freedom of thought, conscience and religion		
Freedom of information and expression		
Freedom of movement		
Freedom of assembly and association		
Right to privacy		
Right to work		
Right to health		
Marriage equality		

IS THIS RIGHT PROTECTED IN DOMESTIC LAW?		IN WHICH INSTRUMENT? (e.g. the Constitution? Human rights law? Criminal code? Other?)
Right to education		
Right not to be subject to enforced disappearance		
Other rights of relevance to proposed law/policy intervention		

WHAT BARRIERS DO RIGHTSHOLDERS FACE IN ACCESSING HUMAN RIGHTS?	BARRIER IN DOMESTIC LAW / POLICY:
Men	
Women	
Gender-diverse people	
Minors and children	
Non-citizens (documented/undocumented)	
Victims of organized crime	
Perpetrators of organized crime	
People of diverse gender and sexual identities	
Ethnic minorities	
Persons with disabilities	
People in rural/remote areas of State	
Other groups in vulnerable situations (user to define):	



The above checklist may also be useful to analyse third countries with whom cooperation is sought. (See [chapter 4.4](#) on cooperation objectives).

Checklist 6.2.2 Pursuit

Note on using the checklist: This checklist guides users through analysis of whether domestic provisions is in place to criminalize, investigate, prosecute and convict organized crime in line with the Convention and to mainstream gender and human rights. This checklist is not comprehensive but is offered as a starting point which stakeholders can go beyond, and calibrate to their specific legislation, challenges and objectives.

PURSUE Criminalization (articles 5, 6, 8 and 23 of the Convention)	
Principle of legality^a	
The law does <i>not</i> criminalize conduct that is protected in international human rights law, (for instance, criminalization of participation in an organized criminal group should not be used as a pretext to eliminate political rivals, criminalize protest and advocacy or outlaw social groups, or in other ways disproportionately and unnecessarily restrict freedom of assembly or other civil and political rights).	
The law does <i>not</i> apply retroactively to crimes, nor impose penalties that did not exist at the time of the offence. Persons found guilty of offences should not be subject to penalties greater than the maximum penalty applicable at the time of the offence.	
The laws are clear and accessible, such that the consequences of an act (action or omission) can be foreseen.	
Participation in an organized criminal group is criminalized in a way that makes it clear which conduct results in criminal liability: <ul style="list-style-type: none"> • Offence of conspiracy: is an act required in furtherance of the agreement? • Offence of criminal association: the scope of criminalization of participation in other than criminal activities of an organized criminal group (in the knowledge that the participation will contribute to the achievement of the criminal aim). 	
The law incorporates criminalization provision in ways that are consistent with other offences, definitions and use of terms in domestic law, rather than incorporating the Convention text verbatim.	
Legislation and policies are in place to regulate the use of invasive or potentially invasive measures to ensure that their use is subject to judicial approval and/or review on human rights grounds (proportionality, legitimate aim and necessity).	
Purpose of obtaining a financial or other material benefit (FoMB)^b	
Where participation in an organized criminal group is criminalized to <i>include</i> the FoMB element, it is understood broadly to include monetary as well as other material gain, such as sexual gratification.	
Where participation in an organized criminal group is criminalized to <i>exclude</i> the FoMB element, legislative safeguards are in place to guard against the application of the Convention to groups acting for political, ideological or social motives.	
Establishing jurisdiction^c	
Jurisdiction is established for transnational organized crime committed in the territory of the State, on board a vessel flying its flag or on board an aircraft registered under its law.	
Jurisdiction is established over Convention offences where the alleged offender is present in the territory and the State does not extradite on the basis of nationality.	

PURSUE Criminalization (articles 5, 6, 8 and 23 of the Convention)	
<p>Legislation is in place to remove jurisdictional gaps and end impunity in line with optional grounds of jurisdiction, for Convention offences committed:</p> <ul style="list-style-type: none"> • Against a national • By a national or habitual resident • Outside the territory with a view to committing a serious crime within the territory as stipulated in the Convention • When the offender is present in the territory and not extradited from it^d • When jurisdiction is based on an international agreement binding on the State such as a Security Council resolution issued under chapter VII 	
Establishing liability^e	
<p>Conduct is criminalized and aggravating as well as mitigating circumstances are established in a way that takes into consideration that men, women, boys, girls and gender-diverse persons, may be involved in an offence, is not discriminatory in purpose or effect, and is sensitive to the different roles that individuals may play, and their varying degrees of agency.</p>	
<p>Laws establish criminal, civil or administrative liability of legal persons for participation in serious crimes involving an organized criminal group and for commission of Convention offences, without prejudice to the criminal liability of natural persons.^f</p>	
<p>Legislation is in place to fulfil the State's duty to prevent, investigate, punish and redress human rights abuses by third parties including legal persons (corporations, businesses, charitable organizations, religious organizations or other entities).</p>	
<p>Human rights-based legislative exemptions are provided for where necessary to protect human rights in criminalizing particular conduct.^g</p>	
Investigations^h	
<p>Legislation is in place to protect the due process rights of every accused person.</p>	
<p>Legislation criminalizes torture and other cruel, inhuman or degrading treatment or punishment, and prohibits the admissibility of evidence or statements obtained through torture or other cruel inhuman or degrading treatment or punishment.</p>	
<p>Legislation ensures that any use of force by law enforcement is restricted in accordance with international obligations and that firearms are only used in self-defence or defence of others against imminent threat of death or serious injury.</p>	
<p>Legislation ensures that all arrests must be carried out pursuant to a warrant or based on reasonable suspicion that a person has committed or is about to commit an offence, and that police or other law enforcement officials conducting arrest are identifiable.</p>	
<p>Legislation and implementing measures are put in place to ensure that persons are informed of the reasons for the arrest in a language they understand and informed of their rights by a qualified interpreter.</p>	

PURSUE Criminalization (articles 5, 6, 8 and 23 of the Convention)	
<p>Legislation includes legal and procedural safeguards to ensure anyone arrested or detained by law enforcement officials:</p> <ul style="list-style-type: none"> • Is promptly brought before a judge • Has access without undue delay to a lawyer including, when necessary, under legal aid schemes • Has access without undue delay to a doctor, including, where necessary, an age and gender-responsive medical examination • Is informed of their rights to consular notification of arrest, detention or prosecution, and to consular officials when applicable 	
<p>Legislation and implementing measures promote the use of non-coercive interviewing techniques and reduce reliance on confessions for the purpose of securing convictions.</p>	
<p>Legislation and implementing measures uphold the best interests of children in contact with the criminal justice system, to ensure they are treated in a child-sensitive manner, taking into account the specific needs of those in particularly vulnerable situations.</p>	
<p>Legislation requires law enforcement officials to take effective measures to protect human rights, dignity and integrity of all persons, respecting the principle of non-discrimination, in particular in situations of vulnerability or marginalization including on the basis of gender, age, physical or mental health or disability.</p>	
<p>Legislation, policies and implementing measures promote gender-responsive policing and prohibits racism, xenophobia, racial and other discrimination in policing, including by ensuring that non-discrimination provisions apply to the police.</p>	
<p>Legislation and implementing measures promote accountability for law enforcement officers by putting clear reporting and independent complaints procedures in place such as external police oversight mechanisms.</p>	
<p>Legislation requires independent, prompt, effective and impartial investigation of all allegations of torture or other cruel, inhuman or degrading treatment or punishment by officials, and punishment of those found to be involved in a manner commensurate with the severity of the offence.</p>	
<p>Laws prohibit the involvement of law enforcement officials charged with torture or other cruel, inhuman or degrading treatment or punishment in investigations.</p>	
<p>Legislation and implementing measures provide for protection and assistance of victims of torture or other cruel, inhuman or degrading treatment or punishment, giving due consideration to age, disability and gender-specific needs, and providing trauma-informed support and access to compensation and rehabilitation.</p>	
<p>Laws create independent and effective mechanisms to monitor places of detention including police statements to prevent acts of torture or other cruel, inhuman or degrading treatment or punishment.</p>	

PURSUE Criminalization (articles 5, 6, 8 and 23 of the Convention)

Sanctions

Sanctions should be proportionate and take into account:

- The gravity of the offence and in line with the international human rights obligations of the State, including in relation to the deprivation of liberty, cruel, inhuman or degrading treatment or punishment, and the imposition of the death penalty.
- That legislation should not establish mandatory minimum sentences that violate human rights obligations.

Legislation allows for intersectional gender and other factors to be taken into consideration in mitigating sentences, including consideration of the human rights implications of sentences on the dependents of convicted persons.

Legislation allows for the mitigation of punishment of accused persons who provide substantial cooperation in investigation or prosecution of an offence covered by the Convention, taking into consideration the human rights of victims and accused persons.¹

Legislation is in place to ensure that human rights abuses including gender-based violence can be considered as aggravating circumstances during sentencing.

Detention conditions are in line with international human rights standards, including the Nelson Mandela Rules.

In countries where the death penalty is still allowed by legislation, such sanctions should only be imposed for the most serious crimes, with full respect for international human rights guarantees and should not be imposed for crimes committed when the accused person was less than 18 years old or was a pregnant woman.

^a UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (Vienna, 2022), pp. 26 and 27.

^b *Ibid.*, pp. 28 and 29. Also see definition of "organized crime group" in article 34 (3) of the Convention.

^c UNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law*, pp. 34 and 35.

^d See Convention, art. 15, paras. 2 and 4.

^e See Convention, art. 10.

^f See UNODC, *Model Legislative Provisions against Organized Crime* 2nd ed., (Vienna, 2021), pp. 51–58; and UNODC, *Issue Paper: Policymaking and the Role of Online Intermediaries in Preventing and Combating Illicit Trafficking* (Vienna, 2022).

^g For example, in establishing liability in wildlife and forestry crimes, States may wish to introduce legislative exemptions allowing fulfilment of basic human rights, such as in cases where food security depends upon use of listed species, or when use of wildlife is necessary for enjoyment of rights to participate in cultural life. See UNODC, *Guide on Drafting Legislation to Combat Wildlife Crime* (Vienna, 2018), p. 26.

^h Adapted from Human Right Council resolution 46/15.

ⁱ See Organized Crime Convention, art. 26, para. 2.

Checklist 6.2.3 Protection

Note on using the checklist: This checklist guides users to analyse whether domestic provisions in place to protect victims, witnesses and others in line with the Convention, and to mainstream gender and human rights. This checklist is not comprehensive but is offered as a starting point which stakeholders can go beyond, and calibrate to their specific legislation, challenges and objectives.

PROTECT	
Witness protection measures (article 24 of the United Nations Convention against Transnational Organized Crime)	
Legislation protects the identity of persons who report to competent authorities, in accordance with their human rights to life, freedom of expression and privacy	
Legislation protects witnesses in criminal proceedings who give testimony from potential retaliation and intimidation (article 24 (1)) (article 24 (2))	
Protections for witnesses are provided irrespective of their legal status (informant, victim, witness, judicial official, undercover agent, other) or other status.	
Protections for witnesses are without prejudice to the rights of the defendant (e.g. right to a fair trial and right to confrontation)	
Legislation is in place to provide appropriate measures to protect against any unjustified treatment all reporting persons who report in good faith and on reasonable grounds to competent authorities concerning offences relating to corruption and/or transnational organized crime.	
Legislation to protect whistle-blowers is harmonized across criminal law, anti-corruption law, access to information law, employment law and human rights law.	
Legislation establishes procedures for physical protection of witnesses (e.g. relocation, non-disclosure, or limitations on disclosure about identity and whereabouts (article 24 (2) (a))).	
Such procedures are human rights-compliant and gender-sensitive, and can be calibrated to specific individual needs, preferences and profiles.	
Legislation establishes domestic evidentiary rules to permit witness testimony to be given in a manner so as to ensure the safety of witnesses, such as through use of communications technology (article 24 (2) (b)).	
Physical protection measures take into consideration special needs of witnesses on the basis of intersectional age, gender and other factors.	
Age and gender-specific court procedures (including age-friendly measures to reduce court formality for both children and the elderly) are in place.	
Protection extends to relatives and other persons close to witnesses.	
States should consider entering into agreements or arrangements with other States for relocation of witnesses, relatives and other persons close to them, to protect them from retaliation or intimidation (article 24 (3)).	
States should give consideration to the human rights and gender status of the relocated persons in the country of concern as well as the capacity of said country to respect, protect and fulfil the human rights of the relocated persons.	

PROTECT	
Protection of victims/witnesses during criminal proceedings	
Allow for victims as witnesses to be provided with protection and assistance including in case of threat of retaliation and intimidation (article 25 (1)).	
Allow for victim support persons to be present at trial.	
Allow the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders involved in organized criminal activities in a manner not prejudicial to the rights of the defence (article 25 (3)).	
Common law option for victim participation: victim impact statements and community impact statements (victims have the opportunity to have their voice heard by victim impact statements being read at trial and to be considered during sentencing).	
Civil law option for victim participation: victim as "civil party". Subject to provisions in national legislation, victims can be represented by a lawyer to pose questions to witnesses and accused persons, to make initial and closing remarks, and have access to information in case files. Civil society organizations, victim associations or third parties can be represented as a civil party. ^a	
Victim restitution and compensation	
Legislation provides victims with access to compensation and restitution in line with the Organized Crime Convention (article 25 (2)) whether by (at least one of): <ul style="list-style-type: none"> • Provisions allowing victims to sue offender under statutory or common torts for civil damages • Provisions allowing criminal courts to order offenders to pay compensation to victims or impose compensation orders or restitution against convicted persons • Provisions establishing funds or schemes whereby victims can claim compensation from the State for injuries or damages suffered as a result of the criminal offence 	
Legislation allows for return of confiscated proceeds to a requesting State party for use as compensation to crime victims (or restoration to legitimate owners) (article 14 (2)).	
Legislation that allows for the compensation of victims should not be construed to prejudice the rights of bona fide third parties.	
Legislation provides victims with other forms of reparation under international human rights law, including rehabilitation, satisfaction and protection from revictimization.	
Provide groups of victims with collective reparation for gross violations of human rights. ^b	

^aUNODC, SHERLOC portal, Education for Universities, Tertiary, Organized Crime, Module 8: Law enforcement tools, Key issues, "Rights of victims and witnesses in investigations".

^bUNODC, *Issue Paper: The United Nations Convention against Transnational Organized Crime and International Human Rights Law* (Vienna, 2022), p. 66.

Checklist 6.2.4 Promote cooperation

Note on using the checklist: This checklist guides users to analyse whether domestic provisions are in place to promote cooperation in response to organized crime in line with the Convention, and to mainstream gender and human rights. This checklist is not comprehensive but is offered as a basis that stakeholders can expand and tailor to their specific legislation, challenges and objectives.

PROMOTE COOPERATION	
Mutual legal assistance (article 18 of the Convention)	
Legislation is in place to ensure that any mutual legal assistance request which would result in the physical transfer of a person to another State would not hinder the right to liberty and freedom from arbitrary detention of such person.	
Legislation is in place to ensure that any mutual legal assistance request would respect the rights to privacy, reputation and due process of any person impacted by such request.	
Legislation is in place to protect the rights of bona fide third parties who may have an interest in property against which a request for assistance has been made.	
Extradition (article 16 of the Convention)	
Legislation specifies conditions relating to the fulfilment of the dual criminality requirement.	
Legislation establishes grounds upon which extradition may be refused: <ul style="list-style-type: none"> • When there are substantial grounds for believing that the requesting State is requesting extradition for the purpose of prosecuting or punishing a person on account of that person's gender, race, religion, nationality, ethnic origin or political opinions, or that compliance with the request would cause prejudice to that person • When the extradition would be contrary to the principle of non-refoulement under international human rights and refugee law 	
Legislation provides for prosecution in lieu of extradition (where extradition of nationals is prohibited), or to enforce a sentence against the person, as appropriate (<i>aut dedere aut judicare</i>) to uphold the rights of victims to obtain justice.	
Procedures are in place to provide diplomatic assurances to a requested State: <ul style="list-style-type: none"> • That a person sought for extradition will be treated in accordance with human rights standards • That a person facing charges that carry the death penalty will not be sentenced to such a penalty 	
Conditions on which extradition can be granted on the basis of assurances or refused even when assurances are provided are clearly set out, and include in the latter case a requesting State's consistent pattern of gross, flagrant or mass violation of human rights.	
Procedures provide for expedited and/or simplified extradition procedures to reduce delays in the interests of justice for both victims and offenders and uphold the fundamental legal rights of the person sought, including by allowing for the voluntary and fully informed consent of the person in ways that take into consideration disability, gender, literacy and other factors, in informing a person of their rights and the consequences of waiving ordinary extradition procedures.	

PROMOTE COOPERATION	
Safeguards are in place to ensure the right to liberty and freedom from arbitrary detention in any provisional arrest carried out prior to extradition.	
Power over an extradited person is limited in relation to the offence for which the extradition has been requested or granted (speciality principle).	
Transfer of sentenced persons (article 17 of the Convention)	
Legislation requires that cooperation is refused if the conviction of the sentenced person violated the right to a fair trial.	
Legislation allows for the transfer of sentenced persons to their home country only with their consent and includes the right to be informed of eligibility to apply for such transfer.	
Legislation requires that cooperation is refused if the transfer would violate international human rights standards such as the principle of non-refoulement, the right to life, the prohibition of torture or if the detention conditions in the receiving State do not come up to human rights standards.	
Judicial or administrative procedures are in place to recognize the sentence, whether by adapting the sentence to comply with human rights standards in the domestic law of the receiving State (continued enforcement) or to convert the sentence on the basis of the facts found by the court in the sentencing State, in line with the principle of legality.	
Provisions are in place to require that time already served is deducted from the period imposed in the State to which the sentenced person is transferred.	
The conditions of imprisonment of transferred persons are regulated in line with their human rights in domestic and international law, taking into account any special needs and humanitarian conditions and ensure non-discrimination between domestic prisoners and foreign-transferred prisoners.	

Annexes

I. ADVOCACY

Stakeholders often encounter opposition to mainstreaming gender and human rights into legislative and policy responses. The points below can be contextualized to advocate for human rights and gender-responsive approaches to organized crime.

OPPOSITION/CHALLENGE	ADVOCACY POINTS TO PROMOTE MAINSTREAMING
PREVENTING organized crime	
Gender and human rights issues are not considered valuable to preventing organized crime.	Criminal justice responses alone are inadequate to address root causes of transnational organized crime, including vulnerability and marginalization. Prevention strategies and activities that are not rights-based and gender-responsive are often ineffective. Gender-responsive and human rights-based approaches address root causes of organized crime, and are based on obligations States have in international law.
PURSUING organized crime	
Mainstreaming gender and human rights is considered a barrier to effective pursuit of organized criminals.	Human rights and gender-based approaches to investigation and prosecution of organized criminals increase the likelihood that evidence will be admissible and persuasive in court.
Criminal justice practitioners approach all persons involved with organized crime as serious criminal offenders.	There are different roles, degrees of responsibility and levels of agency of persons who participate in organized crime. Only serious crime when there are no mitigating factors should be prosecuted and punished with maximum penalties. Limited criminal justice resources allocated to address organized crime should not be misused to pursue low-level offenders. Pursuit of serious crime should be prioritized in organized crime strategies.

OPPOSITION/CHALLENGE	ADVOCACY POINTS TO PROMOTE MAINSTREAMING
<p>Gender parity among law enforcers is not considered valuable in combating organized crime.</p>	<p>Gender-diverse criminal justice staff increases the capacity of law enforcement agencies to achieve gender-responsive approaches to investigation, thereby increasing investigative gains through more successful interviewing processes.</p>
<p>Women are believed to have the same opportunities as men to work in criminal justice, but choose not to.</p>	<p>In law and policy, many women have opportunities equal to those of men to enter the criminal justice system, but in practice they face additional barriers such as gender stereotyping, harassment, discrimination and the challenge of combining work and family life owing to ascribed gender roles. Gender-based responses are needed to remedy this inequality.</p>
<p>Training of defence lawyers and provision of legal aid to accused persons is not valued nor prioritized in the pursuit of organized criminals.</p>	<p>The right to a fair trial is a critical component of effective criminal justice systems. Fair trials that uphold the rights of the accused are less vulnerable to appeal.</p> <p>Unless defence lawyers are trained alongside prosecutors, prosecutors will be unable to fully develop skills to confront transnational organized criminals who engage highly skilled lawyers to defend them.</p>
<p>The death penalty is available for offences relevant to transnational organized crime.</p>	<p>Application of the death penalty dissuades counterparts in other countries from sharing intelligence and cooperating through mutual legal assistance, extradition and transfer of sentenced persons.</p> <p>Application of the death penalty may deter witnesses from fully and truthfully testifying against perpetrators.</p> <p>UNODC and other United Nations agencies, as well as donors face challenges in engaging with or providing support to States that apply the death penalty.</p>
<p>PROTECTING persons affected by organized crime</p>	
<p>Men, boys and gender-diverse people are not considered to be potential victims of transnational crime.</p>	<p>Identification systems are weakened if they are informed by deficient or inaccurate profiles of who constitutes a victim of transnational organized crime.</p> <p>Identification and screening processes must be inclusive and allow for all victims of transnational crime to be identified as victims or witnesses of transnational crime.</p>
<p>Insufficient protection and assistance services are available to particular categories of victims.</p>	<p>Gender analysis of the dynamics of organized crime is necessary to ensure that services are available to all persons on an equal basis, including, men and boys, women and girls, citizens and non-citizens, persons with disabilities or other marginalized groups or persons in vulnerable situations.</p>
<p>Victims/witnesses are not treated in accordance with their human rights during criminal justice processes; victim-centred approaches are not taken in court proceedings.</p>	<p>Upholding victim/witness rights is key to achieving and preserving testimonies. Testimonies of victims/witnesses may decrease as they lose trust in the criminal justice system.</p> <p>Courts that are not victim-centred do not achieve effective testimonies, and court/judicial decisions are vulnerable to appeal.</p>

OPPOSITION/CHALLENGE	ADVOCACY POINTS TO PROMOTE MAINSTREAMING
PROMOTING cooperation against organized crime	
State actors view civil society actors as detrimental to efforts against organized crime.	Civil society organizations can be vital partners in efforts to respond to transnational organized crime, including by providing information and closing gaps in State capacity. Civil society organizations can be strong advocates for trust and transparency.
Mainstreaming of gender and human rights is considered as a barrier to international cooperation.	Cooperation with other States in ways that are not gender-responsive or are contrary to human rights can result in ineffective response and expose the government to reputational risk for participation in human rights violations.
OTHER mainstreaming challenges identified by legislators and policymakers	
Gender and human rights issues are considered “luxury” add-ons for States with more financial and human resources.	Gender and human rights are not separate issues from the effective implementations of the Convention but integral to the process. All States have human rights obligations.

II. MAINSTREAMING GENDER AND HUMAN RIGHTS CONSIDERATIONS IN THE MECHANISM FOR THE REVIEW OF THE IMPLEMENTATION OF THE UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME AND THE PROTOCOLS THERETO

The Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto is a peer review process that supports States Parties to the Organized Crime Convention and its three supplementing protocols in ensuring the effective implementation of these instruments. The review of the implementation of the provisions contained in these legal instruments is structured into four thematic clusters of articles based on their subject matter, to be progressively considered for an estimated period of time of two years each:

- Criminalization and jurisdiction
- Prevention, technical assistance, protection measures and other measures
- Law enforcement and the judicial system
- International cooperation, mutual legal assistance and confiscation

Country reviews are carried out firstly through responding to the self-assessment questionnaires, a tool developed and agreed upon by States parties to enable their self-assessment of the implementation of the Convention and the Protocols thereto.¹ Although gender and human rights considerations are not directly captured within the thematic clusters of the self-assessment questionnaires, they can be considered in the responses to targeted questions, where the questionnaires offer an opportunity for States Parties to share information on national legislation, challenges and best practices, including on the mainstreaming of gender and human rights.

¹ The self-assessment questionnaires for the four thematic clusters have been adopted through Conference of the Parties resolution 10/1, annex III.

Furthermore, in line with the procedures and rules for the functioning of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto,² States Parties are encouraged to prepare their responses to the self-assessment questionnaire through broad consultation with relevant stakeholders, including the private sector, non-governmental organizations and academia, thus allowing for increased accountability on the mainstreaming of gender and human rights in the implementation of the Organized Crime Convention.

In the table below, users can find a non-exhaustive list of potential questions from the self-assessment questionnaire where States can consider reporting on their efforts to mainstream gender and human rights.

ORGANIZED CRIME CONVENTION ARTICLE UNDER REVIEW	TOPIC ADDRESSED BY THE QUESTION	RELEVANCE	CLUSTER	QUESTIONS – SELF-ASSESSMENT QUESTIONNAIRE
Article 24 – Protection of witnesses	Protection of witnesses from potential retaliation and intimidation	Human rights and gender considerations	II	Questions 1, 2 and 3 – Organized Crime Convention Cluster II
Article 25 – Assistance to and protection of victims		Human rights and gender considerations	II	Questions 5,6 and 7 – Organized Crime Convention Cluster II
Article 29 – Training and technical assistance		Human rights and gender considerations	II	Question 8 (a) – Organized Crime Convention Cluster II
Article 31 – Prevention	National projects/best practices or policies to prevent transnational organized crime	Gender considerations	II	Question 16 (a) – Organized Crime Convention Cluster II
Article 31 (3) – Prevention	Reintegration of offenders	Human rights consideration	II	Question 18 (a) – Organized Crime Convention Cluster II
Article 31 (7) – Prevention	Projects that alleviate circumstances that make socially marginalized groups vulnerable to organized crime	Gender considerations	II	Question 22 and 22 (a) – Organized Crime Convention Cluster II
Article 7 – Measures to combat money-laundering	Customer identification	Gender considerations	III	Question 1 (b) (i) – Organized Crime Convention, Cluster III

² See Conference of the Parties resolution 9/1, annex.

ORGANIZED CRIME CONVENTION ARTICLE UNDER REVIEW	TOPIC ADDRESSED BY THE QUESTION	RELEVANCE	CLUSTER	QUESTIONS – SELF-ASSESSMENT QUESTIONNAIRE
Article 19 – Joint investigations	Good practices and examples on establishing agreements for joint investigations	Human rights considerations	III	Question 10 - Organized Crime Convention, Cluster III
Article 20 – Special investigative techniques	Legal conditions for application of these techniques	Gender and human rights considerations	III	Question 14 - Organized Crime Convention, Cluster III
Article 28 – Collection, exchange and analysis of information on the nature of organized crime	Information on trends in organized crime	Gender considerations	IIII	Question 27 (a) – Organized Crime Convention Cluster III
Article 12 – Confiscation and seizure	Non-conviction-based confiscation Management of seized assets	Human rights considerations	IV	Question 3 – Organized Crime Convention, Cluster IV
			IV	Question 8 (c) – Organized Crime Convention, Cluster IV
			IV	Question 8 (d) – Organized Crime Convention, Cluster IV
Article 14 – Disposal of confiscated proceeds of crime or property	Return of confiscated proceeds for victim compensation	Human rights considerations	IV	Question 15 (a) – Organized Crime Convention, Cluster IV
Article 14 – Disposal of confiscated proceeds of crime or property	Sale of proceeds assigned to intergovernmental bodies specializing in fight against organized crime	Human rights and gender considerations	IV	Question 16 – Organized Crime Convention, Cluster IV

ADDITIONAL RESOURCES

Key resources on mainstreaming gender and human rights

United Nations Office on Drugs and Crime

Model Legislative Provisions against Organized Crime, 2021

Issue Paper: Organized Crime and Gender – Issues relating to the United Nations Convention against Transnational Organized Crime, 2022

“Organized crime strategy toolkit for developing high-impact strategies”, 2021

SHERLOC portal

Issue Paper: The United Nations Convention against Organized Crime and International Human Rights Law, 2022

UNODC, SHERLOC portal, Education for Universities, Tertiary, Organized Crime, Module 15: Gender and Organized Crime

UN-Women

Intersectional Resource Guide and Toolkit: An Intersectional Approach to Leave No One Behind, 2021

I Know Gender 17: Gender Equality and Organized Crime, training module, 2022

Other resources relevant to specific crime types or components of response

United Nations Office on Drugs and Crime

Combating Falsified Medical Product-Related Crime: A Guide to Good Legislative Practices, 2019

Combating Transnational Organized Crime Committed at Sea: Issue Paper, 2013

Combating Waste Trafficking: A Guide to Good Legislative Practices, 2022

Criminal Intelligence: Manual for Front-line Law Enforcement, 2010

Criminal Intelligence: Manual for Analysts, 2011

Criminal Intelligence: Manual for Managers, 2011

Current Practices in Electronic Surveillance in the Investigation of Serious Organized Crime, 2009

Digest of Cases of International Cooperation in Criminal Matters Involving the United Nations Convention against Transnational Organized Crime as a Legal Basis, 2021

Digest of Cyberorganized Crime, 2021

Good Practices for the Protection of Witnesses in Criminal Proceedings involving Organized Crime, 2008

Guidance on the Use and Preparation of Serious Organized Crime Threat Assessments: The SOCTA Handbook, 2010

Guide on Drafting Legislation to Combat Wildlife Crime, 2018

Handbook on Identity-related Crime, 2011

Handbook on the International Transfer of Sentenced Persons, 2012

Justice in Matters involving Child Victims and Witnesses of Crime: Model Law and related commentary, 2009

Manual on International Cooperation for the Purposes of Confiscation of Proceeds of Crime, 2012

Manual on Mutual Legal Assistance and Extradition, 2012

Model Law on Extradition, 2004

Model Law on Mutual Assistance in Criminal Matters, 2007, as revised in 2022

Model Treaty on Extradition (General Assembly resolution 45/116, annex, as amended by General Assembly resolution 52/88, annex)

Model Treaty on Mutual Assistance in Criminal Matters (General Assembly resolution 45/117, annex, as amended by General Assembly resolution 53/112, annex I)

Implementation of the United Nations Convention against Transnational Organized Crime: Needs Assessment Tools, 2016

Issue Paper: Policymaking and the Role of Online Intermediaries in Preventing and Combating Illicit Trafficking, 2021

Practical Guide for Requesting Electronic Evidence Across Borders, 2019

Responding to Illegal Mining and Trafficking in Metals and Minerals: A Guide to Good Legislative Practices, 2022

United Nations Counter-Kidnapping Manual, 2006

UNODC Toolkit for Mainstreaming Human Rights and Gender Equality into Criminal Justice Interventions to Address Trafficking in Persons and Smuggling of Migrants, 2021

Chatham House

Integrating Gender in Cybercrime Capacity-Building: A Toolkit, 2023

International Consortium on Combating Wildlife Crime

Wildlife and Forest Crime Analytic Toolkit, 2012

Wildlife and Forest Crime Analytic Toolkit, 2nd ed., 2022



UNODC

United Nations Office on Drugs and Crime