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## Working Group on Trafficking in Persons

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**Guidance on the issue of appropriate criminal  
justice responses to victims who have been  
compelled to commit offences as a result of their  
being trafficked**

## **Guidance on the issue of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked**

### **Background paper prepared by the Secretariat**

## **I. Introduction**

1. The present background paper has been prepared by the Secretariat to facilitate discussions in the Working Group on Trafficking in Persons at its twelfth meeting. The paper builds on the background paper prepared for the tenth meeting of the Working Group, held on 10 and 11 September 2020 ([CTOC/COP/WG.4/2020/2](#)), and discusses new developments relating to the implementation of the principle of non-punishment of victims of trafficking for offences committed as a consequence of their being trafficked. The paper also presents a list of key resources published since the previous discussion of the topic at the tenth meeting.

## **II. Issues for discussion**

2. Discussions on the principle of non-punishment of victims of trafficking in persons have evolved over the years, since the late 1990s when negotiations on a global framework on trafficking in persons gathered momentum. At previous meetings of the Working Group, the principle was either discussed under a dedicated substantive agenda item or touched upon it when other topics were being discussed.<sup>1</sup> The questions listed below intend to build upon those previous discussions and support reflections on the challenges in applying the principle, and how to overcome them in order to ensure the effective implementation of the principle:

- (a) Are there specific non-punishment provisions in national legislation that acknowledge and enable the implementation of the principle?

\* [CTOC/COP/WG.4/2022/1](#).

<sup>1</sup> United Nations Office on Drugs and Crime (UNODC), *Trafficking in Persons: Compendium and Thematic Index of Recommendations, Resolutions and Decisions* (Vienna, 2021), p. 60.



- (b) Who, between police and prosecution, possesses the prosecutorial power and discretion in trafficking in persons cases? What is their capacity to implement the principle of the non-punishment of victims of trafficking in persons, especially as regards criminal justice responses?
- (c) How is the principle implemented in countries that do not have specific legislative provisions on non-punishment of victims of trafficking in persons?
- (d) Are there examples in some countries of legislative review processes to strengthen the laws on trafficking in persons and include the principle of non-punishment of victims of trafficking?
- (e) What constitutes “punishment”? Does it include other forms beyond criminal punishment? And how have States addressed the various obstacles faced by victims of trafficking in their full recovery and reintegration?
- (f) What are the existing limitations hindering the effective implementation of the principle of non-punishment of victims of trafficking in persons?
- (g) What effective practices in the implementation of the principle can be shared with other States?

3. In order to contribute to the overall effective response to trafficking in persons by strengthening the implementation of the non-punishment principle and the protection of victims of trafficking in persons, the Working Group may wish to recommend that States parties:

- (a) Develop criminal justice and victim assistance standards for the effective implementation of the principle of non-punishment and avoid the revictimization of victims of trafficking in persons;
- (b) Promote the application of the non-punishment principle in a comprehensive manner that includes establishing concrete national legislation, guidelines and/or policies that espouse the principle and its application to all offences committed by victims of trafficking without exception and regardless of the gravity of the offence;
- (c) Raise the awareness of criminal justice systems of the principle of non-punishment of victims of trafficking in persons with a view to, among other things, encouraging the participation of trafficking victims in the criminal justice response to the crime;
- (d) Develop capacity-building initiatives to train criminal justice personnel, social services providers and other relevant stakeholders to apply the principle appropriately and in a timely manner to avoid the revictimization of victims of trafficking.

### **III. Background**

4. While the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, does not explicitly contain provisions on the principle of non-punishment,<sup>2</sup> there is widespread acceptance that punishing victims of trafficking in persons for offences committed as a consequence of their being trafficked is unjust and hinders the possibility of their recovery ([A/HRC/47/34](#), para. 19). Article 2 (b) of the Trafficking in Persons Protocol – one of the three

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<sup>2</sup> UNODC, *Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (Vienna, 2021).

purposes of the Protocol (“To protect and assist the victims of such trafficking, with full respect for their human rights”) – is understood to encompass that principle.<sup>3</sup>

5. It is generally acknowledged that the principle of non-punishment, as detailed in the Recommended Principles and Guidelines on Human Trafficking and Human Trafficking developed by the Office of the United Nations High Commissioner for Human Rights (OHCHR), entails that:

Trafficked persons shall not be detained, charged or prosecuted for the illegality of their entry into or residence in countries of transit and destination, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as trafficked persons.<sup>4</sup>

Furthermore, the principle is elaborated in guidelines 2.5, 4.5 and 7.5 of the OHCHR Recommended Principles. At the core of the principle is the acknowledgement that while victims of trafficking may indeed commit crimes, they lack independence and the ability to exercise free will and act without real autonomy<sup>5</sup> because of their circumstances.

6. Victims of trafficking in persons are often made to commit criminal and/or administrative offences by their traffickers as part of their exploitation, including, among other things, engaging in shoplifting, cannabis cultivation, pickpocketing, forced begging, benefit fraud, drug trafficking, illegal cigarette production lines and “meth labs”, illegal charity bag collections, sham marriage, illegal adoption, metal theft (stealing pipes and other metals) and street crime.<sup>6</sup> Traffickers then use scare tactics, such as threatening to report victims to law enforcement authorities, in order to maintain control over them. Victims may be punished by the traffickers if they do not comply and they may also face, among other things, arrest, detention and prosecution for having committed offences that they would not have otherwise intentionally committed. The non-punishment principle is, therefore, premised on the need for victim protection.

7. The application of the principle of non-punishment of victims of trafficking acknowledges that the crime of trafficking in persons is a serious human rights violation (see [A/HRC/47/34](#)) and that victims should not be prosecuted for these crimes, as their punishment implies their intent to commit such crimes. There is also a prospect that punishing the victims of trafficking in persons reduces the likelihood that they will report their victimization to the authorities and reduces the opportunities to bring traffickers to justice.<sup>7</sup>

8. The interpretation and implementation of the non-punishment principle differs from State to State (see [A/HRC/47/34](#)), and inconsistencies abound in the application of the principle across jurisdictions (see [A/HRC/44/45](#)). In some cases, the principle is only tied to certain offences, such as those relating to immigration laws. In information submitted for the report of the Secretary-General on improving the coordination of efforts against trafficking in persons in 2021, some States reported having amended their legislations to, among other things, include specific provisions to ensure the non-punishment of victims for crimes committed as a direct consequence of their victimization in trafficking ([A/76/120](#), para. 26).

9. The elaboration of the non-punishment principle has become more accepted over the years since the negotiation of the Trafficking in Persons Protocol, as States

<sup>3</sup> UNODC, *Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons*, p. 49.

<sup>4</sup> [E/2002/68/Add.1](#), principle 7.

<sup>5</sup> Organization for Security and Cooperation in Europe (OSCE), Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings, *Policy and Legislative Recommendations towards the Effective Implementation of the Non-Punishment Provision with Regard to Victims of Trafficking* (Vienna, 2013).

<sup>6</sup> OSCE, Office for Democratic Institutions and Human Rights, *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons – A Practical Handbook*, 2nd ed. (Warsaw, 2022), p. 87.

<sup>7</sup> *Global Report on Trafficking in Persons 2020* (United Nations publication, 2020), p. 19.

gained more experience in implementing their respective responses to trafficking in persons. Targeting victims does not deter traffickers from perpetuating their criminal activities. If anything, it obscures the real criminals, who are the traffickers. According to a UNODC study, traffickers sometimes use elaborate strategies to continue with their operations in obscurity, such as using victims to commit offences proximate to their exploitation. Such a strategy insulates traffickers from law enforcement and shelters them from prosecution, which ensures that they perpetuate their impunity.<sup>8</sup> The effective implementation of the non-punishment principle and targeted focus on the traffickers may improve the prosecution of traffickers and end their impunity. Punishing victims, on the other hand, may limit the effectiveness of investigations and accountability (see [A/HRC/47/34](#)). Victims of trafficking, who might already be living in fear for their personal safety and fear of reprisals by traffickers, may refrain from seeking protection, assistance and justice owing to their double exposure to prosecution and punishment for the offences committed because of their trafficking (see [CTOC/COP/WG.4/2010/4](#)).

10. According to the *Model Legislative Provisions against Trafficking in Persons*, published by UNODC in 2020, the implementation of the non-punishment principle at the national level will typically require a combination of legislative, operational and policy measures that encompass all stages of the justice system. As such, it requires the involvement of all stakeholders involved in the criminal justice response. Another key UNODC resource, the *Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Protocol*, provides a range of policy considerations for States for the effective implementation of the non-punishment principle. Specifically, it is recommended that States:

- (a) Consider ensuring that individuals are not penalized in immigration proceedings as a result of crimes they committed as a consequence of trafficking;
- (b) Ensure that provisions for the non-punishment and non-prosecution of trafficked persons contained in domestic legislation, guidelines, regulations, preambles or other instruments are clearly stated.

11. The implementation of the non-punishment principle should not be limited to prosecution but should permeate all stages of the criminal justice system. This includes the investigation, prosecution and sentencing stages, as well as the rehabilitation and reintegration of victims (see [CTOC/COP/WG.4/2020/2](#)). In 2013 the Organization for Security and Cooperation in Europe (OSCE) developed policy and legislative recommendations on the principle of non-punishment and, among other things, acknowledged that the principle should extend beyond a restriction on prosecutions, as victims of trafficking may be subjected to other forms of punishment, namely “administrative detention” or “detention in closed shelters”.<sup>9</sup> Meanwhile, the Special Rapporteur on trafficking in persons, especially women and children, emphasized that the concept should be understood broadly, and listed a range of forms of punishment that victims can suffer, including exclusion from refugee status or denial of other immigration relief; arbitrary deprivation of nationality; termination of social welfare benefits or denial of social security payments; restrictions on movement, detention or other undue restrictions on liberty, including non-repatriation; and administrative measures, including travel bans, confiscation of travel documents and refusal of entry into, or transit through, countries ([A/HRC/47/34](#), para. 41). The list, which is not exhaustive, gives an overview of the many obstacles faced by victims in their efforts to recover from trafficking, which can constitute diverse forms of punishment.

12. In cases where victims are prosecuted and convicted for acts committed because of their being trafficked, it is important to consider that even an unpenalized conviction is in fact a punishment.<sup>10</sup> In such instances, the vacating or expunging of

<sup>8</sup> UNODC, *Female Victims of Trafficking for Sexual Exploitation as Defendants: A Case Law Analysis* (Vienna, 2020).

<sup>9</sup> OSCE, *Policy and Legislative Recommendations*.

<sup>10</sup> *Ibid.*, para. 77.

criminal records is a critical step to ensuring that victims do not continue to be punished for the offences that they committed as a direct consequence of trafficking. Without such vacation or expungement, convicted victims may face challenges in obtaining employment opportunities, may be barred from accessing several services including travel to other countries (see [CTOC/COP/WG.4/2020/2](#)), and may have the additional emotional burden of having a criminal record for the entirety of their lives. It is important that victims are given another opportunity to reintegrate into society and rebuild their lives.

#### **IV. Recent developments on implementation of the principle of non-punishment since the tenth meeting of the Working Group on Trafficking in Persons**

13. The principle of non-punishment of victims of trafficking has, in recent years, featured increasingly in resolutions of intergovernmental bodies, including those of the General Assembly. For example, in its 2021 Political Declaration on the Implementation of the United Nations Global Plan of Action to Combat Trafficking in Persons, adopted in resolution [76/7](#), the General Assembly highlighted States' commitment to:

intensify our efforts, subject to our national laws, rules and regulations, to implement the principle of non-punishment of victims of trafficking, which should apply to unlawful activity that a victim of trafficking in persons has been compelled to be involved in as a direct consequence of their trafficking situation and for all types of punishment, including criminal, civil, administrative and immigration offences.<sup>11</sup>

14. In its resolution [75/158](#), adopted in 2020, the General Assembly encouraged States to ensure that victims of human trafficking were protected from prosecution or punishment for acts those victims had been compelled to commit as a direct consequence of having been subjected to human trafficking.<sup>12</sup>

15. A reference to the non-punishment principle was also made by the Conference of the Parties to the United Nations Convention against Transnational Organized Crime in October 2020. In its resolution 10/3, the Conference of the Parties encouraged States to:

consider providing, in accordance with their domestic law, that victims of trafficking in persons are not inappropriately punished or prosecuted for acts they commit as a direct consequence of being trafficked and, where appropriate, provide access to remedies if they are punished or prosecuted for such acts and, accordingly, establish, as appropriate, domestic laws, guidelines or policies that espouse these principles.

16. Furthermore, the report of the Special Rapporteur on trafficking in persons, especially women and children ([A/HRC/47/34](#)), submitted to the Human Rights Council at its forty-seventh session, takes stock of the effective practices in the implementation of the principle, as well as the challenges encountered. It raises critical issues, including the fact that the principle applies to criminal, civil, administrative and immigration offences without exception, regardless of the gravity or seriousness of the offence committed. Key to this is the recognition of forced criminality as a purpose of exploitation. The report goes further to propose recommendations for States, including, among others:

(a) Adopting all appropriate legislative, policy, administrative and other measures to ensure the effective implementation of the principle of non-punishment of victims of trafficking;

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<sup>11</sup> General Assembly resolution [76/7](#), annex, para. 13.

<sup>12</sup> General Assembly resolution 75/158, para. 27.

- (b) Applying the principle of non-punishment as soon as there are reasonable grounds to believe that a person has been trafficked or as soon as trafficked persons, or their legal representatives, raise a trafficking defence, in order to afford the trafficked person effective and full protection;
- (c) Applying the principle of non-punishment to all forms of trafficking; any unlawful activity carried out by a trafficked person as a direct consequence of their trafficking situation, regardless of the gravity or seriousness of the offence committed; criminal, civil, administrative and immigration offences, as well as other forms of punishment; and any situation of deprivation of liberty, including immigration detention and detention pending removal, transfer or return proceedings;
- (d) Promptly removing all presumed or identified trafficked persons from detention or any situation of deprivation of liberty and providing them with assistance and protection.

17. Prior to the issuance of that report in 2021, the office of the Special Rapporteur had been constantly engaged in monitoring the implementation of the principle, resulting in, among other documents, a position paper entitled “The importance of implementing the non-punishment provision: the obligation to protect victims” and the report submitted to the Human Rights Council at its forty-fourth session ([A/HRC/44/45](#)), which also addressed non-punishment extensively.

18. The Committee on the Elimination of Discrimination against Women engaged in a consultative process that culminated in 2020 in the issuance of general recommendation No. 38 (2020) on trafficking in women and girls in the context of global migration, which recommended that States parties, among other things:

Ensure that all women and girls who are victims of trafficking, without exception, are not subject to arrest, charge, detention, prosecution or penalty or are otherwise punished for irregular entry or stay in countries of transit and destination, absence of documentation, or for their involvement in unlawful activities to the extent that such involvement is a direct consequence of their situation as victims of trafficking.

19. General recommendation No. 38 (2020) emphasizes that the non-punishment principle: (a) must be enshrined in legislation and implemented through proper training to ensure responders are able to identify trafficking victims for such relief; (b) must not compel victims to provide evidence or testimony in exchange for immunity from prosecution redress or services; and (c) must provide recourse for trafficking victims to clear their criminal records in cases where they have been convicted of crimes that were committed as a direct consequence of being a victim of trafficking.

20. Such intergovernmental processes, as detailed above, are critical to developing global policy for an effective response to trafficking in persons, including the implementation of the non-punishment principle.

21. The ongoing Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, including the Trafficking in Persons Protocol, could also present a critical opportunity for States to pursue conversations around the principle and influence global policy for the effective implementation of the non-punishment principle as part of implementation of the Convention and the Protocols thereto. The Review Mechanism, envisaged in resolution 5/1 of the Conference of the Parties to the Organized Crime Convention was established by resolution 9/1 of the Conference of the Parties to review the implementation of the Convention and the Protocols thereto in line with article 32, paragraph 4, of the Convention. The first phase of the review was launched through resolution 10/1 of the Conference of the Parties in 2020.

22. At the national level, the principle is progressively applied by criminal justice systems, with several court cases being reported to UNODC. For example, in an *amicus curiae* observation submitted for the case of *The Prosecutor v. Dominic*

*Ongwen*,<sup>13</sup> to assist the Appeals Chamber at the International Criminal Court in the legal principles applicable to former child soldiers and the assessment of Mr. Ongwen's criminal responsibility and sentencing, it was noted that the “non-punishment” of victims of modern slavery/human trafficking includes the non-liability of former child soldiers who commit crimes when they continue to suffer the effects of their victimhood through compromised mental health”.<sup>14</sup> The *amicus curiae* observation further suggested the need for “workable mechanisms for defining criminal responsibility and approaching sentencing in this complex context, and methods for interpreting the Rome Statute.” The case also benefited from observations on the non-punishment principle from the Special Rapporteur on trafficking in persons, especially women and children.<sup>15</sup> Among other things, the submission from the Special Rapporteur highlighted that the principle of non-punishment applies to criminal offences regardless of the gravity or seriousness of the offence committed, and emphasized the importance of considering “the many subtle forms of coercion experienced by victims of trafficking, including abuse of a position of vulnerability and all the means set out in the definition of trafficking” in the application of the principle. The submission also raised a critical issue relating to the intersection between disability and trafficking in persons and called on States to ensure non-discrimination and disability inclusion in anti-trafficking in persons measures, including the implementation of the principle of non-punishment, considering that people with disabilities face a disproportionate risk of being trafficked for forced criminality.<sup>16</sup>

23. In February 2021, the European Court of Human Rights delivered a judgment in the case of *V.C.L. and A.N. v. the United Kingdom* (Application Nos. 77587/12 and 74603/12), in which the first and second applicants (Vietnamese nationals, Messrs. V.C.L and A.N.) appealed their conviction and sentence, arguing that as credible victims of trafficking in persons, they should not have been prosecuted in the first place. Following protracted appeals, the European Court of Human Rights found that with regard to both applicants, “the State cannot be said to have fulfilled its duty under article 4 of the Convention for the Protection of Human Rights and Fundamental Freedoms to take operational measures to protect” the applicants, both as potential and as recognized victims of trafficking. As a result, the Court ruled that there was a violation of article 4 of the Convention and awarded each applicant €25,000 in respect of non-pecuniary damage and €20,000 each in respect of costs and expenses.<sup>17</sup> This decision highlighted the non-punishment principle as a critical element of the criminal justice response to trafficking in persons.

24. The decision by the European Court of Human Rights triggered a lot of interest in the implementation of the non-punishment principle. The decision was cited in the report of the Special Rapporteur on trafficking in persons ([A/HRC/47/34](#)), and was the basis on which the British Institute of International and Comparative Law and the International Bar Association developed a research project on the implementation of the non-punishment principle in law and practice across different jurisdictions.<sup>18</sup> Through the research project, the British Institute of International and Comparative Law and the International Bar Association will seek to provide concrete recommendations towards improving the legislative provision and practical implementation of the non-punishment principle and develop a pilot multidisciplinary

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<sup>13</sup> See International Criminal Court, “Situation in Uganda in the case of *The Prosecutor v. Dominic Ongwen*”, Amicus curiae observation, Case No. ICC-02/04/-01/15 A, 21 December 2021.

<sup>14</sup> Ibid., summary.

<sup>15</sup> International Criminal Court, “Situation in Uganda in the case of *The Prosecutor v. Dominic Ongwen*”, Case No. ICC-02/04-01/15 A A2, 21 January 2022.

<sup>16</sup> Ibid.

<sup>17</sup> The judgment is available at <https://hudoc.echr.coe.int>.

<sup>18</sup> British Institute of International and Comparative Law, Research, Projects, “The non-punishment principle in trafficking in persons”, 2 July 2021.

programme to build the capacity of lawyers and law enforcement personnel on the principle of non-punishment and ancillary matters.<sup>19</sup>

25. Regional bodies such as the European Union have also been taking measures to encourage the implementation of the principle. In 2021, the European Commission released the European Union Strategy on Combating Trafficking in Human Beings (2021–2025), in which the Commission called on European States to create safe environments for victims to report their crimes without fear of being prosecuted for acts they were forced to commit by the traffickers, and without fear of being exposed to secondary victimization, intimidation or retaliation in the context of criminal proceedings.<sup>20</sup>

## V. Issues raised at the tenth meeting of the Working Group on Trafficking in Persons

26. At its tenth meeting, the Working Group on Trafficking in Persons discussed the topic of appropriate criminal justice responses to victims who have been compelled to commit offences as a result of their being trafficked, guided by the background paper prepared by the Secretariat ([CTOC/COP/WG.4/2020/2](#)). The panel presentations and the ensuing discussion, among other things, outlined the challenges associated with the principle of non-punishment in practice, including acknowledgement of States' differing national approaches to the implementation of the principle, based on their distinct legal traditions and criminal justice systems ([CTOC/COP/WG.4/2020/4](#)). The following were some of the dominant themes from the discussion and the post-meeting comments received from delegations and captured in a conference room paper ([CTOC/COP/2020/CRP.2](#)):

- (a) Standard-setting and clear thresholds to inform the application of the principle;
- (b) Training of authorities, in a trauma-informed approach, to understand and appropriately apply the principle;
- (c) Strengthening inter-agency and multi-stakeholder efforts to protect victims of trafficking;
- (d) Reviewing and strengthening legal frameworks;
- (e) Promoting and providing victim-centred and trauma-informed support to victims of trafficking;
- (f) Identifying and safeguarding victims and survivors, especially child victims, of trafficking;
- (g) Ensuring that non-punishment does not end at non-prosecution alone, but incorporates long-term protection of victims of trafficking;
- (h) Encouraging access to remedies for victims of trafficking that were punished or prosecuted for offences committed as a consequence of their trafficking, including vacating criminal records of victims of trafficking; and
- (i) Applying the principle at all stages of the criminal justice response, as an essential part of protecting the human rights of victims and survivors.

27. While there was extensive discussion on the application of the principle of non-punishment, the Working Group was unable to complete line-by-line negotiations of the draft recommendations proposed during the meeting ([CTOC/COP/2020/CRP.2](#), para. 1).

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<sup>19</sup> Ibid.

<sup>20</sup> European Commission, document COM(2021) 171 final, p. 16.

## VI. Conclusion

28. The non-punishment principle, as it relates to victims of trafficking in persons, has become more accepted over time. While there are inconsistencies in the implementation of the principle, there is a growing body of knowledge on the principle, and also increasing jurisprudence. There is, however, a need for intensified efforts to address the inconsistencies, develop transnational standards and the capacity of the criminal justice systems in implementing the principle, and ensure that the principle is not confined to prosecution alone, but is applied more broadly, including in relation to long-term recovery and the reintegration into society of victims of trafficking in persons. States could also consider using the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and its supplementing protocols to share information and experiences in implementing the non-punishment principle, with a view to preventing trafficking in persons, protecting victims of trafficking and ending impunity for traffickers.

## VII. Key tools and recommended resources

### 1. Global Trafficking in Persons Report 2020

29. The *Global Trafficking in Persons Report 2020*, which is part of a series of reports published by UNODC every two years, explores the principle of non-punishment of victims of trafficking, and presents some recommendations for the effective implementation of the principle, and the protection of victims of trafficking in persons.

### 2. Model Legislative Provisions against Trafficking in Persons

30. In 2020, UNODC published the *Model Legislative Provisions against Trafficking in Persons*, which updated the 2009 edition, entitled *Model Law against Trafficking in Persons*. The 2020 *Model Legislative Provisions* provide general guidance on the major aspects of the Trafficking in Persons Protocol which can be implemented legislatively. It uses examples from different countries to provide such guidance. In relation to the non-punishment of victims for offences committed as a consequence of their trafficking, the *Model Legislative Provisions* dedicated article 13 to providing guidance on the implementation of the non-punishment of victims of trafficking in persons, while its annex B explored the non-punishment provisions in national legislation.

### 3. Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime

31. UNODC also published the *Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, which provides a brief discussion on the principle of non-punishment of victims of trafficking in persons (paras. 181–189).

### 4. United Nations Office on Drugs and Crime knowledge management portal known as Sharing Electronic Resources and Laws on Crime (SHERLOC)

32. Through SHERLOC, UNODC facilitates the dissemination of information regarding the implementation of the Trafficking in Persons Protocol. SHERLOC contains a case law database, a collection of cases of trafficking in persons documented globally. The case law database provides instant access to thousands of court decisions from States on how they deliberate on the principle of non-punishment. The publication *Female Victims of Trafficking for Sexual*

*Exploitation as Defendants: A Caselaw Analysis* (No. 5 below) was prepared based on this case collection.

**5. Female victims of trafficking for sexual exploitation as defendants: a case law analysis**

33. In December 2020, UNODC launched a case law analysis, which analysed the application of the non-punishment principle (sect. IV), especially as it relates to female victims of sexual exploitation, leveraging on lessons from examined jurisprudence on their application of the principle. The publication contains explicit examples of situations in which victims were treated as criminals for offences they committed as a result of being trafficked.

**6. Implementation of the non-punishment principle: report of the Special Rapporteur on trafficking in persons, especially women and children**

34. In 2021, the Special Rapporteur on trafficking in persons, especially women and children, published a report entitled “Implementation of the non-punishment principle: report of the Special Rapporteur on trafficking in persons, especially women and children” ([A/HRC/47/34](#)). The report analyses the challenges that States encounter in the implementation of the principle of non-punishment and provides some recommendations towards implementation of the principle that is compliant with States’ obligations to protect victims of trafficking in persons.

**7. Inter-Agency Coordination Group against Trafficking in Persons Issue Brief 8/2020 on non-punishment of victims of trafficking**

35. In 2020, the Inter-Agency Coordination Group against Trafficking in Persons published Issue Brief 8/2020 on non-punishment of victims of trafficking in persons, which explores the rationale of the principle of non-punishment and presents some recommendations for States to effectively implement the principle.

**8. National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons – A Practical Handbook, second edition**

36. In 2022, OSCE published the revised *National Referral Mechanisms Handbook*, which uses non-punishment as one of the guiding principles for the creation and implementation of effective National Referral Mechanisms (Principle No. 6).

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