



### Tool 3.3 Other offences related to trafficking in persons

#### Overview

*This tool discusses the criminal acts related to trafficking in persons.*

Many States have also criminalized much of the conduct related to human trafficking. Most States have laws criminalizing abduction, illegal sequestration and kidnapping in general. These acts constitute criminal offences in most States and could be invoked to address certain elements of the full range of crimes involved in trafficking.

### Crimes linked to trafficking in persons

Trafficking in persons should be understood as a process rather than as a single offence. It begins with the abduction or recruitment of a person and continues with the transportation and entry of the individual into another location. This is followed by the exploitation phase, during which the victim is forced into sexual or labour servitude or other forms of exploitation. A further phase may occur, which does not involve the victim but rather the offender. Depending upon the size and sophistication of the trafficking operation, the criminal (organization) may find it necessary to launder the proceeds of crime.

During the trafficking process, the offenders usually perpetrate a number of different offences. There may be linkages between trafficking operations and other criminal offences such as the smuggling of weapons or drugs. Offences are also committed in furtherance or protection of the human trafficking operation. Other crimes, such as money-laundering and tax evasion, are secondary, but essential to protect the illicit proceeds of the trafficking activity.

A typology can be created to further understanding of the nature of the offences related to the trafficking process. The perpetration of crimes can be characterized according to the victim (the individual victim or the State) or in terms of the phase of the trafficking process: the recruitment, transportation and illegal entry of the trafficked person, the exploitation phase or the subsequent phase of profit laundering. The number and types of offence are often contingent upon the sophistication of the smuggling and trafficking operation and the criminal groups involved. The table below shows the various offences that can be perpetrated at different stages of the trafficking process and indicates whether the “victim” is the State or the trafficked individual.

Offences committed at various stages of the trafficking in persons process, and other related crimes			
Recruitment	Transportation and entry	Exploitation	Other offences
Document forgery	Document forgery	<i>Unlawful coercion</i>	Money-laundering
<i>Fraudulent promises</i>	Immigration law abuse	<i>Threats</i>	Tax evasion
<i>Kidnapping</i>	Corruption of officials	<i>Extortion</i>	Corruption of officials
False consent of the parent or guardian of a child	Damage to property	<i>False imprisonment</i>	Intimidation or subversion of officials
Recruitment to which the victim lacks capacity to consent	<i>Withholding of documents</i>	<i>Kidnapping</i>	
		<i>Procurement</i>	
		<i>Theft of documents</i>	
		<i>Sexual assault</i>	
		<i>Aggravated assault</i>	
		<i>Rape</i>	
		<i>Death</i>	
		<i>Forced abortion</i>	
		<i>Torture</i>	

*Note:* Offences in italics indicate that the offences are perpetrated against the individual victim.



Most of these additional offences, as “serious crimes”, will also trigger the application of the Organized Crime Convention. A “serious crime” under the Convention is one punishable under domestic law by four years of imprisonment or more.

States reviewing their legislation may wish to ensure that, when appropriate, offences that are frequently associated with trafficking in persons meet this requirement. Where the Convention applies, a wide range of powers and procedures, including mutual legal assistance, extradition and various forms of law enforcement cooperation become available for dealing with transnational aspects of a case.

## Prosecution of related offences

Trafficking is often only one of the crimes committed against trafficked persons. Other crimes may be committed to ensure the compliance of victims, maintain control, protect trafficking operations or maximize profits. Victims may be subjected to threats, physical and sexual violence or other mistreatment. Their passports and other identity documents may be taken from them. They may be forced to work without payment, often in occupations that are unpleasant, difficult, dangerous or illegal in the State where they are carried out, for example prostitution, the making of pornography and trafficking in illicit commodities such as narcotic drugs. Apart from offences committed against victims, former victims who assist the authorities may be threatened with or subjected to retaliatory violence and public officials may be the subjects of corruption, subjected to threats or both.

These acts constitute criminal offences in most States and could be invoked to address certain elements of the full range of crimes involved in trafficking in persons. This could be useful in States where a distinct criminal offence of trafficking does not yet exist, or where penalties for trafficking do not sufficiently reflect the seriousness of the crime. There may also be cases where the evidence is not sufficient to support prosecution for human trafficking, but may be sufficient for a prosecution for related offences.

The prosecution of accused individuals for additional or overlapping offences may also be useful in demonstrating to courts the serious nature of a particular trafficking operation. For example, in some instances, evidence relating to certain aspects of the trafficking operation (e.g. the total number of victims, the length of time of the operation, the corruption involved and the seriousness of the harm done to the victims) may only be fully revealed by bringing additional charges before the court. Such offences include, but are not limited to, the following:

- Slavery
- Slavery-like practices
- Involuntary servitude
- Forced or compulsory labour
- Debt bondage
- Forced marriage
- Forced prostitution
- Forced abortion
- Forced pregnancy
- Torture
- Cruel, inhuman or degrading treatment
- Rape or sexual assault

- Causing bodily injury
- Murder
- Kidnapping
- Unlawful confinement
- Labour exploitation
- Withholding of identity papers
- Corruption

It is also important not to overlook violations that are less criminal in nature, such as:

### ***Administrative and regulatory violations***

- Violation of wage and labour standards
- Violation of regulations concerning hours and standards of work

### ***Licensing, land use and other infractions***

- Not meeting requirements for permits
- Impermissible use of premises
- Unlawful assembly
- Excessive noise or nuisance

## **Promising practice**

Prior to the implementation of anti-trafficking legislation, countries have resorted to relying on other offences. Examples include the following:

- Afghanistan relies on kidnapping and other statutes to prosecute trafficking.
- Angola could prosecute traffickers through elements of its Constitution and statutory laws which criminalize forced and bonded labour.
- Argentina relies on criminal and immigration statutes which offer penalties that are sufficiently stringent to satisfy the requirements of the Trafficking in Persons Protocol.
- Benin has used provisions of the Penal Code, such as those relating to kidnapping and to contributing to the delinquency of a minor, in order to pursue child-trafficking cases.
- In Chad, arrests are made under kidnapping laws.
- China criminalizes forced prostitution, abduction, commercial sexual exploitation of girls under 14 and forced labour.
- Côte d'Ivoire uses laws against child abuse, forced labour and pimping to prosecute traffickers.
- Djibouti could potentially use its laws relating to pimping, the employment of minors, forced labour and the debauching of a minor to prosecute traffickers.
- In Jordan, anti-slavery, kidnapping, assault and rape laws could be used in the prosecution of traffickers.

- Madagascar could refer to laws on the procurement of minors for prostitution, paedophilia or pimping and on deceptive labour practices.
- Morocco has relied on laws relating to prostitution and immigration, as well as those concerning kidnapping, fraud and coercion.
- Adult trafficking cases in Uruguay often rely on commercial laws relating to sexual exploitation, fraud or slavery.



*Source:* United States Department of State Trafficking in Persons Report June 2007, available at:  
[www.state.gov/g/tip](http://www.state.gov/g/tip)