

# International Instruments Concerning Trafficking in Persons

## What are some of the main international instruments used to combat human trafficking?

The most important international instrument to combat trafficking is the Palermo Protocol, a supplement to the UN Convention against Transnational Organized Crime (2000). Article 5 of the Protocol requires States to criminalize trafficking, attempted trafficking, and any other intentional participation or organization in a trafficking scheme.

Two International Labour Organization (ILO) conventions focus on forced labour or services: The ILO Forced Labour Convention (Convention No. 29 of 1930) and its newly adopted Protocol, which defines forced or compulsory labour, and the ILO Abolition of Forced Labour Convention (Convention No. 105 of 1957).

The Slavery Convention (1926) defines slavery, and its Supplementary Convention describes “practices similar to slavery,” including debt bondage, and institutions and practices that discriminate against women in the context of marriage.

The UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949) requires States to punish any person who exploits the prostitution of another.

The International Covenant on Civil and Political Rights (ICCPR) prohibits a number of practices directly related to trafficking, including slavery, the slave trade, servitude and forced labour.

## Instruments Concerning the Trafficking of Women

The Convention on the Elimination of All Forms of Discrimination against Women requires States to take all appropriate measures to suppress all forms of trafficking in women and exploitation of prostitution of women. General recommendation No. 19 identifies trafficking as a form of violence against women because it puts women at special risk of violence and abuse. Trafficking is incompatible with the equal enjoyment of rights by women and with the respect for their rights and dignity.

***“Over the past decade, human trafficking has moved from the margins to the mainstream of international concern... We have witnessed the rapid development of a comprehensive legal framework that comprises international and regional treaties, as well as a broad range of soft-law instruments relating to trafficking. These changes confirm that a fundamental shift has taken place in how the international community thinks about human exploitation.”***

*Navi Pillay, United Nations High Commissioner for Human Rights. Foreword to the Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking*

## Instruments Concerning the Trafficking of Children

Some international instruments have specific provisions concerning the trafficking of children. The Convention on the Rights of the Child (1989), and the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography (2000), prohibit trafficking in children for any purpose, including for exploitive and forced labour. Article 39 of the CRC requires States to “take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse.” The CRC also requires States to recognize the right of every child to education (Article 28) and “to facilities for the treatment of illness and rehabilitation of health” (Article 24). The Optional Protocol to the Convention on the Sale of Children specifies particular forms of protection and assistance to be made available to child victims.

Additionally, the ILO’s Worst Forms of Child Labour Convention (Convention No. 182 of 1999) prohibits perpetrators from using children under 18 years of age for all forms of slavery or practices similar to slavery, trafficking, debt bondage, serfdom, forced or compulsory labour, and prostitution. Article 7(2)(b) and (c) requires States to take effective and timely measures to provide for the rehabilitation and social integration of former victims of the worst forms of child labour, including trafficking, as well as to ensure their access to free basic education, and, wherever possible and appropriate, vocational training.

## Instruments concerning Foreign Victims

Some instruments contain specific provisions for addressing the needs of foreign victims. Article 7 of the Palermo Protocol says States should consider potential measures for allowing foreign trafficking victims to remain, temporarily or permanently, in the state in which they were trafficked. The UN High Commissioner for Refugees (UNHCR) has noted that some people who have been trafficked or who are at risk of being trafficked may be entitled to international refugee protection under the Convention relating to the Status of Refugees (1951) and its 1967 Protocol if they have a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.

Article 8 of the Palermo Protocol deals with the possible repatriation of trafficking victims. It notes that when a State returns a victim it should do so with due regard for the safety of that person. Repatriation "shall preferably be voluntary." A person's right to return to his or her country of origin is affirmed by the International Covenant on Civil and Political Rights.

Additionally, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990) expands the rights of migrant workers and calls upon States to effectively protect their rights as reflected in article 68.

### Are these international instruments sufficient to combat trafficking?

While the international norms are clear, gaps still exist in the implementation. Although the Palermo Protocol calls for a comprehensive approach to combat trafficking, this approach has not been fully realized. Often times States attempt to address trafficking from only an immigration perspective or from a solely criminal perspective. States must recognize and implement all the international instruments to combat trafficking in order to ensure that the problem is dealt with to the fullest extent possible.

A human rights-based approach to addressing trafficking gives equal attention to prevention, protection, and prosecution. This victim-centred approach requires collaboration between legislators, prosecutors, law enforcement, service providers and other victim advocates.

### The work of OHCHR

OHCHR is at the forefront of combating trafficking through the application of a human rights-based approach. This approach was explicitly conceptualized in a "soft-law" document - the Recommended Principles and Guidelines on Human Rights and Human Trafficking. This text was presented to the United Nations Economic and Social Council as an addendum to the report of the High Commissioner (E/2002/68/Add.1). Additionally, OHCHR has developed a detailed Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking.

OHCHR provides support to the special procedures of the Human Rights Council relevant to trafficking and related violations of human rights, such as the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the sale of children, child prostitution and child pornography; and the Special Rapporteur on contemporary forms of slavery, including its causes and its consequences. Those mandates play an important role in promoting a human rights-based approach to addressing the violations falling under their mandates.

OHCHR also manages the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery, established in 1991 by the General Assembly. The Fund provides small-sized grants to victims of contemporary forms of slavery. It is estimated that 60% of the grants are awarded to victims of trafficking.

## Normative standards and further reading

- [The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children \("Palermo Protocol"\)](#)
- [ILO Conventions 29, 105, and 182](#)
- [The Recommended Principles and Guidelines on Human Rights and Human Trafficking](#)
- [Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking](#)
- [Convention on the Elimination of all Forms of Discrimination Against Women](#)
- [Convention on the Rights on the Child and its Optional Protocol on the sale of children, child prostitution and child pornography](#)
- [Convention relating to the Status of Refugees \(1951\) and its 1967 Protocol](#)
- [The Slavery Convention \(1926\) and its Supplement](#)
- [UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others \(1949\)](#)
- [Report of the United Nations High Commissioner for Human Rights to the Economic and Social Council](#)
- [ICAT Policy Paper: International Legal Frameworks Concerning Trafficking in Persons](#)