

3.7 Advocacy table

The way that UNODC communicates about its work has impact on whether inclusion of **human rights and gender equality considerations** will be supported or rejected by stakeholders. In addition to emphasizing that human rights and gender equality goals are in compliance with international law, it is also strategically important to underline how human rights based and gender-responsive approaches are vital to strengthen objectives to prevent and address human trafficking and migrant.

The table below offers some **examples of advocacy points** on human rights and gender equality that can be offered in response to particular issues that may arise. It also offers users space to document their own lessons learnt from their work to take human rights and gender-equality approaches for the purpose of:

1. Reporting on project implementation, its challenges and successes;
2. Strengthening rights-based and gender-sensitive advocacy, and
3. Informing future programming.

Table: Example of advocacy points and approaches taken to address them

Human rights / gender concern	Advocacy point to address concern
User to specify issue that arose in advocating for a human rights-based / gender sensitive approach:	User to outline arguments that persuaded stakeholders of the value of human rights-based / gender sensitive approach:
1. Legislation 1.1	
There is reticence to support human rights and gender based approaches to domestic legislation on trafficking in persons and smuggling of migrants	Human rights based approaches to domestic legislation on trafficking and smuggling Tool 2.3 will help States to fulfil their obligations under the UNTOC and the Protocols thereto, and also under the international human rights instruments that States may be party to Tool 2.2 Human rights and gender equality approaches are based on commitments State parties have already made by virtue of their ratification of international human rights instruments.
Victims of trafficking are criminalized for crimes committed as a direct result of being trafficked Smuggled migrants are criminalized for being smuggled, or for migration-related offences	Victims of trafficking are criminalized for crimes committed as a direct result of being trafficked Smuggled migrants are criminalized for being smuggled, or for migration-related offences
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2. Investigation 1.2	
Law enforcement officials consider fulfilment of human rights obligations to be barriers to effective investigation of TIP and SOM	Human rights and gender-based approaches to investigations of TIP and SOM can increase the likelihood that evidence collected will support prosecution, and be admissible and persuasive in court. Evidence collection in accordance with domestic law and human rights considerations is critical to the success of subsequent proceedings.
Law enforcement officials consider that evidentiary gains outweigh victims' rights in investigative approaches	Where evidence is collected contrary to human rights (for instance, through the use of controlled delivery of humans in a way that compromises life and safety) evidence may be inadmissible and investigators themselves become the subject of investigations or legal actions
Authorities think that resources and invested in achieving gender parity among law enforcers are not well spent	Increased numbers of females among law enforcement officials increase the capacity of law enforcement officials to achieve a gender-sensitive approach to investigation and increases investigative capacity including through more successful interviewing practices with female victims / witnesses Female investigators are required in order to be able to effectively gather evidence from female victims / witnesses
Authorities think that women have the same opportunities as men to work in criminal justice system, but choose not to do so.	In law and on paper, women may have the same opportunities as men do to enter criminal justice practice, but face many barriers that men do not such as gender stereotyping, harassment, challenges combining work and home life
The onset of conflict has deprioritized the investigation of trafficking and smuggling	Data and evidence against potential traffickers in persons and smugglers of migrants should be collected so that they can be brought to justice later at such a stage that the country is equipped to prosecute as an important component of a country's post-conflict recovery and reconciliation Efforts against traffickers and smugglers should be sustained given that they may act to take advantage of conflict situations and exacerbate instability
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3. Criminal justice and other data 1.3	
Authorities believe that adherence to human rights obligations in data collection and protection hampers effective data collection	Data that is collected in ways that are in accordance with human rights principles are more accurate and therefore offer a stronger evidence base for response
Data collecting authorities do not collaborate in or harmonize data collection efforts and approaches	Where data collection is harmonized with domestic, regional and international counterparts and partners, data is easier to share and aggregate, towards informing evidence-based and collaborative response
Compliance with ethical requirements, privacy and confidentiality laws in data collection is not considered necessary or important	Data that is not collected in compliance with ethical requirements, privacy and confidentiality laws may not accepted by counterparts elsewhere. Data privacy / confidentiality requirements may result in retaliation against victims, disposal of evidence, and / or hiding of assets, detrimentally impacting responses against TIP / SOM. Data quality may be reduced / impaired where potential subjects are not willing to participate owing to concerns about data collection approaches.
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4. Prosecution and defence 1.4	
Victims of trafficking are made to participate in criminal justice proceedings against their will and best interests	Unless victims are assisted and protected in accordance with their rights, their testimony against traffickers will weaken as they lose trust and faith in the criminal justice proceedings. Upholding victims' rights and supporting their reintegration is key to achieving their cooperation and preserving their testimonies. Alternatives to victim testimony such as use of statements and evidence obtained through special investigative techniques is key to both upholding victims' rights and to effective prosecutions of traffickers.

<p>Training of defence lawyers in pursuit of an accused person's right to a fair trial is avoided because of concerns that prosecution of traffickers and smugglers will be hampered</p>	<p>Unless defence lawyers are trained alongside prosecutors, prosecutors are not able to fully develop their skills and will lack capacity to confront organized criminals who have engaged highly-skilled lawyers to defend them, meaning that prosecutions less likely to be effective. Fair trials are less likely to leave fewer grounds for appeal for convicted traffickers / smugglers.</p>
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<p>5. Sentencing 1.5</p>	
<p>Sentences against smugglers are not effective, dissuasive and proportionate to the gravity of the offence and do not take into account aggravating factors</p>	<p>Where sentences are too lenient, justice may not be served and public confidence in the justice system is undermined. Where sentences do not effectively prevent recidivism and deter offending, traffickers are able to re-victimize people.</p>
<p>The death penalty is provided for in domestic legislation (on trafficking in persons/smuggling of migrants) and / or is applied in practice</p>	<p>Use of the death penalty dissuades counterparts in other countries from sharing intelligence. Use of the death penalty is a barrier to extradition. UNODC faces significant difficulties in engaging with and providing support to States that apply the death penalty.</p>
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<p>6. Identification and referral 1.6</p>	
<p>Men and boys who are victims of trafficking are not identified</p>	<p>Identification systems may be weakened if they are informed by deficient or inaccurate profiles of who can be a victim of trafficking. Identification processes must be inclusive and allow for all victims of trafficking to be identified so that women and girls and men and boys can be identified along trafficking routes</p>

Gender-sensitive approaches are not considered important in the identification and referral of trafficked persons or others in need of protection and assistance	Where gender-sensitive approaches are not taken, victims of trafficking may not effectively identified or may be misidentified. Where gender-sensitive approaches are not taken, there law enforcement procedures may be exposed to risks of accusations of misconduct / misconduct maybe be more likely
Persons who may be in need of protection and assistance are deported without being appropriately and accurately identified and referred	If potential victims of trafficking or smuggled migrants are deported without being identified, potential evidence and intelligence is lost, meaning that traffickers and smugglers can continue their crimes with impunity.
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7. Protection and assistance 1.7	
Victim / witness protection and assistance is not considered to be worth investing TIP / SOM allocated resources into.	Persons who are protected and assisted in accordance with their human rights and in line with gender-sensitive approaches, are more likely to cooperate with authorities in criminal justice processes. For instance, victims who are detained contrary to their rights may be less willing to cooperate.
There is resistance to seeking feedback of victims of trafficking / smuggled migrants on protection and assistance services	If victim feedback is not sought, there is a risk that scarce resources will be wasted on services that are not wanted or needed and will fail to show effective results.
Paternalistic approaches are taken to providing assistance services to victims of trafficking, particularly women and girls.	Victims of trafficking are not objects of protection but are subjects of human rights. Unless they are actively engaged in developing assistance plans, the assistance they receive may be unwanted and ineffective. Women and girls are not empowered by paternalistic approaches that make assumptions about what is beneficial for them on the basis of their gender
There are insufficient protection and assistance services available for men and boys who are victims of trafficking	A gender analysis of the dynamics of trafficking and the responses thereto is required to ensure that services are available to all victims of trafficking who are in need of them, including people of all genders.

Donors pressure project managers/project staff to undertake activities that are not compliant with human rights, gender-sensitive and child-friendly approaches	Implementing activities that are not human rights-based, gender-sensitive and child-friendly are often ineffective in therefore do not represent good value for donor investment
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8. Return and reintegration 1.8	
Human rights-based, gender-sensitive and child-friendly return and repatriation of victims of trafficking and smuggled migrants is not prioritized	Victims of trafficking / smuggled migrants who are not returned / repatriated in accordance with human rights obligations may result in evidentiary opportunities (e.g. testimonies) being lost. Ineffective return / repatriation may result in re-trafficking / re-smuggling that does not disrupt either crime
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9. Prevention 1.9	
There is an erroneous perception that preventing migration serves to prevent trafficking in persons and smuggling of migrants	Many victims are trafficked through regular migration channels, or are trafficked internally. Preventing migration can serve to increase demand for smuggling services. Efforts to prevent irregular migration can undermine the right to seek asylum
Gender-responsive approaches are not taken to the design of prevention strategies and activities	Prevention activities that are not gender-responsive are often not calibrated to targeted beneficiaries and are therefore ineffective
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