



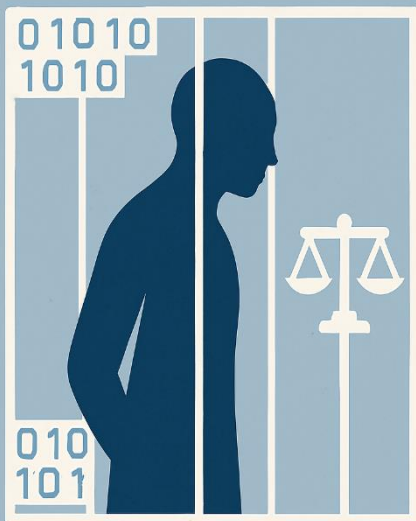
AGENCY OF STATE SUPPORT TO
NON-GOVERNMENTAL ORGANIZATIONS
OF THE REPUBLIC OF AZERBAIJAN



Enlightenment Public

Union "Ugur"

Elovset Allahverdiyev



NEW
CHALLENGES OF
COMBATING
HUMAN
TRAFFICKING IN
THE DIGITALIZED
WORLD

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Kitabda insan alverinin rəqəmsal elementləri ilə mübarizənin nəzəri-hüquqi və təcrübi məsələləri mövcud fikir müxtəlifliyi və bu istiqamətdə qəbul edilmiş beynəlxalq normalar, o cümlədən qabaqcıl milli təcrübələr əsasında təhlil edilmişdir.

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The book analyzes the theoretical-legal, and practical issues of combating digital elements of human trafficking based on the existing diversity of opinions and international norms adopted in this direction, including advanced national practices.

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Combating human trafficking is not only a legal issue, it is also a common challenge of human rights, social justice, and humanity.

Foreword

The book titled as “New Challenges in Combating Human Trafficking in the Digitalized World” examines the transformation of the legal and conceptual frameworks of the human trafficking phenomenon against the backdrop of rapidly evolving technological realities, digital innovations, and electronic communication networks. The book provides a scholarly analysis of the restructuring of efforts to combat human trafficking and the necessity of coherent legal responses to technological advancements. Particular attention is given to the manner in which international, regional, and national approaches have been shaped within this context.

The book explores how human trafficking is perpetrated through modern digital platforms and examines the legal, institutional, and technological mechanisms employed by states and international organizations to combat this crime, including the directions of their implementation and future development prospects.

Current global human trafficking indicators show that international organizations and leading states are unable to combat this issue fully effectively, demonstrating serious gaps at both the conceptual and practical levels.

Human trafficking has long been at the center of attention for international law experts; however, the emergence of more dangerous and novel digital elements in recent years has heightened

these concerns. In this regard, the book provides an in-depth analysis of how human trafficking is concealed within digital networks, the new methods employed by perpetrators, and examples of international solidarity in response.

The primary objective of this work is to offer legal professionals, researchers, and practitioners comprehensive and up-to-date knowledge on the subject of digital human trafficking. In preparing this book, extensive consideration has been given to both local and international practices, as well as to the analysis of existing legislation.

The content and structure of this book have been prepared in accordance with the general nature and specific characteristics of the subject matter of the research.

The first chapter analyses the traditional conceptual foundations and legal approaches to human trafficking. It examines both the historical development of this phenomenon and the new manifestations that have emerged in the modern era. Particular emphasis is placed on the new legal elements of human trafficking arising within the digital environment.

The second chapter is dedicated to universal and regional protection mechanisms. It provides a scholarly evaluation of the normative acts and initiatives of international organizations such as the United Nations, the European Union, and the Council of Europe, specifically in terms of their effectiveness in combating digital criminality. The chapter also highlights the necessity of adapting legal frameworks to meet the challenges by digitalization.

The third chapter acquaints the reader with specific state practices. It offers a detailed analysis of the mechanisms applied by

leading countries, such as the United States, the Kingdom of the Netherlands, Norway, and Australia, in combating digital human trafficking. In addition, it examines the national legislative framework and practical measures implemented by the Republic of Azerbaijan.

This book serves not only students, legal professionals, and the academic community, but also all employees of state institutions, human rights defenders, and specialists operating in the technological sphere. It is a valuable resource for a broad range of practitioners and stakeholders.

The book “New Challenges in Combating Human Trafficking in the Digitalized World” represents an important scholarly contribution, demonstrating the multidimensional nature of the fight against human trafficking in the 21st century. It aspires to serve as a roadmap for thought and policy in this field, and we are pleased to present this work to your attention.

We hope that this work will contribute to the development of new approaches in the fight against human trafficking in the name of social justice and sustainable development, as well as to the improvement of legal mechanisms. Understanding and supporting the fight against human trafficking — a common challenge of justice and humanity — in the interest of building a healthy society, is a duty incumbent upon us all.

We express our profound gratitude to the Agency of State Support to Non-Governmental Organizations of the Republic of Azerbaijan and to all individuals whose efforts contributed to the preparation of this book.

Author

INTRODUCTION

Digitalization, as the defining technological development of the 21st century, has fundamentally transformed not only economic and social relations but also the structure of transnational crime. These changes have created new opportunities for the commission of complex and multifaceted crimes such as human trafficking, while simultaneously giving rise to unconventional and increasingly sophisticated threats.

Traditional methods of exploitation have now assumed more covert, systematic, and harder-to-detect forms in the digital realm. The internet, social media platforms, cryptographic communication tools, darknet markets, and blockchain technologies provide human traffickers with new avenues for communication, financing, and victim identification. In this context, digital technologies serve a dual role: they are both employed in the commission of human trafficking offenses and offer potential tools for the detection, evidencing, and prevention of such crimes. This dual nature — the fact that digitalization functions both as a threat and a means of combating human trafficking — necessitates an analytical approach that integrates the perspectives and methodologies of various scientific disciplines.

Relevance of the problem and its manifestation forms. Human trafficking profoundly affects all aspects of the lives of its victims. Each stage of this crime may involve physical, sexual, and psychological violence and abuse, deprivation and torture, manipulation, economic exploitation, and inhumane living and

working conditions¹. Unlike most other violent crimes, human trafficking is typically accompanied by prolonged and repeated trauma.

Human trafficking is a phenomenon that has been reinforced by globalization and rendered increasingly complex through the advancement of technology. According to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000), this crime entails the exploitation of individuals against their will.

Traditionally, human trafficking was primarily characterized by the exploitation of migrants and socially vulnerable groups. However, in the modern era, technology has created new “hunting grounds” for traffickers, expanding the scope of this crime to encompass various segments of society.

The main forms of human trafficking facilitated by digitalization include:

- Recruitment methods targeting the exploitation of women and children through social media and online platforms, often disguised as modeling opportunities, job offers, or romantic relationships;
- The confidential nature and traceability challenges of payments conducted through cryptocurrencies, which hinder the detection of financial flows linked to human trafficking;

¹ United Nations Office on Drugs and Crime (UNODC). An Introduction to Human Trafficking: Vulnerability, Impact and Action. USA, New York, 2008, 140 p., p.9 https://www.unodc.org/documents/human-trafficking/An_Introduction_to_Human_Trafficking_-_Background_Paper.pdf

- The placement of advertisements related to organ trafficking on hidden layers of the internet, such as the Deep Web and Dark Net;
- Forms of digital exploitation, including blackmail through private images and virtual abuse such as “webcam trafficking”;
- The use of deepfake technologies to create false identities, thereby facilitating new and more sophisticated forms of exploitation as well.

Inadequacies of legal and institutional mechanisms.

The existing legal framework, both at the international and national levels, often fails to adequately respond to the challenges posed by digital human trafficking. Traditional legal instruments are primarily based on physical evidence, witness testimonies, and principles of territorial jurisdiction. However, digital human trafficking is characterized by the storage of evidence in cloud technologies, the use of anonymous IP addresses, blockchain-based transactions, and the involvement of virtual identities. These factors significantly complicate the work of investigative bodies and create substantial obstacles for the collection of evidence and the establishment of legal liability.

At the international level, organizations such as the United Nations, the Council of Europe, and Interpol have adopted various legal instruments and operational programs. Nevertheless, these tools frequently fail to keep pace with technological advancements. Similarly, at the national level, legal norms and mechanisms designed to establish the causal link between information technologies and human trafficking are either general in nature or prove ineffective in practical application.

Purpose and methodology of the scientific approach. The purpose of this book is to conduct a comprehensive analysis of the new manifestations of human trafficking in a digitalized world and the corresponding legal, technical, and institutional responses. The book focuses on three principal areas of analysis:

- the nature of the phenomenon: This section examines the impact of digitalization and technological transformations on the possibilities and methods of human trafficking

- legal mechanisms: The book analyzes the effectiveness and gaps within the existing international and national legal frameworks aimed at combating digital human trafficking;

- practical Solutions: It explores the application of artificial intelligence, technological innovations, big data analytics, and cybersecurity tools in the fight against human trafficking.

Within the framework of these analyses, normative legal documents, judicial practices, and technical reports have been utilized as primary sources. Ultimately, the book concludes that legal reforms alone are insufficient to ensure an effective fight against human trafficking in the digital age. This struggle represents a strategic confrontation where technology itself has become a tool of exploitation, and where digital crime poses a direct challenge to international cooperation. By offering a well-considered approach, the book aims to shed light on both the theoretical and practical dimensions of this pressing issue.

CHAPTER I. THEORETICAL-LEGAL ANALYSIS OF THE FIGHT AGAINST HUMAN TRAFFICKING

1.1. Traditional conceptual foundations of the term “human trafficking”

Throughout history, human trafficking has existed in various forms; however, in the modern era, it has emerged as a broader and more pressing problem.

As noted, this phenomenon is characterized by the violation of individuals’ rights, the restriction of their freedoms, their subjection to exploitation — whether economic, sexual, or otherwise — through means of coercion, deception, or other forms of pressure. The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, adopted in 2000, legally defines human trafficking as an act carried out for criminal purposes under conditions of poverty and violence.

It must be particularly emphasized that human trafficking, recognized as one of the global challenges of the 21st century, is not a unilateral criminal act but a systemic phenomenon encompassing complex social, political, economic, and ethical dimensions. At the international level, human trafficking violates an individual’s rights to freedom, movement, choice, and dignity, reducing the person to an object of economic interest. This analysis seeks to explore the conceptual aspects of human trafficking in a deeper and more systematic manner.

Human trafficking is a highly profitable crime based on the principles of supply and demand, exploiting a range of “push” and “pull” factors in both source and destination countries. There is a

continuous exploitation of victims in source countries, and a steady and growing demand for their services in destination countries. Organized criminal groups use these two factors for their own purposes².

Human trafficking does not solely encompass overtly identifiable crimes such as forced labor and sexual exploitation. Rather, it constitutes a complex criminal phenomenon, carried out for various motivations and, at times, through highly subtle and clandestine methods. The dual nature of human trafficking — being both widespread and concealed — significantly complicates its detection and prevention by law enforcement bodies and further hinders society's overall capacity to mount an effective response to this grave issue. Nevertheless, combating human trafficking remains one of the most pressing and paramount challenges of the modern era.

The history of human trafficking dates back to ancient times, particularly to the classical period. For instance, slavery and the trade in enslaved persons existed for centuries and were widespread practices across various civilizations. Within the social structures of Ancient Greece and the Roman Empire, as well as during the transatlantic slave trade from the 16th to the 19th centuries, individuals were forcibly relocated, sold for diverse purposes, and subjected to exploitation. During these periods, persons were primarily bought and sold for forced labor, sexual exploitation, and domestic servitude.

² İnsan alverinə qarşı mübarizə. Dərs vəsaiti, Beynəlxalq Miqrasiya Təşkilatı (BMqT). 2016, 166 s., s.59

https://azerbaijan.iom.int/sites/g/files/tmzbd11581/files/documents/HANDBOOK_AZ.pdf

It should be emphasized that in the modern era, human trafficking is no longer confined solely to the traditional concept of slavery. Since the second half of the 20th century, particularly following the Second World War, the forms of human trafficking have evolved, transforming into various new and more complex manifestations of violence, sexual exploitation, and labor exploitation. During this period, human trafficking increasingly acquired a transnational character and began to be carried out on an international scale by organized criminal groups. Simultaneously, the growing intervention of international organizations and human rights groups facilitated global discourse on the issue and contributed to strengthening efforts to combat human trafficking.

From the late 20th century onwards, the United Nations and other international bodies have adopted numerous legal instruments aimed at combating human trafficking. One of the most significant among these is the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), adopted in 2000. This Protocol addresses the prevention of human trafficking, the protection of victims, and the prosecution of offenders. It also envisages enhanced cooperation among States and the strengthening of mechanisms for the exchange of information.

Furthermore, international organizations such as the Council of Europe and the Global Centre for Combating Human Trafficking also play a vital role in this sphere. The proliferation of human trafficking and its broad-ranging social, economic, and political repercussions on a global scale have compelled the international

community to adopt concerted and coordinated measures against this crime.

The complex and multifaceted nature of human trafficking positions it not merely as a legal issue but also as a phenomenon intrinsically linked to broader social and economic structural problems. For this reason, a thorough examination of the subject provides readers with a more comprehensive understanding of the global impacts of human trafficking, its social dimensions, and the corresponding legal approaches. At the same time, the assessment of strategies applied at both national and international levels to combat human trafficking remains of significant academic importance.

The definition of human trafficking is set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, as follows:

“Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation”³.

1. Act: the recruitment, transportation, transfer, harbouring, or receipt of persons;

³ United Nations Office on Drugs and Crime. Legislative Guides for the Implementation of the United Nations Convention against Transnational Organised Crime and the Protocols Thereto. Vienna, 2004: UNODC, p.42

2. Means: the use of force, threat, deception, or psychological control;

3. Purpose: exploitation — whether for sexual purposes, forced labor, or organ trafficking.

As noted by the Australian legal scholar A.T. Gallagher, this structure comprehensively reflects the international definition and prevents vague or ambiguous defenses in domestic legislation, such as the alleged “consent” of the victim⁴.

The definition provided in the Palermo Protocol⁵ offers a functional mechanism for structuring the understanding of human trafficking. Nevertheless, it is important to note that this definition is primarily constructed upon a legal-conceptual approach. In its essence, human trafficking represents the process through which an individual loses their status as an autonomous being and is transformed into an object of economic or political exploitation. From a philosophical perspective, this constitutes a denial of Aristotle’s concept of “telos” — that is, depriving a human being of their inherent purpose, their path of self-development, and the opportunity for self-realization. In this light, human trafficking stands as a fundamental deprivation of freedom, contradicting the very nature of human existence and violating the essential purpose and meaning of human life⁶.

⁴ Gallagher A. T. *The International Law of Human Trafficking*, 2010, New York, Cambridge University Press, 596 p., p.14

⁵ United Nations Office on Drugs and Crime. *Legislative Guides for the Implementation of the United Nations Convention against Transnational Organised Crime and the Protocols Thereto*. Vienna, 2004: UNODC, p.42

⁶ Aristotle. *Nicomachean Ethics*. Translated by Terence Irwin, Hackett Publishing, 1999, pp.300, p.1177

Gallagher notes that the legal perspective on human trafficking should not be confined solely to technical definitions and legalistic concepts. Rather, this crime also possesses a normative dimension, meaning that it must be understood not merely as a violation of law, but as a manifestation of ethical and structural injustice. In this context, human trafficking should be regarded not only as an isolated criminal offence but as a broader assault on fundamental human dignity and rights, reflecting deeper societal and systemic failures⁷.

For a long period, the conceptual frameworks relating to human trafficking failed to reflect its normative depth. Instead, they explained the phenomenon primarily through the narrow and formalistic prisms of legal, social, and criminological approaches. These approaches regard human trafficking mainly as a legal violation and a crime directed against state security. This approach views human trafficking primarily as a violation of law and a crime against state security, but either ignores or only superficially addresses the structural causes of the phenomenon - **social injustice, economic exploitation, and gender inequality**.

From a historical perspective, approaches to human trafficking have been closely associated with the issue of slavery. The 1926 Convention on the Abolition of Slavery defines human trafficking as “the exercise of ownership rights over a person.” This definition equates the person, both legally and socially, to an object⁸. Within this model, human trafficking — particularly the sexual exploitation of women — has been equated with the so-called “white slave

⁷ Gallagher A. T. *The International Law of Human Trafficking*, 2010, New York, Cambridge University Press, 596 p., p.14

⁸ League of Nations, *Slavery Convention*, 1926, Article 1.

trade.” This term became widely recognized in public discourse to describe such practices⁹. Such an approach portrays women as passive victims in need of protection, denying them the rights to make decisions, to resist, and to exercise free choice¹⁰. This approach treats victims within legal and social protection systems solely as individuals who need to be “rescued.” It confines the fight against human trafficking to the mere prosecution of offenders. According to Gallagher, this approach fails to adequately consider the legal status of victims, the support provided to them, and their situation from a human rights perspective¹¹.

The traditional conception views human trafficking as a form of transnational crime and illegal migration. As a result, state policies often equate anti-trafficking measures with actions such as strengthening border controls, restricting visas, and deporting migrants¹². Professor Aradau criticizes this approach, noting that it presents the victim merely as a potential threat or a participant in illegal activity, without taking into account the victim’s rights¹³. As a result, victims of human trafficking are often re-traumatized within the law enforcement system. They are treated as “criminals” either during interrogations or throughout deportation procedures. Under this conception, human trafficking is viewed solely as a matter within the responsibility of law enforcement and state structures. The

⁹ Doezeema, J. “Loose women or lost women?”, *Gender Issues*, 18(1), 2000, p. 25–26.

¹⁰ Leidholdt, D. “Prostitution and Trafficking in Women”, in *Sexual Liberals and the Attack on Feminism*, 2003, pp. 140–143.

¹¹ Gallagher A.T. *The International Law of Human Trafficking*, Cambridge University Press, 2010, 596 p., pp. 55–57.

¹² Brysk A., Choi-Fitzpatrick A. *From Human Trafficking to Human Rights*, University of Pennsylvania Press, 2012, pp. 18–20.

¹³ Aradau C. *Rethinking Trafficking in Women*, Palgrave Macmillan, 2008, pp. 53–54.

role of non-governmental organizations, civil society, and international organizations remains either merely formal or entirely marginalized. The British scholar Kempadoo emphasizes that this approach complicates the rehabilitation and social integration of victims, as they are recognized only as legal objects within the system¹⁴. The legal system focuses solely on the legal consequences of human trafficking, namely the prosecution of offenders. However, the root causes of the phenomenon — poverty, illiteracy, and gender discrimination — often remain outside the scope of legal discussions.

From a legal perspective, this traditional model has long remained dominant. The 1949 Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others defined human trafficking solely as acts aimed at prostitution and did not address forms of exploitation beyond sexual exploitation¹⁵. The concept of the “victim” was applied exclusively to women. Until the adoption of the Palermo Protocol in 2000, the multifaceted and complex nature of human trafficking was not adequately reflected in international law. However, even after the adoption of the Palermo Protocol, in many states, legal practice and social perceptions continue to be influenced by the traditional model¹⁶. As a result, the traditional conceptual foundations of human trafficking present this phenomenon within the framework of criminal law, through the

¹⁴ Kempadoo K. *Trafficking and Prostitution Reconsidered*, Paradigm Publishers, 2005, pp. 67–68.

¹⁵ United Nations, *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, 1949.

¹⁶ United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol)*, 2000, Article 3(a).

prism of state security, and in a model that disregards the will and agency of the victim. Such an approach leads to ineffective outcomes in combating human trafficking both at the legal and social levels. It also demonstrates the necessity of adopting a human rights-based, structurally informed, and gender-sensitive approach for the effective resolution of this problem.

One of the key factors shaping the traditional approach is the fact that the problem of human trafficking has long been analyzed solely within the context of criminal law. Within this narrow framework, legal discourse has predominantly treated human trafficking as a threat directed against the state and society, while the legal status of the victim has either been completely overlooked or treated as a marginal element in legal analysis. As a result, the law has been applied not as a normative and protective tool, but rather as a mechanism of control and repression. The renowned scholar C. Smart, working in the fields of feminism and the sociology of law, emphasizes in this context that the law often portrays women and marginalized social groups not as subjects of protection but as “objects to be controlled,” thereby silencing them¹⁷.

Another important element of the traditional conception is its reliance on the rescue paradigm. This paradigm, in particular, is based on portraying female victims as passive individuals, waiting for assistance and lacking decision-making capacity. According to feminist critics, policies aimed at “rescuing” women from human trafficking, in reality, serve to reinforce a male-dominated system and justify the state’s interference in women’s private lives. Rather than providing protection, this approach strengthens control over

¹⁷ Smart C. *Feminism and the Power of Law*, Routledge, 1989, p. 45–49.

women's bodies¹⁸. Therefore, this approach leads to the perception that only those individuals who fit society's notion of the "ideal victim" are deemed worthy of legal protection. For example, a woman attempting to escape sexual exploitation is recognized and protected by the legal system as an "ideal victim." However, a woman who chooses to continue sex work due to economic necessity may be excluded from this status and consequently deprived of legal protection¹⁹.

As is evident, traditional approaches present human trafficking merely as an isolated criminal act, thereby overlooking the structural causes behind it. However, in the modern world, human trafficking is a complex phenomenon arising from deep inequalities in the global labor market, economic vulnerabilities in developing countries, gender-based violence, and the lack of transparency in legal systems. As the prominent American sociologist Kevin Bales emphasizes, modern forms of slavery — that is, human trafficking — are not merely cases of exploitation between individuals. Rather, they represent systemic patterns of exploitation that form an integral part of global capitalist relations²⁰. Thus, in order to understand human trafficking, it is not sufficient merely to identify and prosecute offenders. The deep economic, social, and ideological root causes of this phenomenon must also be analyzed.

Another significant problem is the absence of a clear and universally accepted legal definition of human trafficking. Although the Palermo Protocol was the first to provide a broad and

¹⁸ Outshoorn, J. Political Debates on Prostitution and Trafficking of Women // *Social Politics: International Studies in Gender, State & Society*, 12(1), 2005, pp. 159–162.

¹⁹ Kempadoo K. *Trafficking and Prostitution Reconsidered*, 2005, pp. 75–78.

²⁰ Bales K.. *Disposable People: New Slavery in the Global Economy*, 1999, pp. 22–29.

comprehensive legal definition of human trafficking, many states continue to rely on outdated concepts. This situation creates legal uncertainty and hinders the recognition of victims' status. Practices such as labor exploitation and forced marriage are still not recognized as human trafficking in many countries. As a result, victims are deprived of access to legal protection²¹. According to the traditional conception, human trafficking primarily occurs within interpersonal relationships — between the trafficker and the victim. However, modern research demonstrates that human trafficking is often the result of the activities of organized networks operating systematically. These networks exploit legal loopholes, corruption, and weak social protection systems to subject victims to exploitation.

Brysk and Choi-Fitzpatrick note that human trafficking is not merely a legal issue but also a matter of social responsibility. Strategies to combat it must involve not only legal systems but also education, social equality, and cultural change²².

Finally, traditional conceptual foundations often attempt to explain the causes of human trafficking through the notion of individual “choice.” Examples include the victim’s desire to migrate, search for employment, or make decisions in response to social pressures. However, behind these so-called choices often lie conditions imposed upon individuals at a structural level. These circumstances severely restrict a person’s genuine freedom of choice. Feminist scholar Jo Doezema points out that existing approaches to human trafficking and sex work fail to properly

²¹ Gallagher A.T. *The International Law of Human Trafficking*, 2010, pp. 85–87

²² Brysk A., Choi-Fitzpatrick A. *From Human Trafficking to Human Rights*, 2012, pp. 43–48.

understand the agency of the victim. These approaches portray the victim as a responsible actor while ignoring the factors that compel individuals to operate under harsh socio-economic and legal conditions²³. Thus, the victim is often portrayed as bearing responsibility, whereas in reality, the primary cause that places them in such a situation is the system itself.

These factors demonstrate that the traditional conceptual foundations of human trafficking, being primarily rooted in legal and crime-oriented approaches, fail to capture the full complexity of this phenomenon. The existence of legal norms alone is not enough to effectively combat human trafficking. This fight also requires the formation of a broad and multifaceted conceptual framework that encompasses social, economic and human rights aspects. Otherwise, the legal system will become a mere formal, normative instrument of intervention, and human trafficking will continue to exist hidden among the deep-rooted problems of society.

It should also be noted that the traditional conceptual foundations of human trafficking are primarily based on **five models**. Among them, one of the oldest and most fundamental is **the slavery-based model**, which equates human trafficking with slavery. This model explains human trafficking through the sale and exploitation of a person as the property of another. According to the slavery-based model, human trafficking is an act of depriving a person of freedom through their sale and exploitation. It thereby presents human trafficking as a modern form of slavery²⁴.

²³ Doezema J. Loose women or lost women? // *Gender Issues*, 18(1), 2000, pp. 28–30.

²⁴ Bales K. *Disposable People: New Slavery in the Global Economy*. University of California Press, 1999, pp. 22–29

Historically, slavery was established as a social and legal institution in ancient legal systems, including Roman law, where individuals were recognized as property. Thus, the slavery-based model analyzes human trafficking within a legal and historical context, particularly through the concept of ownership over a person.

The 1926 Convention on the Abolition of Slavery defined slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” This Convention formalized the legal foundations of this concept²⁵. It led to the recognition of human trafficking in its slavery form as not merely a crime, but as a form of systemic exploitation that violates human dignity. This legal framework became one of the first international foundations in the fight against human trafficking. Over time, the forms of human trafficking have evolved and have diverged from classical slavery. In the modern era, human trafficking is carried out not only through physical restrictions and legal ownership but also through debt bondage, sexual exploitation, forced labor, and other forms of social coercion. Although the slavery-based model has sought to adapt to these new forms, some scholars criticize the model’s traditional and limited perspective. They argue that it fails to adequately account for the social structural factors such as economic causes, gender relations, and migration policies that underpin modern human trafficking²⁶.

The 2000 Palermo Protocol provided a broader legal framework for defining human trafficking. This instrument

²⁵ United Nations. Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000, article 3.

²⁶ Aradau C. Rethinking Trafficking in Women. Palgrave Macmillan, 2008, pp. 50–55.

identified exploitation as the primary criterion and defined human trafficking not solely through the lens of ownership and physical violence, but also through the means used to subject the victim to exploitation — such as threats, coercion, deception, and other methods. This approach aimed to eliminate the outdated elements of the slavery-based model that no longer met modern legal and social realities. It also paved the way for the creation of more effective mechanisms in international law to combat human trafficking²⁷.

One of the strengths of the slavery-based model is that it emphasizes the severity of the physical and psychological exploitation suffered by victims of human trafficking. This model highlights how victims lose their personal will and live under the control of exploiters. It also provides justification for the establishment of legal and social protection mechanisms. However, this model does not sufficiently account for the victim's capacity for agency or decision-making regarding their own life and portrays victims solely as passive individuals. This demonstrates that the slavery-based model does not fully encompass the social, economic, and gender contexts of human trafficking. Its focus on physical violence and legal restrictions often leads to the neglect of issues related to social justice and equality. Therefore, to combat human trafficking effectively in the modern era, this model needs to be complemented by other perspectives, such as feminist, economic, and migration approaches.

²⁷ Gallagher A.T. *The International Law of Human Trafficking*. Cambridge University Press, 2000, 596 p., pp. 40–45

In conclusion, the slavery-based model remains an important theoretical framework that underpins the legal and traditional conceptual understanding of human trafficking. It strongly condemns the violation of human freedom and dignity from a legal standpoint and has contributed to the development of normative foundations on human trafficking within international legal systems. However, the complex and multifaceted nature of human trafficking demonstrates that this model alone is insufficient and must be applied in combination with other models.

As previously noted, the slavery-based model analyses human trafficking in the context of physical, psychological, and legal control over an individual against their will, framing it as a form of de facto ownership. In this model, human trafficking is understood as the unofficial but real exercise of “property rights” over a person. With the acceleration of digitalization, this traditional slavery model has become even more complex. Physical control has been replaced by new forms of digital control. Victims of human trafficking are no longer confined solely to physical environments. Their movements, contacts, and psychological states are continuously monitored through geolocation tracking systems, spyware on mobile phones, surveillance and blackmail on social media platforms.

Through digital technologies, victims’ identities are hijacked, and their online representations are manipulated without their consent. Fake profiles are created in their names, and photos or videos are distributed for exploitation purposes. Personal data may be exposed and turned into tools of “digital blackmail” (digital fraud). These practices are particularly prevalent in cases of sexual exploitation. Victims’ bodies, personal images, and digital footprints

are commodified, sold, and shared in virtual marketplaces. Thus, digital tools render modern slavery more invisible and harder to trace, as control is no longer exercised over the body but over **data, images, and identity**²⁸.

Furthermore, the misuse of artificial intelligence algorithms and advanced DeepFake technologies has elevated this model to a new level of threat. Today, images and likenesses resembling a victim's body or face can be artificially created. As a result, even if the victim has not been subjected to actual physical exploitation, **they may be portrayed as having been exploited within a digital reality**. This significantly complicates both the victim's social rehabilitation and their access to legal protection. Moreover, it establishes a continuous mechanism of psychological control over the victim²⁹.

The second approach, which holds an important place in the analysis of the legal aspects of human trafficking, is **the criminal law model**. This model considers human trafficking to be a serious criminal act under both international and national legal systems. It focuses on the prevention of the crime, the identification of offenders, their prosecution, and punishment³⁰. According to the criminal law model, the victim of human trafficking is regarded as a person in need of legal protection, whereas the trafficker is viewed

²⁸ Latonero, M. Human Trafficking Online: The Role of Social Networking Sites and Online Classifieds // USC Annenberg Center on Communication Leadership & Policy., 2011, p.11. <https://communicationleadership.usc.edu/pubs/human-trafficking-online/>

²⁹ Europol. Digitalisation of Trafficking in Human Beings. European Union Agency for Law Enforcement Cooperation, 2021, p.18. <https://www.europol.europa.eu/publications-documents/digitalisation-of-trafficking-in-human-beings>

³⁰ Gallagher A.T. The International Law of Human Trafficking. Cambridge University Press, 2010, p.95

as a perpetrator who must be punished for violating the law. This model justifies and prioritizes the role of law enforcement agencies, particularly the police, prosecution authorities, and courts, in the fight against human trafficking³¹.

It should be noted that the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted by the United Nations in 2000, formally recognizes human trafficking as a criminal act and imposes obligations on States to prosecute offenders, protect victims, and strengthen international cooperation. At the same time, this instrument legally encompasses various forms of human trafficking, including forced labor, forced prostitution, domestic servitude, and other forms of exploitation³². The criminal law model focuses on the institutional strengthening of law enforcement systems and the establishment of effective mechanisms for the investigation of criminal cases in the fight against human trafficking. This is of particular importance for identifying and bringing to justice the criminal groups involved at various stages of the human trafficking chain. The organization of law enforcement activities, the provision of professional training, and the promotion of international cooperation are among the core priorities of this model.

Nevertheless, there are certain shortcomings in the application of the criminal law model. It is about that this model views human trafficking solely as a crime and a legal violation, failing to give sufficient consideration to the social, economic, and psychological

³¹ Shelley L. Human Trafficking: A Global Perspective. Cambridge University Press, 2010, p.183

³² United Nations Office on Drugs and Crime (UNODC). An Introduction to Human Trafficking, 2008, pp. 7-9

factors underlying the phenomenon³³. As a result, the protection of victims becomes dependent on the criminal prosecution process, and their social reintegration and psychological support are often inadequately ensured. In some cases, the activities of law enforcement agencies are more focused on the apprehension of offenders rather than the protection of victims, causing the full safeguarding of the human rights of victims to be relegated to the background. Furthermore, the tendency of law enforcement agencies to regard victims of human trafficking merely as “witnesses related to a crime” prevents the prioritization of their rights and negatively affects their social integration and rehabilitation process. This, in turn, creates additional challenges for the long-term protection of victims and the improvement of their living conditions.

Proponents of the criminal law model emphasize that effective combat against human trafficking is impossible without the prosecution of offenders and the transparent conduct of legal proceedings. The strengthening of law enforcement agencies, the prompt investigation of criminal cases, and the enhancement of international cooperation play a key role in disrupting human trafficking networks. This approach also ensures that states fulfill their international obligations and facilitates the elimination of legal gaps related to human trafficking.

In conclusion, the criminal law model forms the foundation of legal measures against human trafficking and prioritizes the activities of law enforcement systems. However, given the

³³ Aradau C. *Rethinking Trafficking in Women*. Palgrave Macmillan, 2008, pp.59

complexity of human trafficking as a socio-philosophical problem, this model must be applied in conjunction with social and economic approaches. Broader measures must be taken to ensure the protection and reintegration of victims' rights. Thus, the criminal legal model constitutes an important part of a comprehensive and effective fight against human trafficking, but it should not be implemented alone, but in a comprehensive manner.

The criminal law model primarily regards human trafficking as an individual violation of rights and envisages the use of substantive and procedural criminal law tools for the punishment of such violations. This approach views the subjects of human trafficking — namely, the offenders and the victims — as the principal actors in legal relations, and defines the core functions of law enforcement agencies as investigation, evidence gathering, and the application of punitive measures. However, the rise of digitalized criminal behaviors significantly undermines the effectiveness of this model.

Through digital technologies, perpetrators of human trafficking utilize anonymity, encrypted communication tools, VPN technologies, cryptocurrencies, and darknet platforms to evade the control of law enforcement agencies. This substantially reduces the effectiveness of traditional legal mechanisms, such as identifying IP addresses, accessing server data, and conducting personal identification³⁴. As a result, national legal systems face significant difficulties in addressing cross-border, intangible, and network-

³⁴ Europol. Digitalisation of Trafficking in Human Beings. European Union Agency for Law Enforcement Cooperation., 2021, p.23. <https://www.europol.europa.eu/publications-documents/digitalisation-of-trafficking-in-human-beings>

based forms of crime. This reality necessitates the recalibration of legal jurisdictions through enhanced transnational cooperation. At the same time, law enforcement systems are gaining new capabilities in investigation and risk forecasting through the use of digital tools such as artificial intelligence (AI), big data, algorithmic analysis, and predictive policing systems. For example, automated detection of suspicious activities on social networks, network analysis, and behavioral forecasting allow human trafficking networks to be identified in a timely manner. However, these technologies also give rise to serious legal and ethical risks. Key concerns include violations of the right to privacy, unauthorized data processing, discrimination, and biased outcomes. These issues are widely recognized as the main legal and ethical challenges associated with the application of such tools³⁵. All of this demonstrates that the criminal law model requires structural reform in light of the new risks and opportunities arising from the digital environment. The legal system must not remain confined solely to a punitive function. Rather, it should transform into a model that recognizes the architecture of digital crime and applies a comprehensive, technologically-informed legal approach to combat it.

In the conceptual analysis of human trafficking, one of the notable approaches, particularly reflected in social and cultural discourse, is **the moral panic model**. This model was first introduced by Stanley Cohen, who explained the process by which society perceives certain social groups as threats and turns them into

³⁵ Latonero M. Technology and Human Trafficking. USC Annenberg Center on Communication Leadership & Policy, 2012, p.17.

<https://communicationleadership.usc.edu/pubs/technology-human-trafficking/>

public enemies. In the context of human trafficking, this model highlights how media influence and public opinion contribute to the symbolic portrayal of certain victims or perpetrators. It also illustrates how the issue is often exaggerated within an emotional framework, prompting politicians to respond with populist legal measures based on this societal panic. According to this approach, human trafficking is presented primarily as a serious threat to the values, norms, and cultural structures of society. It is interpreted as a social problem that provokes moral panic within the wider public³⁶. The roots of this model trace back to the mid-20th century, particularly to the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. This model is also closely linked to the concept of "white slave trade" that emerged during the same period³⁷. Within this approach, human trafficking — particularly in the sphere of sexual exploitation — is portrayed as a fundamental threat to patriarchal moral values, the institution of the family, and sexual purity³⁸. The moral-cultural model depicts the victims of human trafficking, especially women, as passive individuals in need of protection, both socially and morally, as noted above. This approach tends to diminish the legal and social agency of victims, keeping them permanently in the "victim" status. Rather than focusing on the protection and empowerment of victims' rights, it seeks to place

³⁶ Cohen S. *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*. Routledge, 1972, pp. 9-14

³⁷ United Nations. *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*, 1949

³⁸ Aradau C. *Rethinking Trafficking in Women: Politics out of Security*. Palgrave Macmillan, 2008, pp.23-28

them under patriarchal guardianship and control³⁹. One of the core ideological demands of this model is the “protection of women from danger” by society, which, in practice, often serves to limit women's own choices and weaken their opportunities for social participation.

Feminist scholars criticize the moral-cultural model as reinforcing patriarchal and paternalistic structures. They argue that this approach ultimately leads to the restriction of women's legal, social, and economic independence. Within this model, human trafficking — particularly the so-called "white slave trade" — is presented as a distinct problem, which in turn leads to the oversimplification of trafficking-related issues. As a result, the model often ignores other forms of trafficking, such as forced labor, child exploitation, and male victimization.

The stereotypes inherent in this approach and the narrow categorization of victims hinder a proper understanding of the complexity of human trafficking. In social theory, the concept of "moral panic" lies at the heart of this model. Social panics typically arise from widespread public anxiety and fear around a specific event or phenomenon. This often leads to the oversimplified and emotional portrayal of complex, multifaceted social problems such as human trafficking.

The media and certain political actors tend to present human trafficking as a broader moral crisis. In doing so, they often obscure the true nature of the problem and reinforce public stereotypes. This, in turn, may result in the tightening of legislation, the expansion of powers for police and other law enforcement bodies, and the neglect

³⁹ Agustin L. M. *Sex at the Margins: Migration, Labour Markets and the Rescue Industry*. Zed Books, 2007, p.45

of victims' rights. One of the main criticisms of this model is its failure to adequately ensure the legal and social protection of trafficking victims. Because the moral-cultural approach portrays victims as passive, defenseless objects, their agency and participation are marginalized. This creates serious obstacles to establishing the conditions necessary for the social reintegration and rehabilitation of victims.

In conclusion, the moral-cultural model portrays human trafficking as a serious moral transgression and a threat within a social and cultural context. It views trafficking as a danger to the moral fabric and values of society. While this approach may contribute to raising public awareness and garnering social support for anti-trafficking efforts, its patriarchal and paternalistic⁴⁰ tendencies lead to significant shortcomings in ensuring the legal and social protection of victims. For an effective and inclusive fight against human trafficking, the moral-cultural model must be applied in a balanced manner alongside other legal, social, and gender-based approaches.

The process of digitalization has further deepened this moral panic by enabling information to spread rapidly and to a wide audience through social media and other digital platforms. While personal stories of victims or exploitation videos circulated on social media may have an educational and awareness-raising function, they also tend to generate waves of reaction driven by fear, hatred, and emotional manipulation. As a result, policies addressing human

⁴⁰ This term refers to a situation in which an individual, a state, or an institution makes decisions on behalf of others and, under the pretext of protection, restricts their independence and autonomy.

trafficking risk being shaped not on the basis of evidence, but rather in response to emotional resonance. Such reactions are often rooted in gender and racial stereotypes, further distorting the development of sound and effective strategies in this field⁴¹. In the digital space, the phenomenon of “clickbait moral panic” surrounding human trafficking often obscures the objective realities of victims' situations. Instead of focusing on the real needs of victims, it generates legal and administrative responses rooted in fear-driven narratives (an opinion or point of view formed around a certain event or topic). For example, in some countries, media coverage of human trafficking in digital environments is predominantly centered on sexual exploitation. This focus leads to the invisibility of other forms of exploitation, such as forced labor and other categories of victims, which remain overlooked in public discourse and policy responses⁴².

Furthermore, in some cases, governments exploit this digital moral panic to legitimize surveillance technologies, tighten border control policies, or increase migration restrictions. As a result, digitalization serves not only as a medium for information but also as a generator of discourses that shape normative and ethical frameworks in the fight against human trafficking. When these discussions are one-sided and sensationalized, legal and social measures tend to target moral anxieties rather than addressing the underlying structural causes. Thus, the moral panic model manifests in the digital context with greater speed, influence, and at times,

⁴¹ Doezema J. *Sex Slaves and Discourse Masters: The Construction of Trafficking*. Zed Books, 2010, p.20

⁴² Zimmerman C., Kiss, L. Human trafficking and exploitation: A global health concern. *PLoS Medicine*, 14(11), p. 320. <https://doi.org/10.1371/journal.pmed.1002437>

greater potential for distortion. For this reason, digital awareness campaigns and policymaking in the field of human trafficking must be grounded in critical media literacy, evidence-based approaches, and trustworthy, human rights-centered discourse.

One of the important approaches in the conceptual explanation of human trafficking is **the gender-based model**. This model interprets human trafficking as a planned and systematic crime predominantly targeting women and emphasizes the issue of exploitation precisely because the majority of victims are women. **The gender-based model explains** human trafficking as a consequence of gender-based social hierarchies and patriarchal structures. According to this approach, the fact that the overwhelming majority of human trafficking victims are women and girls is not coincidental. Rather, it is a direct result of the social, cultural, and economic systems that systematically exploit the female body and female labor.

Existing **gender-based violence, sexual objectification, economic dependence, and the lack of adequate legal protection** make women prime targets for human trafficking networks. The core philosophical and theoretical foundation of **the gender-based model** asserts that human trafficking should be understood not merely as a crime but also as a phenomenon shaped and sustained by social and cultural gender relations. This approach argues that patriarchal structures, gender-based violence against women, and women's socio-economic dependency are both causes and consequences of human trafficking⁴³. The spread of this model accelerated

⁴³ Raymond J. G. Prostitution on Demand: Legalizing the Buyers as Sexual Consumers. *Violence Against Women*, 10 (10), Sage Publications, 2004, p.117

particularly from the 1990s onward, influenced by the rise of second-wave feminism and the growing prominence of the human rights discourse. On a global level, the development of international mechanisms for the protection of women's rights — for example, the 1993 Declaration on the Elimination of Violence Against Women⁴⁴ — created a legal and normative foundation for recognizing human trafficking as a form of violence against women. Additionally, the Committee on the Elimination of Discrimination Against Women (CEDAW) and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the 2000 Palermo Protocol) have also given special attention to gender-related issues within the context of combating human trafficking.

According to the gender-based model, the fact that women constitute the primary victims of human trafficking is not coincidental. Rather, it is a direct consequence of gender-based social and economic structures. Key factors within this analysis include the gendered division of labor, women's high level of participation in the informal economy, lack of access to education, domestic violence, and the absence of political authority or representation for women. All these factors play a crucial role in shaping women's vulnerability to trafficking, as identified within this model⁴⁵. In this sense, the gender-based model views human trafficking not as an isolated act, but as an expression of systemic social inequalities. However, there are certain theoretical and

⁴⁴ United Nations. Declaration on the Elimination of Violence Against Women. 2004, A/RES/48/104.

⁴⁵ Kempadoo K., Sanghera, J., Pattanaik B. Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights. Paradigm Publishers, 2005, p. vii–ix

practical limitations to the application of this model. One of the most significant criticisms is that the gender-based model often fails to adequately address other forms of trafficking and categories of victims — in particular, men, children, non-binary individuals, and LGBT+ persons. These groups frequently fall outside the primary focus of this approach, which tends to center predominantly on the experiences of women⁴⁶. The central focus on sexual exploitation and the portrayal of women as the dominant victim archetype has led to less visibility of other forms of human trafficking — such as labor exploitation, forced begging, organ trafficking, and forced marriage. This imbalance can result in unequal protection under legal and social support mechanisms.

Moreover, the model is criticized for portraying women as passive subjects in need of protection, thereby overlooking their agency, including their capacity for choice and resistance. Feminist anthropologists and postcolonial scholars, such as Laura María Agustín, have introduced the concept of the “rescue industry”, arguing that some aid programs, by continually reconstructing women as victims, undermine their autonomy and diminish their ability to make decisions regarding their own lives. This approach may hinder victims’ reintegration into society and obstruct their psychosocial empowerment. Nevertheless, the gender-based model has contributed significantly to legal and institutional reforms in the fight against human trafficking. Thanks to this model, various programs for the protection of women’s rights have been established,

⁴⁶ Agustín L. M. *Sex at the Margins: Migration, Labour Markets and the Rescue Industry*. Zed Books, 2007, pp. 45-47

including shelters, legal aid centers, and social support mechanisms. Opportunities for education and employment for women at risk of exploitation have been expanded. At the same time, the exposure and critique of gender inequality and patriarchal norms as root causes of human trafficking are considered among the model's most important contributions.

Digitalization has both reinforced the core tenets of this model and introduced new forms of exploitation against women, such as online violence, sexual blackmail, and digital surveillance over women's bodies, necessitating a more complex and technologically informed approach to gender-based analyses of human trafficking. On the one hand, digital tools and online platforms have transformed both the scale and nature of exploitation targeting women. Specifically, pornographic websites, online escort services, harassment and blackmail on social networks, and deepfake technologies have facilitated the unauthorized use of women's bodies and identities in virtual spaces⁴⁷. This demonstrates that human trafficking has transitioned into digital forms and that exploitation is no longer confined to the physical environment alone.

On the other hand, digitalization also creates significant opportunities in the struggle for gender justice. Online awareness campaigns, exposure movements on social media (such as #MeToo), and the activities of digital feminist networks have made the issues of human trafficking and exploitation of women more visible and subject to broader public discourse. These campaigns drive tangible

⁴⁷ Powell, A., Stratton, G., Cameron, R. *Digital Criminology: Crime and Justice in Digital Society*. Routledge, 2022, p.88

changes in legal reforms and public policies aimed at the protection of women⁴⁸.

In addition, digital technologies make it possible to deliver psychological support, legal assistance, and educational information to female victims in a faster and safer manner. Online legal services, anonymous complaint platforms, and emergency alert applications (panic button apps) facilitate women's ability to seek help in moments of danger and to find ways out of exploitation. These tools also allow women to gain the opportunity to express themselves or make decisions in a digital agency environment to escape patriarchal control relationships. However, to fully benefit from these opportunities, counter-trafficking measures aimed at addressing gender-based human trafficking must not be limited solely to digital tools. Efforts must also target the structural causes that generate gender-based violence. Legal frameworks ensuring the safety of women in digital spaces, oversight of technology companies, and awareness-raising policy grounded in gender equality are essential steps in this direction.

Another important approach in the conceptual understanding of the phenomenon of human trafficking is **the migration and border security model**. This model analyzes human trafficking primarily in the context of international borders and global migration processes, linking it to border security, irregular migration, and human smuggling. According to this approach, human trafficking is not merely an isolated criminal act but a systematic problem closely

⁴⁸ Mendes K., Ringrose J., Keller J. *Digital Feminist Activism: Girls and Women Fight Back Against Rape Culture*. Oxford University Press, 2019, p.64,

connected to globalized labor and migration markets, border regimes, and the sovereignty policies of states⁴⁹.

The core premise of this model is the direct connection between human trafficking and irregular, dangerous migration routes. In such circumstances, migrants become increasingly dependent on informal intermediaries, including traffickers. From the perspective of the migration and border security approach, human trafficking is often explained as a consequence of insufficient border control and the proliferation of illegal migration routes. Within this framework, victims are sometimes no longer perceived strictly as “victims.” Instead, they may be labelled as “dangerous migrants” or as individuals violating migration laws⁵⁰. The legal and institutional foundations of this model are primarily based on measures such as strengthening state border controls, tightening visa regimes, implementing deportation policies, and regulating the status of migrants. Within this framework, anti-trafficking efforts are frequently removed from the context of human rights and instead reframed within the contexts of state security and sovereignty. As a result, victims of human trafficking are at times perceived not as individuals in need of protection but rather as subjects to be controlled and managed. This perception often leads to their exclusion from adequate legal protection and social support mechanisms. Moreover, this model emphasizes the connection between migration and labor markets. As highlighted in studies by the International Labour Organization (ILO), the lack of legal status

⁴⁹ Shelley L. Human Trafficking: A Global Perspective. Cambridge University Press, 2010, pp.44-48

⁵⁰ De Genova N. Migrant “Illegality” and Deportability in Everyday Life. *Annual Review of Anthropology*, 31, 2002, p.423

for migrant workers, weak enforcement of labor rights, and the absence of formal documentation significantly increase vulnerability to human trafficking⁵¹. This issue is particularly acute for women and migrant workers employed in informal sectors. Nevertheless, like other approaches, this model has been subject to significant criticism. One of the primary criticisms is that the border security approach relegates the human rights and social needs of victims to a secondary position, often perceiving them primarily as immigration offenders or social burdens. This perception leads to the stigmatization⁵² and silencing of victims and, in some cases, to their further exploitation at the hands of law enforcement authorities themselves. Moreover, strict border regimes may unintentionally drive traffickers to resort to more covert and dangerous routes, thereby reducing victims' access to rescue mechanisms. Despite these shortcomings, this model also provides states with a significant legal framework. For instance, cross-border cooperation in information exchange, joint operations, agreements on migration flow management, and coordination mechanisms are practical outcomes of this approach. Through strict migration policies, states may succeed in complicating the operations of trafficking networks. However, such measures simultaneously increase the risk of violating the rights of migrants.

As a result, the migration and border security model analyzes human trafficking within the framework of transnational crime and global migration policy. While this approach emphasizes the

⁵¹ Andrees B., Van der Linden M. Designing Trafficking Research from a Labour Market Perspective: The ILO Experience. *International Migration*, 43(1–2), 2005, pp.79-80

⁵² This term refers to the process by which an individual or a group becomes negatively labeled, stigmatized, and subjected to discrimination within society.

importance of border security and migration control in the fight against human trafficking, it does not comprehensively address the legal, social, and psychological rehabilitation of victims. Therefore, this model should not be applied solely through a law enforcement perspective but should be complemented by human rights, gender-based, and social protection models within an interdisciplinary framework. Only in this way can an effective, humane, and sustainable response to human trafficking be achieved.

The migration and border security model primarily links human trafficking to irregular migration and identifies the strengthening of borders, document checks, and the improvement of international migration control mechanisms as priorities in preventing this phenomenon. This approach highlights the particular vulnerability of individuals without legal status or documentation in the emergence of human trafficking⁵³. Digitalization plays a dual role within this model. On the one hand, biometric control systems, digital databases, and artificial intelligence-based identification technologies at borders enable more effective monitoring of migration flows and suspicious activities. This allows states to strengthen border control, identify potential human trafficking risks in advance, and expedite the identification of victims⁵⁴. On the other hand, the informal and unregulated use of digital technologies—such as platforms producing fake documents, online forums promoting illegal migration channels, and fraudulent job advertisements—provides human trafficking networks with opportunities to

⁵³ Achilli L. Human Smuggling and Trafficking in Times of Crisis: The Case of the Mediterranean // *Anti-Trafficking Review*, (10), 2018, p.70

⁵⁴ UNODC. Toolkit for mainstreaming human trafficking within migration and border management. United Nations Office on Drugs and Crime, 2021, p.59

circumvent legal systems. In particular, social media and messaging applications accelerate the recruitment process by exploiting the migration aspirations of potential victims. For example, in some cases, fraudulent migration consultants deceive victims by promising them legal employment and residence permits, ultimately subjecting them to exploitation⁵⁵.

Moreover, gaps in digital identification systems, particularly in relation to undocumented individuals, result in their inability to access legal and social services. In such circumstances, these individuals become even more vulnerable to exploitation by human trafficking networks, as their access to legal protection and the means to assert their rights is severely limited. Thus, while digitalization enhances border security and victim protection mechanisms on the one hand, it simultaneously allows human trafficking processes to become more "invisible" and transnational through digital manipulation and informal technological channels on the other.

For this reason, within the migration and border security model, the role of digitalization should not only be viewed as a tool for technological empowerment but also as a new risk area requiring regulation. Strengthening digital identification systems for undocumented persons, providing them with safe and transparent migration pathways, and establishing strict oversight over the online migration consultancy sector are essential elements for the digital transformation of this model.

⁵⁵ Latonero M. Human Trafficking Online: The Role of Social Networking Sites and Online Classifieds // Center on Communication Leadership & Policy, University of Southern California, September 1, 2011, p. 25
SSRN: <https://ssrn.com/abstract=2045851> or <http://dx.doi.org/10.2139/ssrn.2045851>

1.2. Classic legal aspects of the fight against human trafficking

Human trafficking, as one of the most complex and globally significant problems of the modern world, remains a major focus of both international law and the social sciences. Victims of human trafficking, particularly women, children, and other socially vulnerable groups, are systematically subjected to exploitation and rights violations, becoming commodities in trafficking networks.

Conceptually, human trafficking consists of three core elements — act, means, and purpose.

1. Act (action) - this refers to the recruitment, transportation, transfer, harbouring, or receipt of persons. These are actions undertaken to bring individuals into a situation of trafficking. The Act component may include:

- **recruitment** – identifying individuals to become victims and persuading them towards exploitation;

- **transportation** – moving victims from one place or country to another;

- **transfer** – passing control or responsibility over the victim to another trafficker;

- **harbouring** – providing a location for holding victims, often in conditions conducive to exploitation;

- **receipt** – acquiring victims directly or indirectly.

means - refers to the use of force, fraud, or coercion to achieve this. This refers to methods used to control or manipulate victims. It may include:

- **force**: physical violence or threats of violence;

- **fraud**: deceiving victims about the nature of the situation;

- coercion: using psychological pressure, manipulation, or threats to control victims;

- abduction: taking a person against their will;

- abuse of power or vulnerability: exploiting a person's immigration status, financial hardship, or lack of social support.

Ultimately, the main purpose of human trafficking is exploitation; this can manifest itself in sexual exploitation, forced labor, and other forms of forced service:

- Sexual exploitation: prostitution, forced sexual acts, or other forms of sexual abuse;

- Forced labour: compelling someone to work against their will, often under exploitative conditions and without appropriate compensation;

- Slavery or slavery-like practices: including forced servitude, debt bondage, and other forms of coerced labour;

- Organ removal: trafficking for the purpose of organ harvesting;

- Forced criminality: compelling individuals to engage in activities such as pickpocketing, drug trafficking, or other criminal acts.

Understanding the depth and persistence of human trafficking requires an analysis that extends beyond the legal perspective to also consider social, economic, and ethical dimensions.

Limiting the explanation of human trafficking solely to legal or social aspects fails to capture its full range of causes and consequences. Therefore, a comprehensive, multidisciplinary conceptual approach is necessary. A systematic analysis of the conceptual elements of human trafficking is essential both for

accurately identifying its theoretical nature and for effectively guiding practical prevention strategies. To this end, the various conceptual components of human trafficking must be examined separately to provide a clearer understanding of its multidimensional character.

Legal aspect

As noted above, human trafficking is not only a criminal category but also a systematic violation of human rights. Although its legal nature has long been primarily framed within criminal law, in recent years there has been growing attention to the deeper structural causes and legal consequences of this phenomenon. Increasingly, legal scholars, sociologists, and human rights activists argue that human trafficking is not merely a crime committed by individuals but is also a reflection of systemic violence embedded in the social, political, and economic structures of society. This approach raises important questions about what the law should target in combating human trafficking: should it focus solely on punishing perpetrators, or also on addressing the social and institutional factors that enable or ignore this crime?

Traditionally, legal approaches have treated human trafficking as a matter of criminal law. The 2000 UN Palermo Protocol supplementing the UN Convention against Transnational Organized Crime codified this approach at the international level. According to this instrument, human trafficking is defined as the recruitment, transportation, transfer, harbouring, or receipt of persons for the purpose of exploitation through means such as force, threats,

deception, and other methods⁵⁶. In this understanding, human trafficking is presented as a violation of the law by specific individuals or groups, and the protector of the law is the state itself. The legal system acts here as a passive and neutral instrument: the law is violated, the violator is punished, and the law is restored. In this model, the application of law is mainly repressive, that is, punitive measures are taken against the violation and legal stability is attempted to be restored, but this legal framework cannot explain the social roots and continuity of human trafficking. If human trafficking is only an individual act, why does this act occur continuously and consistently within the same structures? Why is this type of crime mainly directed against women, migrants, the poor, ethnic and religious minorities? These questions show that human trafficking is not just a violation of the law, but also that the law itself is sometimes part of a violent structure.

For example, the concept of “structural violence”⁵⁷ was first introduced by Johan Galtung. Violence should be understood as a process that is not only physical, but also carried out through institutional and social relations⁵⁸. In this understanding, law can sometimes become a means of legitimizing exploitation, instead of fulfilling its necessary function - ensuring justice.

⁵⁶ United Nations. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000. Article 3, p. 2.

⁵⁷ insanlara birbaşa zərər verilməyə də, onların təhsil, səhiyyə, təhlükəsizlik və rifah hüquqlarından məhrum olmasına səbəb olan ədalətsiz sistem və quruluşlardır. Bu zorakılıq forması görünməzdir, çünki o, normal və qanuni sosial nizam formasında qəbul edilir

⁵⁸ Galtung J. Violence, Peace, and Peace Research. Journal of Peace Research, 1969, Volume 6(3), p. 171 <https://doi.org/10.1177/002234336900600301>

It is for this reason that modern researchers, including A. Gallagher, criticize the legal mechanisms used to regulate human trafficking and state that they are insufficient in protecting human rights. He then notes that human trafficking is not only a criminal problem, but also a consequence of socio-economic conditions produced by states, corporate structures and the transnational labor market. Criminal law, however, does not address these structural causes, but only deals with the result⁵⁹. As a result, many of the factors that create conditions for trafficking, such as informal employment relationships, problems with migration regulations, gender inequalities and weak labour laws, are often ignored in legal discussions.

Regulating trafficking solely within the framework of criminal law also limits legal responsibility. If the phenomenon is a structural violence, it becomes clear that not only individuals but also States and organizations are responsible. The 2016 UN Human Rights Council special report notes that States have a duty to implement social protection, gender equality and economic reforms in addition to a law enforcement approach to combating trafficking⁶⁰. This view views human trafficking not only as a violation of the law, but also as a consequence of social injustices.

The legal aspects of human trafficking are shaped within a broad and systematic framework, starting from its definition, encompassing the purposes of exploitation, methods of coercion and control, protection of victims' rights, its qualification as a crime, and

⁵⁹ Gallagher A. T. *The International Law of Human Trafficking*. Cambridge University Press, 2010, pp.103–104

⁶⁰ UN Human Rights Council. Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/32/41, 2016, p. 9.

the necessity for international cooperation. Legislation defines human trafficking as a serious violation of law committed through acts such as recruitment, transportation, and exploitation of individuals using various means, including force, threats, fraud, deception, and abuse of power or position. The primary purposes of this offence include sexual exploitation, forced labour, slavery, and organ removal.

Since human trafficking constitutes a criminal act, legislation provides for severe criminal penalties against perpetrators. Moreover, the transnational nature of human trafficking necessitates international cooperation and coordinated efforts to combat this phenomenon. The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, along with other international legal instruments, forms the normative basis for this cooperation, defining the responsibilities and obligations of states in the fight against human trafficking. Therefore, combating human trafficking must not be limited to national legislation but should be supported by international legal norms and multilateral cooperation mechanisms to ensure the effective protection of victims' rights and the prosecution of offenders.

If the law does not undergo adequate transformation, it may inadvertently become a tool for legitimising exploitation occurring on digital platforms. The new opportunities brought by digitalisation — such as the dark web, encrypted messaging applications, covert recruitment methods on social media platforms, and fraudulent job postings — have expanded the scope of human trafficking and posed a challenge to traditional legal response mechanisms.

For this reason, contemporary scholars, including Anne Gallagher, have criticised the existing legal mechanisms regulating human trafficking, arguing that they are insufficient to safeguard human rights in the digital era. Gallagher notes that human trafficking is not solely a problem of crime, but is also a consequence of the social and economic conditions produced by states, corporate structures, and the increasingly digitalised labour market⁶¹. Criminal law, however, does not address these structural and technological causes, but only combats the consequences.

The anonymity and high speed of communication provided by the digital environment further strengthen the factors that create conditions for human trafficking. In particular, cases of women and young people being deceived, followed and ultimately exploited through fake job offers through online advertisements published in global labor markets are increasing. In such a context, law should not only focus on the consequences of the violation of the law, but also consider the issue of legal regulation of digital platforms.

Regulating human trafficking solely within the framework of criminal law limits the scope of responsibility. If this phenomenon is assessed in the context of structural nature and digital violence, then responsibility is not limited to individuals, but the role of states, technology companies and other corporate entities must also be included in the legal assessment. A special report presented by the UN Human Rights Council in 2016 also emphasized that states should not be limited to law enforcement measures in combating human trafficking, but should also regulate the liability of digital

⁶¹ Gallagher A. T. *The International Law of Human Trafficking*. Cambridge University Press, 2010, 596 p., p.174

platforms, strengthen social protection mechanisms, and implement institutional reforms in the field of gender equality⁶².

The European Court of Human Rights' judgment in the case of *Rantsev v. Cyprus and Russia* serves as an important precedent in this context. In its decision, the Court emphasised that states must not limit their efforts in combating human trafficking solely to the adoption of legal regulations. Rather, they are under a positive obligation to take active and preventive measures to ensure the effective protection of victims of human trafficking and to prevent the misuse of technological tools for exploitative purposes. This approach highlights the necessity of expanding states' positive obligations beyond the sphere of law enforcement to also encompass social and technological domains⁶³. Then, the case of *Siliadin v. France* stands out as one of the landmark decisions confirming that human trafficking and forced labor are a fundamental violation of human dignity. In its decision on this case, the European Court of Human Rights emphasized that law should not be limited to a positive normative framework alone, but should also function as a protective mechanism that includes natural law principles based on human dignity. This approach highlights the importance of law, going beyond being a set of formal rules, to be based on moral and universal principles in protecting human rights and fundamental freedoms⁶⁴. Each of these legal approaches defines the goals and

⁶² United Nations Human Rights Council. Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/32/41, 2016

⁶³ *Rantsev v. Cyprus and Russia*, App. No. 25965/04, Judgment of 7 January 2010, European Court of Human Rights (ECHR), p.284–287

⁶⁴ *Siliadin v. France*, App. No. 73316/01, Judgment of 26 July 2005, European Court of Human Rights (ECHR), p. 112–117.

means of combating human trafficking within a different legal philosophy and institutional framework.

In the classical criminal-law-oriented approach, the primary objective is to ensure the prosecution and punishment of individuals engaged in human trafficking. By contrast, the alternative approach focuses on addressing the social, economic, and institutional factors that create an enabling environment for exploitation. This includes preventing the misuse of digital technologies for exploitative purposes and promoting a transformation of the legal system towards a more inclusive and human-rights-based framework. Such an approach requires not only legal mechanisms but also political will, institutional and technological reforms, the principles of social justice, and normative changes.

The legal aspects of human trafficking begin with the clarification of its terminology and extend to the forms of exploitation (such as sexual exploitation, forced labor, slavery, and organ removal), the means of coercion and control (including the use of force, threats, deception, abuse of authority, and digital manipulation), the protection of victims' rights, and mechanisms for international cooperation. Modern legislation recognizes human trafficking not only as involving traditional means of coercion but also as a transnational and systemic violation of law perpetrated through the misuse of digital technologies.

Given its criminal nature, national legislation provides for strict punitive measures against those who commit acts of human trafficking. However, the transnational and network-based character of this phenomenon necessitates combating it not solely at the national level, but also through international legal cooperation and

coordinated action. In this context, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000) (Palermo Protocol), and the Council of Europe Convention on Action against Trafficking in Human Beings (2005) serve as the key normative instruments underpinning international cooperation in this field. Nevertheless, to ensure their practical effectiveness, the content and implementation mechanisms of these instruments must be adapted to meet contemporary challenges, particularly those arising from new forms of exploitation in the digital environment. The corresponding legal framework should also be supported by modern technological tools essential for the collection of digital evidence, as well as the detection and prevention of online exploitation.

Social aspect: Structural violence and marginalization

A social approach to human trafficking is not limited to the effects of this phenomenon on individual victims, but also focuses on the attitude of society towards this crime, the role of social institutions and the structural factors that create conditions for the spread of human trafficking. The concepts of *structural violence and social marginalization* in particular come to the fore. British scholar Kamala Kempadoo notes that victims of human trafficking are often identified with the image of "criminals" in society and are subject to social stigmatization. This approach creates serious obstacles to the protection of their rights, social rehabilitation and rehabilitation. Thus, social policy and the legal framework should be aimed at both protecting victims and raising awareness of this issue in society⁶⁵.

⁶⁵ Kempadoo K. Trafficking and prostitution reconsidered: New perspectives on migration, sex work, and human rights. Routledge, 2005, p.vii

The social aspects of human trafficking have been explored further through the Norwegian scholar Galtung's concept of "structural violence", which shows how systemic social and economic inequalities, as well as power structures, create the basis for human rights violations⁶⁶. Here, violence is not only physical, but also systematic exploitation carried out through social institutions. The disproportionate victimization of women and children⁶⁷ suggests that this structural violence is patriarchal and gender-based.

As in any country, early marriages, forced migration, limited access to education, and domestic violence create favorable social conditions for human trafficking. In these cases, the issue often stems not from individual choice, but from structural determinants formed in the existing socio-cultural context. Victims of human trafficking are often forcibly isolated from family and community ties, which not only negatively affects their psychosocial well-being, but also leads to the weakening of the family institution and the disruption of social integrity⁶⁸. As a result of the disruption of the functional integrity of the family institution, both victims of human trafficking and their family members are faced with deep emotional and social trauma. This situation leads to the emergence of long-term social anxiety, the weakening of mutual trust in society and the expansion of social isolation among individuals. The stigmatization of victims in the public environment acts as one of the main social

⁶⁶ Smith, A., Lee, K. Structural violence and human trafficking: Exploring the socio-economic roots. *International Journal of Social Justice*, 29 (1), 2023, Bangladesh, p.45-67.

⁶⁷ United Nations Office on Drugs and Crime. *Global Report on Trafficking in Persons 2022*. United Nations. p.91

⁶⁸ Zimmerman, C., Hossain, M., Yun, K., Roche, B., Morison, L., & Watts, C. The health of trafficked women: A survey of women entering posttrafficking services in Europe. *American Journal of Public Health*, 2006, 96(4), p.8

barriers preventing their reintegration into society. In social sciences, the concept of “stigma” refers to the exclusion of a certain individual or group from society through discrimination, insult and isolation. In the context of victims of human trafficking, this often manifests itself in the form of indirect or explicit blaming, blaming and, as a result, stigmatization with a secondary social status by both society and family⁶⁹. This social dynamic hinders victims from defending their rights, seeking legal assistance, and accessing social services. From a gender perspective, women and children represent one of the highest risk categories within the population affected by the phenomenon of human trafficking. This heightened vulnerability primarily stems from social and cultural stereotypes, as well as the structural gender inequalities prevalent in patriarchal societies. The low social status of women, their economic dependency, and their exclusion from decision-making processes create favorable conditions for the proliferation of human trafficking. At the same time, human trafficking constitutes one of the most extreme forms of gender-based violence against women. It serves as a stark example of the deprivation of women’s fundamental rights, both within society and within the family unit. This phenomenon poses not only an individual threat to victims but also fundamentally undermines the principles of social equality and social justice within society as a whole. Factors such as poverty, unemployment, limited access to education, and weak social protection systems serve as structural causes of human trafficking. These factors, particularly in economically disadvantaged and socially vulnerable environments,

⁶⁹ Goffman E. *Stigma: Notes on the management of spoiled identity*. Prentice-Hall, 1963, p.11-12

contribute to the expansion of opportunities for trafficking networks and increase the vulnerability of individuals to exploitation. Under such circumstances, people are often compelled to make high-risk decisions in the hope of achieving a better standard of living, which in turn exposes them to becoming potential victims. On the other hand, the failure of state institutions and civil society organizations to ensure the effective protection of the rights of trafficking victims and to implement social rehabilitation and reintegration processes constitutes one of the key institutional deficiencies that sustain the persistence of this crime⁷⁰.

Psychological and social rehabilitation of victims of human trafficking is of particular importance as one of the main components of the fight in this area. Most victims face serious psychosocial problems, such as post-traumatic stress disorder (PTSD), depression, social isolation, as well as a deep distrust of people and institutions. These conditions, in addition to negatively affecting their emotional well-being and quality of life, significantly complicate the process of reintegration into society⁷¹. Limited access to psychological support and social services severely limits the ability of victims of human trafficking to rebuild their lives, achieve emotional stability, and become active members of society. This situation once again confirms that human trafficking is not only a criminal and legal problem, but also a deep-rooted social and institutional problem.

⁷⁰ UNODC. Global report on trafficking in persons. United Nations Office on Drugs and Crime, 2014, p.5

⁷¹ Zimmerman C., Hossain, M., Yun, K., Roche, B., Morison, L., & Watts, C. The health of trafficked women: A survey of women entering posttrafficking services in Europe. *American Journal of Public Health*, 2006, 96(4), p.16, 17, 21

Society's attitude towards human trafficking is an important component of the social aspects of the fight against this phenomenon. As Norwegian researcher Guri Tyldum emphasizes, raising public awareness about human trafficking is of particular importance both in terms of protecting potential victims and ensuring that society takes this problem seriously enough⁷². To this end, social campaigns, awareness-raising education programmes, and mass media initiatives aimed at disseminating information about the causes and consequences of human trafficking serve to strengthen the collective spirit of society's fight against this crime and contribute to the development of public protection mechanisms.

Ultimately, the social aspects of human trafficking are more complex and multifaceted than its legal and economic consequences. The effective resolution of this problem cannot be achieved solely through legal measures; it also requires strengthening social structures, ensuring gender equality, improving social protection systems, and conducting broad public awareness initiatives. Strengthening psychological, legal, and social support programmes for the social rehabilitation of victims of human trafficking is one of the key conditions for sustainable and inclusive social development.

In the modern era, the psychological and social rehabilitation of victims of human trafficking remains a particular challenge. Victims often suffer from post-traumatic stress disorder (PTSD), depression, social isolation, mistrust, and difficulties in post-traumatic adaptation. These factors significantly reduce their quality of life and complicate their reintegration into society.

⁷² Tyldum G. Limitations in research on human trafficking. *International Migration*, 2010, 48(5), pp. 1-14.

With the rapid development of digital technologies, these problems may deepen further, as traces of exploitation experiences often remain permanently within the online environment. For example, the dissemination of personal data and exploitative images on social networks violates the anonymity of victims, hinders their social rehabilitation, and has long-term negative effects on their psychological recovery process⁷³.

Digitalization is sometimes used as a tool to persecute and perpetuate the oppression of victims of human trafficking. In such cases, former abusers stalk and blackmail victims online, leaving them in a constant state of fear and anxiety, and isolating them from social contacts. Furthermore, the lack of access to psychological support and social services, especially in regions where access to digital technologies is limited and unequal, further complicates the recovery process for victims⁷⁴. At the same time, digitalisation plays a significant role in shaping social responses to human trafficking. As emphasised by Norwegian researcher Guri Tyldum, public awareness campaigns against human trafficking are crucial for strengthening victim protection and increasing society's sensitivity to this crime.⁷⁵ In this context, digital platforms – social media, websites, and online educational tools – offer broad opportunities for awareness-raising and legal education. Through online campaigns, the public can be informed about the consequences of human

⁷³ UNODC. Global Report on Trafficking in Persons 2020. United Nations Office on Drugs and Crime, 2021, p.89

⁷⁴ Gallagher A.N., Pearson E. The High Cost of Freedom: A Legal and Policy Analysis of Shelter, 2010, p.28-29

⁷⁵ Tyldum G. Limitations in Research on Human Trafficking // International Migration, Vol. 48, Issue 5 (2010), pp. 1–13., p.1

trafficking and the real-life stories of victims, express solidarity, and engage in support initiatives. However, within the digital flow of information, the spread of false and harmful narratives poses a serious social threat. The stigmatisation of victims, the normalisation of exploitation, and public indifference are sometimes exacerbated by derogatory comments spread on social media. As a result, the digital environment not only creates opportunities for social protection but also gives rise to new areas of risk.

In conclusion, the social aspects of human trafficking are more complex and multifaceted than its purely legal or economic consequences. Addressing this problem requires strengthening social structures, ensuring gender equality, establishing effective social protection mechanisms, and systematically educating the public. Digitalisation offers both opportunities and risks in this regard. Psychological, legal, and social support programmes for the social rehabilitation of human trafficking victims should be made more accessible through digital technologies, while ensuring their digital safety. Only under these conditions can technology make a genuine contribution to sustainable social development and the restoration of a dignified life for victims.

Economic aspect: the dark sphere of capitalism

Human trafficking, as one of the darkest and most contradictory economic phenomena of the modern world, emerges as a result of the structural inequalities, uneven development models and marginal labor markets⁷⁶ created by the global capitalist system. This process shows that millions of people living on the fringes of the global economy are forced to sell the most fundamental rights -

⁷⁶ Low wages and poor working conditions

the right to work, security and freedom - just to survive. The structure of capitalism, based on free market principles, considers people only as a means of production, relegating their human dignity and legal subjectivity to the background. Therefore, human trafficking should be the subject of economic and structural analysis, not only within the framework of criminal law.

Human trafficking is one of the invisible but large-scale sectors of the capitalist economy. Globally, the human trafficking industry generates an estimated \$150 billion in illegal income annually, much of it based on labor exploitation⁷⁷. The International Labor Organization estimates that about \$99 billion of this amount comes from commercial sexual exploitation and \$51 billion from forced labor exploitation⁷⁸. These figures show that human trafficking is not only a humanitarian crisis, but also a deep and integral part of the modern economic system. Human trafficking acts as one of the main pillars of the informal labor market. This reality resonates with the structural problems that French economist Thomas Piketty has raised regarding economic inequality, namely that human trafficking is seen as an integral element of complex economic processes related to the accumulation of wealth and the unequal distribution of labor exploitation⁷⁹.

In the capitalist system, the informal and unregulated segments of the labor market — such as agriculture, construction, domestic

⁷⁷ International Labour Organization. *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. Geneva 2017, p.15

⁷⁸ International Labour Organization. *Profits and Poverty: The Economics of Forced Labour*, Geneva, 2014, p.13-15

⁷⁹ Piketty T. *Capital in the Twenty-First Century*. Cambridge, MA: Harvard University Press, 2014, pp.695, p.257

services, and the sex industry — are considered among the most vulnerable sectors to human trafficking. In these sectors, wages are typically low, social protection mechanisms are either non-existent or merely formal, and oversight systems either function ineffectively or are plagued by corruption. In the transnational phase of modern capitalism, corporations seek to maximize profits by relocating production and services to regions with lower operational costs. However, this process contributes to the formation of complex and multifaceted connections between local labor markets and human trafficking networks.

Capitalism's unlimited profit motive is accompanied by the expansion of illegal markets. Organizations and networks operating in the field of human trafficking are often associated with legal entities, travel agencies, labor brokerage firms, and sometimes state institutions⁸⁰. This clearly shows how weak and opaque the boundaries between the official economy and the shadow economy are. In some cases, the informal consent or indifference of states creates conditions for the flourishing of human trafficking networks. The financial structures of capitalism provide effective tools for the legalization of these proceeds: the use of offshore accounts, shell companies and cryptocurrencies facilitate the legalization of funds obtained from human trafficking.

The relationship between labor migration and human trafficking holds significant importance in economic analysis. Within the system of global labor migration, individuals who are often undocumented, in irregular status, or holding temporary work

⁸⁰ Kara S. *Modern Slavery: A Global Perspective*, Columbia University Press, 2017, s. 145–150.

permits constitute the category most vulnerable to exploitation. These individuals occupy “unsafe” positions within the labor market and are often perceived by employers as “cheap and controllable resources.” In this context, human trafficking becomes an integral part of the economic structure, requiring it to be understood not solely within the confines of criminal law, but also as a broader structural condition.

To combat human trafficking effectively, legal measures alone are insufficient. It is necessary to analyze the underlying economic systems and to develop fairer and alternative economic models that reduce vulnerabilities and provide safer, more sustainable opportunities for individuals.

Human trafficking is also a clear example of how gender and class-based oppression are exploited at the economic level. Women and children are particularly affected by this process, as patriarchal structures and capitalist exploitation reinforce each other. The informal demand for women's reproductive and emotional labor, coupled with the expansion of the sex industry, reinforces the exploitation of women's bodies as objects of ownership and control. At the same time, there is a direct and interdependent relationship between demand in the consumer market of developed countries and poverty in developing countries.

Digitalization plays a crucial role in accelerating and deepening these connections. The transition of labor intermediation, service industries, tourism, and the entertainment sector to online platforms has created a new infrastructure for human trafficking. Online job advertisements, fraudulent employment offers disseminated through social media, and digital campaigns run by

fake agencies make the recruitment of people for the purposes of exploitation broader in scope and easier to carry out. Thus, digital capitalism removes the geographical boundaries of exploitation, transforming informal labor markets into a technologically global network.

Human trafficking organizations and networks are often linked to legal entities, travel agencies, labor agencies, and in some cases, government agencies. This situation reflects the increasingly blurred boundaries between the formal and shadow economies, particularly with the impact of technology. Furthermore, the financial structures of capitalism widely exploit digital tools — including offshore platforms, cryptocurrencies, blockchain technologies, and online payment systems — to launder illicit profits derived from human trafficking activities⁸¹.

The connection between labor migration and human trafficking has been further strengthened in the digital economic environment. Migrants searching for employment through social media, sharing personal data, and having that information tracked by trafficking networks creates new opportunities for exploitation. Digital asymmetry — that is, the unequal access to technology — makes it harder for victims to protect themselves and hinders their social rehabilitation.

Human trafficking, often regarded as the dark sphere of capitalism, is no longer merely a legal or ethical issue. It now stands as a manifestation of digitalized economic violence. Marketing manipulations targeting women, the widespread proliferation of

⁸¹ Europol. Digitalisation of Criminal Networks: Human Trafficking and the Misuse of Technology. Europol Strategic Analysis Reports, 2021, p.80

online sexual service platforms, and the emotional labor exploitation conducted via social media have become integral and systemic components of this process⁸².

Gender-based exploitation is taking on new forms through digital infrastructures. For example, "cam girl" platforms, online escort services, and deepfake technologies producing fabricated pornography have become new means of exerting economic control over women's bodies. In the context of the Republic of Azerbaijan, this economic dynamic is similarly facilitated through digital means. Online job advertisements circulated in the tourism and service sectors, social media pressures targeting women, and digital manipulation techniques — such as fraudulent offers presented on Instagram under titles like "model work," "hostess," "office work," "secretary," "female assistant," "female manager," "female administrator," and so forth — create real risks for human trafficking.

Ultimately, human trafficking has become a structural component of the digitalized capitalist economy. Addressing this issue cannot be confined solely to legal mechanisms. It also requires a fundamental analysis of economic and technological systems and the development of alternative economic models rooted in principles of social justice.

Ethical and normative aspect

Human trafficking, as the commodification and trade of human beings, constitutes one of the gravest violations of law and most

⁸² UNODC . Global Report on Trafficking in Persons 2020. United Nations Office on Drugs and Crime, 2020, p.37

serious ethical challenges of the modern world. This crime is not only directed against individual freedom and inviolability but also delivers a profound blow to the fundamental system of values upon which societies are built. Ethical and normative considerations help deepen the understanding of the nature of human trafficking and assist in establishing the appropriate conceptual and legal frameworks necessary to combat it effectively. In this regard, human trafficking should not be viewed merely as a legal violation, but as a manifestation of the erosion of fundamental human values.

From an ethical perspective, human trafficking is considered unacceptable and immoral under both consequentialist and deontological approaches. Consequentialism evaluates the morality of an action based on its outcomes. Human trafficking, however, inflicts suffering, trauma, and the loss of personal identity on victims, while generating illicit profit for traffickers. In such circumstances, the economic benefit accrued by a small group of traffickers pales in comparison to the immense moral and physical harm inflicted on the broader group — the victims and society at large. Thus, from a consequentialist standpoint, human trafficking is fundamentally contrary to the notion of the common good⁸³. On the other hand, deontological ethics, especially Kant's theory, states that a person should never be treated as a means only, but always as an end. In human trafficking, the individual becomes an object to be bought and sold and exploited. This is clearly contrary to Kant's categorical imperative principle of the inviolability of human

⁸³ Mill J. S. *Utilitarianism and the 1868 Speech on Capital Punishment*. Edited by George Sher, 2nd ed., Hackett Publishing Company, Indianapolis and Cambridge, 2002, p.87

dignity⁸⁴. Whether it's the kidnapping of women for sexual exploitation or the exploitation of children for forced labor, these practices treat people as mere means of income.

There are basic ethical principles that should be followed when caring for and interviewing victims of trafficking. These principles are aimed at protecting the rights and dignity of victims, as well as ensuring their physical and psychological well-being, within the framework of ethical conduct.

First of all, the principle of “doing no harm” implies preventing further negative effects on the physical, psychological and social condition of the person who has been exploited. The protection, safety and comfort of victims must be ensured, and their physical and emotional well-being must be protected. The inviolability of privacy and confidentiality, i.e. the confidentiality of personal and intimate information, are among the necessary conditions.

Victims should be provided with clear and accessible information about their rights, procedures and available services, and their voluntary consent to participate in the interview should be obtained. Questions should be asked with sensitivity and courtesy, and communication should be conducted with caution, taking into account traumatic experiences. Victims should be listened to without intrusion and their needs should be treated with respect.

Misconceptions and biases arising during the interview should be eliminated in accordance with the principle of neutrality, and the person's statements should be believed without requiring proof and

⁸⁴ Kant I. *Grounding for the metaphysics of morals* (J. W. Ellington, Trans., 3rd ed.), Hackett Publishing Company, 1993 (Original work published 1785), p. 42

without question⁸⁵. Within the framework of a professional approach, every person should be accepted with respect and value, and they should be given the opportunity to regain a sense of control over their bodies and relationships. It is important to help victims avoid thinking they are responsible for their abuse and reduce their negative feelings about themselves.

Victims of human trafficking should be informed in detail about their rights to undergo a forensic examination and receive a medical opinion, as well as the opportunity to familiarize themselves with psychological and medical documents. At the same time, they should be reminded of their strengths and internal resources, thus encouraging the restoration of their self-confidence. Quality translation services should be provided so that the person can communicate in their native language and express their thoughts freely.

One of the important issues where ethical and legal aspects converge is the justification of the punishment applied against human trafficking. According to the theory of retributive (punitive) justice, the punishment should be appropriate to the committed act, that is, the criminal should receive the punishment he deserves for the crime he committed. However, from an ethical perspective, punishment should not only be used as a means of revenge or restoration of justice, but also serve the purpose of protecting society, social rehabilitation, and preventing similar crimes in the future. In this regard, a number of experts emphasize the need to not be

⁸⁵ İnsan alverinin qurbanlarına birbaşa yardım. Beynəlxalq Miqrasiya Təşkilatı (BMqT). 2007, s.216
https://azerbaijan.iom.int/sites/g/files/tmzbd11581/files/documents/2007_IOM_CT_Handbook_External.pdf

satisfied with repressive legal measures in the fight against human trafficking, but also to implement rehabilitation and victim support mechanisms in parallel with the legal framework⁸⁶.

We would like to point out that these aspects are especially important in the digital era. The online dissemination of photos or videos of victims, as well as their identifying information, seriously affects their psychological state and social reintegration. For this reason, digital privacy and information security should become an integral part of ethical codes of conduct⁸⁷.

Individuals should be provided with clear and accessible information about their rights, procedures, and available services, and their consent to participate in the process must be obtained. Digital tools – mobile applications, online platforms, and artificial intelligence-based assistance systems – can make this information more accessible. However, these technological capabilities must be implemented **without creating the risk of exploitation, with secure interfaces, and with anonymity preserved**. For example, in some countries, special anonymous online counseling platforms have been created for victims of human trafficking, where users can receive legal and psychological support without revealing their identities⁸⁸. At the same time, when addressing questions to victims of human trafficking, particular attention must be paid to the principles of sensitivity and courtesy, ensuring that communication

⁸⁶ Brysk A., Maskey A. Human trafficking: The complexities of globalization. Stanford University Press. Stanford, CA, 2012, p.117

⁸⁷ United Nations Office on Drugs and Crime (UNODC). Global Report on Trafficking in Persons 2020, p.44

⁸⁸ Latonero M. Human Trafficking Online: The Role of Social Networking Sites and Online Classifieds. USC Annenberg Center on Communication Leadership & Policy, 2011. <https://communicationleadership.usc.edu/pubs/human-trafficking-online/>

is conducted cautiously and empathetically, taking into account the victim's past traumatic experiences. Although digital interview tools have been widely used, particularly during pandemics and conflict situations, these must be conducted strictly within the framework of ethical principles. Since the victim's tone of voice and body language may not be observable on such platforms, interviewers should exercise heightened vigilance and avoid language or questions that may be easily misinterpreted out of context.

Furthermore, individuals must be listened to actively, without interruptions or interventions, and every expressed need should be met with respect and empathy. Any misunderstandings or biases arising during the interview must be eliminated in accordance with the principles of neutrality and impartiality. The victim's statements must be accepted without skepticism or demands for proof. This principle is particularly important in the digital environment, where victims of human trafficking are often subjected to online attacks, suspicion, and revictimization. Public doubts about the truthfulness of their testimonies on online forums and social media platforms can lead to further psychological trauma.

In most cases, traffickers deliberately create a manipulative environment aimed at fostering psychological dependence in victims, eroding their self-confidence, diminishing their sense of self-worth, and instilling feelings of helplessness and powerlessness. For this reason, ethical behavior is closely tied to the protection of digital reputation and the prevention of online violence. In a professional context, every individual must be treated with respect and dignity, and opportunities should be created to help them restore

their sense of control over their own bodies and personal relationships.

Victims should not be made to feel responsible for their exploitation, and feelings of guilt should be reduced. This support can be provided through online psychological assistance and digital psychotherapy services aimed at psychological rehabilitation and empowerment. However, it is crucial that any platforms used for these services guarantee confidentiality, data protection, and full compliance with ethical standards⁸⁹. Victims of human trafficking must be thoroughly informed about their rights to undergo forensic medical examinations and obtain medical reports, as well as their right to access psychological and medical documentation. This information can be provided to them through official digital portals; however, when doing so, the victims' level of digital literacy and access to technology must be taken into account. In the context of psychosocial support, victims should be reminded of their internal resources and personal strengths, and the restoration of their self-confidence must be systematically encouraged. During communication, victims must be ensured the opportunity to express themselves in their native language, and translation services must be provided for this purpose. In today's technological environment, such services are already implemented in several countries through digital automatic translation systems.

Ethical considerations also permeate the sphere of normative legal regulation. The Palermo Protocol, which provided the first

⁸⁹ Europol. Digitalisation of Trafficking in Human Beings. European Union Agency for Law Enforcement Cooperation.

<https://www.europol.europa.eu/publications-documents/digitalisation-of-trafficking-in-human-beings>

universal legal definition of human trafficking, characterizes this crime not solely as exploitation through physical coercion but also as involving psychological manipulation, economic dependency, and deceit. This approach links the legal nature of human trafficking with ethical dimensions, allowing for a broader and more nuanced understanding of the phenomenon.

In the digital environment, however, forms of manipulation and deception are increasingly carried out through sophisticated technological tools. These include the creation of fake profiles, the dissemination of deepfake visual materials, and the use of so-called "smart contracts" to exert control over individuals under the guise of employment offers. Such developments necessitate the adaptation of modern ethical and legal frameworks and demand agile and responsive mechanisms to ensure effective intervention.

The combination of ethical and legal approaches plays a crucial role in justifying punishments related to human trafficking. While retributive justice theory demands that every crime be met with an appropriate punishment, from an ethical perspective, the focus should not be solely on retribution. It must also include the restoration of society and the prevention of future crimes. In this regard, many scholars and international organizations emphasize the necessity of integrating victim rehabilitation and support mechanisms alongside legal measures, especially in light of the new risks posed by digitalization. These support mechanisms should operate in parallel with legal sanctions to ensure a holistic and effective response to human trafficking.

1.3. New legal elements of human trafficking and electronic space.

Human trafficking has reached the scale of a global epidemic. Recognized as a rapidly growing problem worldwide, human trafficking is currently considered the second most widespread form of criminal activity in the world, alongside the illegal arms trade⁹⁰. Nevertheless, this type of crime still remains one of the most underreported crimes. The most crucial point is that the digital revolution has both transformed and exacerbated this crime. The accessibility of the internet to virtually everyone has made this crime even more dangerous. Today, criminals can target new victims with the mere click of a button. In the digital environment, human trafficking has emerged as a growing and increasingly complex crime on a global scale, posing new challenges to both international law and national legal systems. Ensuring the effective application of traditional anti-trafficking legal frameworks within the digital context necessitates the adoption of new elements and legal mechanisms in legal systems. These new legal elements primarily cover the expansion of the definition of the offence, recognition of the legal status of digital evidence, regulation of technology, protection of victims' digital rights, and the organization of international cooperation through digital platforms.

First and foremost, within the framework of new legal elements addressing human trafficking in the digital sphere, the scope of the offence itself is being expanded. While traditional criminal law has focused primarily on acts committed in the physical

⁹⁰ Katz H. Human trafficking in the digital era: Freedom of speech versus freedom from exploitation. *Loyola University Chicago International Law Review*, 2013, pp. 69–96.

world, activities related to human trafficking that are carried out or promoted in digital environments are now recognized as separate offences. For example, luring victims through social media, promoting trafficking via online platforms, collecting and selling victims' data through digital channels—these actions are now specifically reflected as grounds for legal liability in normative acts.

In 2007, the Council of Europe organized a study focused on the misuse of the internet for the purpose of recruiting victims⁹¹. Since then, the rapid spread of technologies and the increased accessibility of the internet have led to significant changes in the criminal landscape. At the same time, digital technologies and artificial intelligence have created new opportunities for the prevention and investigation of crimes, as well as for the identification of victims and the provision of assistance to them.

Monitoring conducted within the framework of the Comprehensive Economic and Trade Agreement (CETA) has shown that in some countries, the use of information and communication technologies (ICT) to recruit and control victims of human trafficking is on the rise. However, the evidentiary base regarding the use of online environments and technology in committing human trafficking remains limited. For this reason, in 2022, CETA launched a new research project aimed at assessing the impact of technology on human trafficking and analyzing the practical and legal challenges faced by states in detecting, investigating, and prosecuting human trafficking cases occurring via ICT and in online

⁹¹ Online and technology-facilitated trafficking in human beings. Council of Europe, 2025 <https://www.coe.int/en/web/anti-human-trafficking/online-and-technology-facilitated-trafficking-in-human-beings>

environments. In parallel, the European Union has also established new legal standards aimed at preventing human trafficking on social media and digital platforms⁹².

The second important legal element concerns the regulation of mechanisms for collecting and utilizing digital evidence. In crimes related to human trafficking, a significant portion of the evidence now exists in digital form. The admissibility and reliability of such evidence in international courts require the development of new legal mechanisms. These mechanisms must ensure that digital evidence is collected, preserved, and presented in accordance with legal standards so that it can be considered valid and legally acceptable proof during judicial proceedings.

The European Union's **e-Evidence regulation** is considered a significant step forward in this area and provides a legal framework for the collection, storage and international exchange of evidence collected in digital environments⁹³. This also becomes a crucial tool for facilitating cooperation in cross-border operations and exposing human trafficking networks. It is especially important to emphasize that law enforcement agencies must ensure all personnel possess adequate expertise in the collection and processing of digital evidence. Training programs on electronic evidence should be an integral part of the curriculum and must be regularly updated in line

⁹² European Commission. Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act)., 2024

<https://digital-strategy.ec.europa.eu/en/library/proposal-regulation-laying-down-harmonised-rules-artificial-intelligence>

⁹³ European Parliament. Regulation on European Production and Preservation Orders for electronic evidence in criminal matters (e-Evidence), 2023

<https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-e-evidence>

with rapidly evolving technological and behavioral contexts. Since the preservation of digital evidence is fundamental to building strong investigations, advisors and responsible persons within NGOs must also be familiar with strategies for safeguarding digital evidence (e.g., preserving chat histories). States and international organizations must collect intelligence on emerging trends in criminal methods and regularly conduct strategic analyses to remain informed about rapidly changing patterns in technology use and user behavior. Based on this strategic intelligence, countries can launch targeted law enforcement operations, establish cooperation agreements, and develop effective awareness campaigns. The knowledge gathered should be systematically disseminated at the national level.

The third legal element is the regulation of digital technologies, particularly artificial intelligence.

Artificial intelligence-based algorithms are used for purposes such as manipulating victims, collecting their personal data, and creating fake profiles.

The European Commission’s 2024 “AI Act” explicitly classifies such technologies under the high-risk category and provides for their strict regulation and limitation. This serves as a clear example of the practical implementation of this legal element⁹⁴. At this stage, it is particularly important to highlight one key aspect.

Law enforcement agencies must invest in enhancing their capacity in areas such as internet monitoring, cyber-patrols, covert

⁹⁴ European Commission. Proposal for a Regulation laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), 2024
<https://digital-strategy.ec.europa.eu/en/library/proposal-regulation-laying-down-harmonised-rules-artificial-intelligence>

online investigations (cyber-infiltration), the use of OSINT (Open Source Intelligence) by specialized officers, the analysis of social networks, and the application of automated search tools for evidence analysis. The development and use of these tools must fully comply with the principles of the rule of law. Countries should consider adapting their existing legislation to allow for cyber-patrols and covert online investigations (cyber-infiltration). Authorities should also invest in appropriate tools to assist investigators in processing large volumes of data (big data).

Resources such as technological products like web crawlers and the exchange of expertise in their use can be consolidated at transnational level. Law enforcement agencies and labour inspectorates should implement stricter controls and regularly monitor job advertisement websites. This process can be supported by technological tools developed in collaboration with private sector partners. Labour inspectorates should enhance their digital expertise and increase their online presence. Public, private, and non-governmental organisations should establish online reporting systems to enable the anonymous reporting of human trafficking cases and to protect the identities of victims. Chat platforms, including chatbots and instant messaging functions, could serve as valuable online tools.

Countries should cooperate with private companies offering online services that may create opportunities for traffickers, develop content analytics to detect indicators of human trafficking, and establish accessible mechanisms for customers to report suspicious activities and advertisements. Where permitted by national legislation, these measures should also apply to companies offering

adult online services. Online content and data related to flagged activities and advertisements (such as IP addresses) should be securely stored by such companies.

The fourth legal element is the protection of victims' digital rights. The protection of the digital rights of human trafficking victims has become an increasingly relevant and necessary issue in the modern era.

The process of digitalisation not only increases the risk of violating victims' rights but also heightens the likelihood of their secondary exploitation in the online environment. For this reason, a range of legal, technological, and institutional mechanisms are applied to ensure the protection of victims' digital rights. The protection of the digital identity of human trafficking victims, data privacy, and the right to be protected from online harassment require the implementation of new legal protection mechanisms. In this context, the recommendations of UNICEF and the Office of the UN High Commissioner for Human Rights (OHCHR) expand the legal basis for safeguarding victims' digital rights within the framework of international law. These mechanisms focus on the protection of victims' digital identities, ensuring the confidentiality of their data, and shielding them from online tracking and harassment. They are essential to prevent further victimisation in the digital sphere and contribute to the broader protection of fundamental human rights⁹⁵. International organisations also provide recommendations in this field. UNICEF and the Office of the UN High Commissioner for Human Rights (OHCHR) regard the protection of digital rights as an

⁹⁵ UNICEF, Child Rights and Online Safety Report, 2022
<https://www.unicef.org/online-safety>

integral part of human rights and particularly emphasise the importance of ensuring the digital safety of child victims⁹⁶.

As a result, the protection of victims' digital rights requires the development of new legal protection mechanisms in the fight against human trafficking. These mechanisms must be reflected in legal norms, both in national and international legislation, and must be practically implemented in the activities of law enforcement agencies and digital platforms.

The digital rights of human trafficking victims include the following:

Protection of personal data and privacy. There are specific legal regulations governing the processing of personal data aimed at preventing the disclosure of victims' personal information. **For example, the European Union's General Data Protection Regulation (GDPR) (2016–2018)** is one of the most significant normative acts in this field.

According to the GDPR, the collection and use of personal data must adhere to the principles of transparency, consent, and purpose limitation. Data processing is only permitted when it serves a clearly defined and legitimate purpose, and individuals must be informed about how their data is being used and must give their explicit consent⁹⁷.

⁹⁶ OHCHR. Report on the impact of new technologies on the promotion and protection of human rights in the context of assemblies. June 25, 2020. Presented to Human Rights Council at its 40th session.

<https://www.ohchr.org/en/calls-for-input/report-impact-new-technologies-promotion-and-protection-human-rights-context>

⁹⁷ European Parliament and Council. General Data Protection Regulation (EU) 2016/679. Official Journal of the European Union, 2016

Protection of anonymity and confidentiality. In order to protect the digital identities of victims, law enforcement agencies and civil society organisations place particular emphasis on ensuring anonymity and confidentiality. Measures are taken to prevent the dissemination of personal information on social media, news portals, and in court documents to mitigate the risk of victims being re-victimised.

The protection of digital rights of human trafficking victims holds particular significance in the modern legal environment. Digital identity—that is, the information victims share on online platforms, their social media profiles, and their personal and sensitive data—requires the establishment of new legal protection mechanisms to safeguard their security and dignity. This is especially important to prevent re-victimisation and to protect victims' data from misuse or abuse⁹⁸.

Protection from online harassment and violence. Specific legal mechanisms should be established to prevent the targeting, harassment and oppression of victims on digital platforms. This is ensured by expanding criminal prosecution and a clear legal classification of cases of digital violence.

Digital literacy and awareness programmes. Training is provided for victims and individuals at risk on digital security, the protection of personal data, and methods of self-defence against online exploitation. These programmes enable them to better

⁹⁸ UNICEF, Child Rights and Online Safety Report, 2022
<https://www.unicef.org/online-safety>

understand their digital rights and to take measures to protect those rights⁹⁹.

Restoration of victims' digital identity. When victims are defamed or blackmailed in the online environment, legal and psychological support must be provided to help restore their digital reputation. This is implemented through approaches commonly referred to as online rehabilitation. Since human trafficking and related digital crimes are inherently transnational, cooperation with international organizations (such as INTERPOL, Europol, and UNODC) is essential. Global information exchange and joint operations enhance the effective protection of victims' rights.

Finally, the adaptation of international cooperation to the digital environment and the application of digital legal procedures emerges as a new legal element. The establishment of new mechanisms for cross-border exchange of digital evidence and cooperation in human trafficking cases — such as the European Union's e-Evidence mechanism and the harmonization of international legal standards — are crucial steps in this area.

In conclusion, the effective prevention of human trafficking in the digital environment and the provision of legal protection require the creation and implementation of new legal mechanisms. These mechanisms must focus on adapting international and national legal systems to digital realities, updating the elements of crimes, strengthening evidence procedures, regulating technologies, protecting the digital rights of victims, and expanding international

⁹⁹ UNODC, Human Trafficking and Technology: A Guide for Criminal Justice Practitioners. United Nations Office on Drugs and Crime, 2020

cooperation within the digital sphere. The application of best practices and the improvement of the legal normative framework will define the future effectiveness of efforts to combat human trafficking.

In the protection of the digital rights of victims of human trafficking, the normative regulation of mechanisms for the collection and use of digital evidence is of critical importance. Digital evidence — such as online communications, IP addresses, social media data, server logs, cryptocurrency transactions, and other electronic traces — constitutes the primary basis of evidence in complex crimes like human trafficking. Because traditional criminal law does not provide adequate legal procedures for the collection and use of such evidence in court, the establishment of new normative mechanisms for the collection and use of digital evidence is essential in this field¹⁰⁰.

As noted above, the European Union's 2023 Regulation on European Production and Preservation Orders for Electronic Evidence (e-Evidence) establishes a fundamental mechanism for international cooperation in this area. This legal mechanism enables law enforcement agencies to obtain cross-border digital data in a timely and lawful manner, thereby strengthening efforts to combat human trafficking.

During the collection of digital evidence, the protection of personal data and the guarantee of human rights must remain a priority. Legal frameworks regulate mechanisms such as data

¹⁰⁰ European Parliament, Regulation on European Production and Preservation Orders for electronic evidence in criminal matters (e-Evidence), [Elektron resurs]: <https://www.europarl.europa.eu/legislative-train/theme-area-of-justice-and-fundamental-rights/file-e-evidence>, 2023

encryption, the limitation of data retention periods, and safeguards against the manipulation of evidence to ensure the confidentiality of information, the safety of victims, and the integrity of evidence¹⁰¹.

Expertise rules and requirements are applied to ensure the reliability of digital evidence in court proceedings. The immutability, origin and inviolability of evidence form the basis of legal assessment¹⁰². The absence of such standards increases the risk that evidence will be deemed inadmissible in court proceedings. In the context of international cooperation, the exchange of digital evidence is carried out under the coordination of organizations such as INTERPOL and EUROPOL. Agreements and protocols in this field facilitate the cross-border collection of digital data and its sharing within a clear legal framework¹⁰³. As a result, the regulatory framework for the collection and use of digital evidence constitutes an effective legal tool in combating human trafficking. Improving legal frameworks and strengthening international cooperation are key to success in this field. New legal mechanisms have been established for the regulation of digital technologies, particularly artificial intelligence (AI), and the prevention of their misuse in human trafficking.

¹⁰¹ Council of Europe, Convention on Cybercrime, 2018

<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/185>

¹⁰² UNODC, Global Report on Trafficking in Persons 2020. United Nations Office on Drugs and Crime, 2021

https://www.unodc.org/documents/data-and-analysis/glotip/2021/GLOTIP_2020_15jan_web.pdf

¹⁰³ Interpol, Digital Evidence and Cybercrime, 2020

<https://www.interpol.int/en/Crimes/Cybercrime>

The rapid development and widespread application of AI technologies have created new threats in crimes such as human trafficking. Traffickers exploit AI algorithms to identify, manipulate, and deceive victims. For example, AI is used to create fake social media profiles, gather personal data, identify victims' vulnerabilities, and manipulate them more effectively. This exposes the limitations of traditional legal regulatory mechanisms and necessitates the adoption of new legal approaches to ensure digital security.

At the international and regional levels, several initiatives have been launched to regulate AI legally. The European Commission's 2021 "White Paper on Artificial Intelligence" set out the ethical and legal foundations for AI technologies. In 2024, the European Parliament and Commission introduced the legislative initiative known as the "AI Act." This act classifies AI as a high-risk technology and envisages strict regulation of applications linked to human rights violations. AI applications used in human trafficking fall within this category and are therefore subject to specific oversight mechanisms.

Under the framework of these new legal mechanisms, special attention must be given to the following key areas:

1. Transparency and accountability of Artificial Intelligence (AI): The operational principles of algorithms must be disclosed. Law enforcement agencies and users should be informed about how decisions are made. This enhances oversight and helps prevent the manipulation of victims.

2. Data protection and ethical standards: Strict restrictions and ethical requirements must be imposed on the collection and processing of victims' personal data. The General Data Protection

Regulation (GDPR) plays a fundamental role in ensuring compliance in the use of AI.

3. Risk assessment and licensing systems: Preventive legal measures must include risk assessments of AI systems and mechanisms to restrict high-risk applications in the context of human trafficking.

4. Establishing criminal liability: The legal responsibility of actors involved in AI-facilitated human trafficking—such as technology developers, software providers, and users—must be clearly defined.

5. International cooperation: Given the global nature of these crimes, it is essential to establish international legal frameworks and strengthen interstate cooperation to combat the use of AI in human trafficking.

In summary, the prevention of AI's misuse in human trafficking requires the development of new legal mechanisms aligned with human rights principles, technological advancements, and ethical standards. This can be achieved through both the modernization of legal norms and the enhancement of technological capacities within law enforcement agencies.

CHAPTER II. UNIVERSAL AND REGIONAL PROVISIONAL MECHANISMS OF THE FIGHT AGAINST HUMAN TRAFFICKING

2.1. Application of universal international legal norms to the digital environment

Human trafficking is one of the most complex and widespread crimes faced by the international community, affecting millions of people each year. The transnational nature of this phenomenon, its high level of organization, and the adaptability of its methods of exploitation make it necessary for the fight against human trafficking to be conducted on the basis of universal legal norms. The legal foundation for this fight is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol), adopted in 2000 as a supplement to the UN Convention against Transnational Organized Crime. The Protocol defines human trafficking as the recruitment, transportation, and sale of persons for the purpose of exploitation through the use of force, deception, abuse of power, or exploitation of vulnerability¹⁰⁴. The essence of this definition applies both to the physical and digital realms.

The emergence of the digital environment and the expansion of global information networks have created new and favorable opportunities for groups engaged in human trafficking. The Internet, social media platforms, messaging applications, and

¹⁰⁴ United Nations. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Supplementing the United Nations Convention against Transnational Organized Crime [Palermo Protocol], 2000

cryptocurrencies have become effective tools for traffickers to recruit, manipulate, and conceal the exploitation of victims. According to the International Labour Organization's 2022 report, one in five victims of forced labor is exploited through digital technologies¹⁰⁵. These circumstances demonstrate that digital human trafficking has already become an integral part of the structure of criminal networks.

The existing universal norms of international law respond to this reality to a certain extent. Although the Palermo Protocol does not explicitly employ digital terminology, its core principles — the prevention of crime, the protection of victims, and the prosecution of offenders — are fully applicable within the digital environment. For example, human trafficking committed through fraud, threats, or coercion may now be disguised as legitimate job advertisements on online platforms. In this context, the substance of the universal legal norm — the right to protection from exploitation — remains legally valid, regardless of the technological medium. Nevertheless, significant gaps persist in the normative framework regarding digital human trafficking.

The first problem lies in the rapid development of digital technology, while legal norms struggle to keep pace with these advancements. For instance, the Palermo Protocol and other universal instruments do not provide specific mechanisms for collecting digital evidence, regulating the legal responsibility of online platforms, or addressing the use of cryptocurrencies in

¹⁰⁵ International Labour Organization. *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, 2022, p.18

exploitation. This gap reduces the effectiveness of both national and international investigations¹⁰⁶.

The second major problem concerns the collection of evidence and jurisdictional issues. Cyber-enabled human trafficking often operates within complex structures where the victim is located in one country, the perpetrator in another, and the servers in a third country. In such cases, international cooperation within the framework of universal international legal norms becomes essential. This includes information sharing, extradition, and the establishment of joint investigative teams. In this regard, the Council of Europe's Budapest Convention on Cybercrime and the UN Human Rights Council's Resolution on the Right to Internet provide a normative foundation. However, a coordinated approach to their implementation has not yet been fully developed¹⁰⁷.

The impact of the digital environment is also evident in the sphere of victim protection. Digital tools are increasingly used not only for exploitation but also for controlling and monitoring victims. Examples include restricting victims' access to the Internet, monitoring their activities on social networks, or disseminating personal information for purposes of blackmail. In such cases, universal human rights norms — particularly the right to privacy, protection of personal data, and individual freedoms — serve as the principal legal framework. However, the practical protection of these rights requires not only the existence of legal norms but also the

¹⁰⁶ Schloenhardt A., Markey-Towler B. Human Trafficking and the Digital Domain: New Threats and Approaches. *Criminal Law Forum*, 31(3), 2020, p.412

¹⁰⁷ Council of Europe. Convention on Cybercrime (Budapest Convention), 2001

establishment of effective enforcement mechanisms and technological capacities to ensure their application¹⁰⁸.

All these analyses lead to the conclusion that, while universal international legal norms provide a solid legal framework to combat human trafficking in the digital environment, their practical impact depends on both updating normative texts and strengthening enforcement mechanisms. To this end, the following reforms may be proposed:

6. Normative updates: an additional protocol or declaration to the Palermo Protocol specifically addressing digital human trafficking should be introduced. Legal regulations must also be established for the collection and use of digital evidence. Given that the majority of evidence in human trafficking crimes now exists in digital form, new legal mechanisms are needed to ensure such evidence is recognized as valid and admissible in international courts.

7. Technological cooperation: new models of transparent and accountable cooperation between technology companies and states should be created within the framework of international law.

8. Jurisdictional mechanisms: opportunities for applying universal jurisdiction to cybercrimes should be examined and improved.

9. Victim-centered approach: international funds and mechanisms should be established to support the restoration of victims' rights and provide psychological assistance in the digital sphere.

¹⁰⁸ Greenwood F., Al Azem K. Digital Safety and Human Trafficking. Harvard Kennedy School, Berkman Klein Center, 2019, p. 77

These approaches would not only help align universal international law with the realities of the digital era but would also contribute to the development of effective, human rights-based responses to new forms of human trafficking.

Despite existing legal and institutional safeguards, serious challenges persist in the fight against human trafficking.

The first problem concerns the actual implementation of international obligations by states. Despite having formally accepted international commitments to combat human trafficking, many states demonstrate significant gaps in fulfilling these obligations in practice. This inconsistency should be regarded as a sign of the systemic weakness of efforts to combat human trafficking. The issue is closely linked to legal, institutional, and political-economic factors, which directly affect the effectiveness of universal international norms. It is important to emphasize that the Palermo Protocol — the primary international instrument on human trafficking — along with other related conventions, establishes strong and detailed legal obligations. By ratifying these instruments, states undertake a range of legal and practical obligations, including: recognizing human trafficking as a crime, establishing adequate legal frameworks to combat it, strengthening law enforcement agencies, protecting victims, and ensuring international cooperation¹⁰⁹. However, these obligations are often accepted only formally and are not fulfilled in practice due to the lack of political will, financial resources, and institutional coordination.

¹⁰⁹ UNODC. Legislative Guide for the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto, 2004, pp.5-7

The second problem lies in the gap between legal norms and their actual implementation. Although many countries have criminalized human trafficking in their legislation, in practice, investigations and prosecutions are either not conducted or remain extremely limited. This issue has been repeatedly highlighted in the U.S. Department of State’s annual Trafficking in Persons (TIP) Reports. These reports emphasize that in many countries, the rate of victim identification remains very low, and the punishment of traffickers is often the exception rather than the norm¹¹⁰. This means that international obligations often remain merely on paper and fail to produce real change in practice.

The third problem is institutional fragmentation and weak coordination. As human trafficking is a transnational and complex crime, combating it requires coordinated efforts across multiple sectors — internal affairs, migration, labor, social protection, education, and others. However, in many countries, there are no comprehensive national strategies, no effective data systems, and no efficient information-sharing mechanisms between agencies. In addition, the legal status of victims often remains unclear; they are frequently treated as illegal migrants rather than being recognized as victims of crime.

The fourth problem is the marginalization of anti-trafficking efforts in the face of political and economic priorities. In many developing countries or states close to conflict zones, the fight against human trafficking is typically not a governmental priority. Factors such as the large informal labor sector, legal loopholes, and

¹¹⁰ U.S. Department of State. Trafficking in Persons Report, 2023, pp.22-24 <https://www.state.gov/reports/trafficking-in-persons-report-2023>

corruption significantly undermine efforts to combat trafficking. In some cases, government authorities themselves turn a blind eye to informal labor migration, as it serves to supply cheap labor. This constitutes a serious violation of both legal obligations and fundamental ethical principles¹¹¹.

The fifth problem is the weakness of enforcement mechanisms in international legal instruments. Although the Palermo Protocol and other universal conventions establish obligations, they lack effective enforcement mechanisms. In other words, even if a state accedes to these instruments, there are no serious international sanctions or legal measures imposed if the state fails to implement them. This reality undermines the normative strength of international law and encourages states to accept obligations merely in a formalistic manner.

As a result, while universal international norms and legal instruments provide a robust normative foundation for combating human trafficking, structural problems persist in their practical implementation. To overcome these challenges, the following measures should be considered:

- Strengthening the enforcement mechanisms of international legal instruments;
- Enhancing inter-state monitoring and accountability systems;
- Creating international pressure and incentives to foster political will;
- Ensuring a victim-centered approach and strengthening social services.

¹¹¹ Brysk A., Choi-Fitzpatrick A. From human trafficking to human rights: Reframing contemporary slavery. University of Pennsylvania Press, 2012, pP.59-62

The limited scope of judicial jurisdiction over transnational crimes such as human trafficking remains a significant obstacle to the effective application of both international law and national legislation. These limitations reduce the effectiveness of anti-trafficking efforts and create opportunities for perpetrators to evade accountability. When analyzing this problem in greater depth, the following aspects deserve attention:

1. Territorial jurisdiction principle

According to international legal norms, each state has jurisdiction to investigate and prosecute crimes committed within its own territory. However, human trafficking often has a transnational character, involving several countries — the victim may be taken from the country of origin, pass through transit countries, and be exploited in the destination country. In such cases, the traditional boundaries of judicial jurisdiction fail to reflect the legal realities of these transnational crimes. For example, if no investigation is conducted in the country of origin, responsibility for prosecution may rest solely with the destination country where exploitation occurred, which creates legal loopholes.

Consequently, the territorial limits of national jurisdiction do not correspond to the complex and geographically expansive structure of human trafficking networks¹¹².

2. Limited application of universal jurisdiction

The principle of universal jurisdiction in international law is traditionally applied to the most serious international crimes, such as genocide, crimes against humanity, and war crimes. However,

¹¹² Bassiouni M. C. *International Criminal Law*. The Kingdom of Netherlands, Leiden: Koninklijke Brill, 2014, pp.224-230

human trafficking is not yet widely recognized as a crime subject to the broad application of universal jurisdiction. As a result, the prosecution of offenders involved in human trafficking by states other than those where the crime occurred faces significant practical and legal challenges. Moreover, some states oppose the application of universal jurisdiction in such cases, which further narrows the geographic and legal scope of international investigations into human trafficking.¹¹³

3. Problems of inter-state legal cooperation

Human trafficking crimes are often committed by well-organized, transnational networks that operate across borders. Combatting such complex forms of crime effectively is only possible through intensive and institutionalized cooperation between states. Information exchange, joint investigation mechanisms, and extradition procedures play a crucial role in this regard. However, differences in national legal systems, political relations between states, corruption, and bureaucratic obstacles significantly weaken the effectiveness of such cooperation. As a result, offenders can easily cross international borders and evade prosecution.

4. Inconsistency and weakness of national legislation

In some states, legislation on human trafficking either does not exist or remains weak and incomplete from a normative perspective. In other cases, although a formal legal framework exists, there are serious institutional and practical shortcomings in its implementation. These may include: the failure to correctly legally classify human trafficking crimes; inadequate technical and

¹¹³ Schabas W. A. *The International Criminal Court: A Commentary on the Rome Statute*. Oxford University Press, 2009, pp. 465–471

methodological training of law enforcement agencies for evidence collection; the absence of effective mechanisms for the protection and rehabilitation of victims. As a result, these factors severely undermine the efficiency of judicial proceedings and create opportunities for perpetrators to escape accountability.

5. Protection of victims' rights and participation in judicial proceedings

The protection of victims' rights is a key prerequisite for the fair and successful conduct of human trafficking trials. However, the absence of unified and binding legal standards at the international level, combined with the lack of sufficient institutional resources and services in many states to protect victims, creates serious problems. In practice, it is common for victims to avoid testifying in court due to threats, pressure, and fear of retaliation. These circumstances limit victims' procedural participation, undermine the efficiency of legal processes, and ultimately seriously restrict their access to justice¹¹⁴.

6. New challenges of the digital environment

The rapid development of digital technologies has further expanded the transnational and non-traditional forms of human trafficking crimes.

The Internet, social media platforms, and anonymizing technologies enable human trafficking networks to recruit victims, exploit them, and conceal their activities without crossing physical borders. In this context, the collection of digital evidence, the resolution of cybersecurity issues, and the strengthening of transnational legal cooperation have emerged as key challenges in the fight against digital human trafficking. Ultimately, the

¹¹⁴ U.S. Department of State. Trafficking in Persons Report. 2023, pp. 29–32.

determination of judicial jurisdiction over human trafficking offenses committed in the digital environment becomes increasingly complex. This highlights the urgent need for the development of new legal mechanisms specifically designed to address these evolving forms of exploitation¹¹⁵.

In conclusion, the effectiveness of the international fight against human trafficking depends on the expansion of the scope of judicial jurisdiction, the strengthening of legal cooperation, the improvement of national legislation, and the protection of victims. To achieve this, the international community should:

- Expand the application of universal jurisdiction to human trafficking crimes;
- Simplify inter-state extradition and mutual legal assistance procedures;
- Align national legal norms with international standards;
- Establish strong mechanisms to protect victims' rights;
- Develop new legal and technological approaches for addressing human trafficking in the digital environment.

These measures can help eliminate the limitations of judicial jurisdiction over human trafficking cases, prevent impunity for offenders, and ensure victims' access to justice.

Limitations of court jurisdiction in human trafficking: regional examples and judicial practice

1. Regional examples

The limitations in judicial jurisdiction concerning human trafficking are particularly acute in developing regions such as

¹¹⁵ Schloenhardt A., Markey-Towler B. "Human Trafficking and the Digital Domain: New Threats and Approaches." *Criminal Law Forum*, 31(3), 2020, pp.407–433

Eastern Europe, South Asia, and Africa. In these regions, national legal systems have not yet been fully integrated with international standards, and legal and institutional resources remain limited and inadequate. Both the lack of legal clarity in anti-trafficking legislation and the weakness of enforcement mechanisms significantly undermine the effectiveness of judicial jurisdiction over such crimes.

- **Eastern Europe:** this region plays a significant role as both a source and transit zone for victims of human trafficking. One of the main challenges concerning judicial jurisdiction is that law enforcement agencies often lack the capacity to properly classify trafficking-related crimes and suffer from insufficient training. For example, although the number of human trafficking cases brought before courts in Ukraine increased between 2014 and 2019, most of these cases were either closed due to weak evidentiary bases or resulted in offenders escaping punishment or receiving mitigated sentences.

- **South Asia:** countries such as India, Bangladesh, and Nepal have some of the highest recorded rates of human trafficking worldwide. However, the exercise of judicial jurisdiction in these countries faces numerous challenges. The weakness of legal systems, institutional corruption, failure to protect victims' rights, and victims' exclusion from judicial processes are key factors hindering effective investigation and prosecution. For instance, in Bangladesh, criminal proceedings on human trafficking cases often suffer from years of delays, and frequently do not lead to any substantive legal outcomes.

• **Africa:** in this region, especially in West and Central Africa, human trafficking is widespread, particularly involving child exploitation and forced labor. In countries such as Nigeria, Ghana, and Cameroon, the problem is exacerbated by the weakness of legal infrastructure, the inefficiency of law enforcement bodies, and the overburdened judicial systems. Despite pressure from international organizations and human rights bodies, the number of human trafficking cases brought to court in Nigeria remains low, and actual punishments are rarely imposed.

These examples illustrate that the limitations of judicial jurisdiction in the fight against human trafficking are not solely legal in nature but are also closely linked to institutional, social, and political factors. At the regional level, overcoming these challenges requires not only the improvement of national legislation, but also cross-border legal cooperation, enhancement of technical capacities, and systemic reforms aimed at strengthening the protection of victims' rights.

2. International judicial practice

The number of international courts specifically specialized in human trafficking is limited, as human trafficking does not fall directly under the jurisdiction of international criminal tribunals. Nevertheless, crimes related to human trafficking have been considered and prosecuted before certain international courts. These can be summarized as follows:

• **Nuremberg and Tokyo Trials:** The tribunals held after the Second World War addressed issues of human trafficking and forced labor exploitation within the broader context of crimes against

humanity. However, compared to modern judicial practice, these analyses were relatively limited and superficial.

• **International Criminal Court (ICC):** Although human trafficking is not explicitly listed in the Rome Statute, in certain cases, acts of human trafficking have been investigated and prosecuted under the categories of crimes against humanity or war crimes. For instance, during the conflicts in the Democratic Republic of the Congo, the ICC examined cases involving the forced recruitment of women and children into military service and related trafficking offenses. However, this remains a matter of debate. The forced recruitment of women and children into military service may not always fulfill the specific legal elements of the crime of human trafficking.

• **European Court of Human Rights (ECtHR):** The ECtHR has issued several judgments based on complaints submitted by victims of human trafficking and has required states to ensure adequate protection against human trafficking. For example, in the case of *Rantsev v. Cyprus and Russia*, the Court addressed the failure of states to protect victims of human trafficking, bringing international attention to this issue.

• **International Court of Justice (ICJ):** The ICJ primarily deals with inter-state disputes, and cases specifically involving human trafficking are rare. However, issues related to states' failure to fulfill their obligations to combat human trafficking could potentially be raised within the framework of the ICJ's jurisdiction.

3. Lessons learned from practice and future directions:

• It is necessary to develop regional judicial mechanisms in order to expand international cooperation and judicial jurisdiction in

combating human trafficking. For example, the African Court on Human and Peoples' Rights and the European Court of Human Rights could further strengthen their roles in this area.

- At the national level, aligning legislation with international standards and providing specialized training for law enforcement agencies enhances the effectiveness of judicial jurisdiction.

- Protecting victims' rights and ensuring they have access to legal assistance increases their participation in judicial processes and facilitates access to justice.

- International cooperation in the fields of digital technologies and cybersecurity can strengthen legal protections against the new forms of human trafficking.

2.2. Lack of experience by global international organizations

Universal international organizations, particularly the United Nations (UN), the International Labour Organization (ILO), the UN Office on Drugs and Crime (UNODC), and other relevant bodies, play a significant role in shaping the normative framework and raising awareness in the fight against human trafficking.

However, there are serious challenges, notably the lack of effective mechanisms to ensure the enforcement of decisions and the limited scope of their real impact. It should be especially noted that **the lack of coordination** among universal international organizations remains one of the principal problems in the fight against human trafficking. This lack of coordination leads to both the duplication of normative activities and inefficiency at the operational level. For example, although organizations such as the UN Office on

Drugs and Crime, the International Labour Organization, the UN High Commissioner for Refugees, the UN High Commissioner for Human Rights, UNICEF, and UN Women each address different aspects of human trafficking, there is still no clearly defined functional division of responsibilities among them. As a result, overlapping mandates and parallel initiatives are observed. This leads to the inefficient use of resources and the fragmentation of impact and influence¹¹⁶.

Platforms such as the Inter-Agency Coordination Group against Trafficking in Persons (ICAT), which were established to ensure inter-agency coordination on human trafficking, do not possess actual governance or enforcement functions. ICAT is limited to preparing advisory documents and lacks any legal mechanisms for the implementation of its decisions¹¹⁷. For this reason, inter-organizational coordination is not ensured. The lack of coordination exists not only within individual organizations but also between international and regional structures. For example, there is no institutional basis for information and experience sharing between the Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) and United Nations bodies. This lack of coordination hinders the integration of practical knowledge developed in different regions into a universal framework¹¹⁸.

¹¹⁶ Gallagher A. T., Ezeilo J. N. The UN Special Rapporteur on Trafficking and the Inter-Agency Coordination Group: Missed Opportunities. *Anti-Trafficking Review*, (4), 2015, p. 90

¹¹⁷ ICAT. *Improving Coordination to Combat Trafficking in Persons: The Role of the ICAT*, 2020, p.5.

¹¹⁸ OSCE, *Strengthening Regional and International Cooperation to Combat Trafficking in Human Beings*, 2019, p.12

The lack of coordination also persists in the area of data collection and information sharing. For example, due to the application of different methodologies by the United Nations Office on Drugs and Crime and the International Organization for Migration, it is not possible to harmonize statistical data on victims. This, in turn, leads to distortions and inaccuracies in the assessment of the global situation¹¹⁹. Furthermore, the refusal of certain states to share information related to human trafficking, or the manipulation of such information, further deepens the institutional weakness of coordination at the universal level. The absence of sanction or pressure mechanisms by organizations in response to such practices allows national interests to create serious obstacles to international cooperation.

The penetration of digitalization into the areas of activity of international organizations does not automatically resolve this problem, nor does it ensure effective coordination. On the contrary, the complexity of the digital environment and its incomplete alignment with international legal standards make the systematic and sustainable implementation of coordination even more difficult. Therefore, it is necessary to establish unified technical platforms for digital coordination, to develop common legal frameworks, and to create reliable mechanisms for information exchange.

Secondly, **the unequal distribution of resources** may also be noted as an example of insufficient practice.

At the international level, the unequal distribution of resources within programs aimed at combating human trafficking constitutes one of the serious problems. This issue manifests itself in terms of

¹¹⁹ IOM & UNODC. Joint Data Collection Challenges in Human Trafficking, 2021, p.7

both financial and human resources. In developed countries, the financial allocations and availability of qualified personnel for combating human trafficking are relatively high. In these countries, law enforcement bodies, social service agencies, and other relevant institutions are equipped with modern methods and technologies. They are also staffed with specialists who have undergone professional training. For example, the various projects and funds implemented by the European Union countries in the field of combating human trafficking may be cited. In these countries, both financial resources and training programs are organized on a broad scale¹²⁰. On the other hand, in less developed countries or those with a shortage of resources, the lack of sufficient financial means and qualified personnel for combating human trafficking is a widespread problem. In these countries, resources allocated both from the state budget and through international assistance are limited. As a result, law enforcement agencies and social protection systems are unable to effectively carry out complex tasks such as the identification, protection, and rehabilitation of victims of human trafficking. For example, research conducted in the regions of Africa and South Asia demonstrates that one of the main obstacles to combating human trafficking in these areas is precisely the lack of financial resources and qualified personnel¹²¹. In addition, the unequal distribution of resources is also reflected at the level of international cooperation. International organizations and donor countries primarily direct their attention to regions that align with their own interests and priorities.

¹²⁰ UNODC, Global Report on Trafficking in Persons. United Nations Office on Drugs and Crime, 2020, p.45

¹²¹ ILO. ILO Global Estimates on International Labour Migration: Results and Methodology. International Labour Organization, 2018, p.63

This leads to the fight against human trafficking remaining weak in other regions, particularly those considered high-risk areas. In some cases, the financial support provided by donors fails to ensure the sustainability of projects. As a result, short-term and ineffective programs are implemented¹²². This lack of resources weakens the global fight against human trafficking. Criminal networks specifically target countries that are poorly protected and financially vulnerable. Moreover, the limited availability of social services and psychological support programs for the effective protection and reintegration of victims of human trafficking increases the risk of victims being subjected to exploitation again. Therefore, at the international level, a more equitable and targeted distribution of resources, as well as the strengthening of the capacity of less developed countries to combat human trafficking, should be regarded as a priority.

Another example of insufficiency of practice is **the fragmentation of legal mechanisms**. The fragmentation of legal mechanisms gives rise to serious problems in the fight against human trafficking. It also reflects the absence of a unified and coordinated legal framework at the international level in this field. The lack of consistency between the legislative frameworks of different countries on combating human trafficking, the differences in legal concepts and terminology, as well as the variations in the classification of crimes and the sanctions applied, significantly hinder international cooperation. For example, acts that are recognized as human trafficking in one country may be subject to a

¹²² Shelley L, Human Trafficking: A Global Perspective. Cambridge University Press, 2014, p.122

lighter legal assessment or regulated through completely different legal mechanisms in another country. Such inconsistencies create opportunities for cross-border criminal groups to exploit legal loopholes.

Although international treaties and conventions such as the Palermo Protocol provide a common legal framework for participating states, the integration of these norms into national legislation and their practical application differ significantly from country to country. These discrepancies complicate mutual cooperation between law enforcement agencies, operational information exchange, and the coordination of joint operations. For example, during anti-trafficking operations conducted by international organizations such as Europol and Interpol, the incompatibility of legal mechanisms negatively affects the effectiveness of these operations.

This fragmentation within the legal framework not only complicates the fight against criminals but also hinders the protection of victims of human trafficking. Legislative inconsistencies obstruct the cross-border protection and safe reintegration of victims. All of this once again highlights the urgent need to establish unified and effective international standards aimed at ensuring the protection of the rights of victims of human trafficking¹²³.

As a result, the fragmentation of legal mechanisms undermines the effectiveness of the fight against human trafficking, and addressing this problem requires strengthening international legal

¹²³ ILO. ILO Global Estimates on International Labour Migration: Results and Methodology. International Labour Organization, 2018, p.48

cooperation, harmonizing national legislation, and implementing unified legal standards.

The weakness of monitoring and accountability systems also constitutes another significant gap in practice.

This shortcoming seriously limits the efficiency of data collection, analysis, and sharing processes at the international level. The current situation is characterized by inconsistencies and ambiguities in the collected data, particularly due to the lack of unified standards and methodologies. For example, different countries and international organizations record the number of trafficking victims, the activities of criminal networks, and the outcomes of counter-trafficking measures using varying methods and criteria. As a result, it becomes difficult to achieve an objective and accurate assessment of the overall situation¹²⁴.

The weakness of international accountability systems also significantly limits the ability to assess the effectiveness of protection and assistance programs for victims of human trafficking. This situation hampers the creation of a reliable data base, which is crucial for the efficient allocation of resources and for improving counter-trafficking strategies. As a result, it becomes difficult for donor organizations and governments to make well-founded decisions, and the effectiveness of existing measures cannot be accurately evaluated¹²⁵. Additionally, the weakness of monitoring and accountability systems negatively affects the effectiveness of international cooperation. In particular, the failure to share

¹²⁴ UNODC Global Report on Trafficking in Persons. United Nations Office on Drugs and Crime, 2020, p.52

¹²⁵ Shelley L. Human Trafficking: A Global Perspective. Cambridge University Press, 2014, p.110

information in a timely, accurate, and reciprocal manner reduces the efficiency of cross-border operations conducted by law enforcement agencies and makes it much more difficult to track the activities of criminal networks. For this reason, it is considered necessary to establish more unified, standardized, and transparent monitoring and accountability mechanisms in the fight against human trafficking.

Weaknesses in victim protection and reintegration efforts represent another element of this practical deficiency.

Weaknesses in the area of victim protection and reintegration constitute one of the most serious and critical challenges in the fight against human trafficking. This issue is directly linked to the failure to effectively protect the rights of victims of human trafficking on a global scale, as well as the lack of adequate support mechanisms for their social and psychological rehabilitation. Victims of human trafficking typically experience deep physical, psychological, and social trauma, and their protection requires the implementation of comprehensive, long-term, and individually tailored programs. However, at both the international and national levels, there are serious institutional and resource-related shortcomings in the funding, effective coordination, and practical implementation of these programs¹²⁶.

In different countries, legal mechanisms and social services for the protection of victims' rights and their reintegration have developed to varying degrees. In some states, sufficient resources are allocated to ensure the safety of victims, provide medical and psychological assistance, and support their reintegration into society.

¹²⁶ UNODC. Global Report on Trafficking in Persons. United Nations Office on Drugs and Crime, 2020, p.57

On the other hand, in many less developed countries, such programs remain limited and unsystematic. This situation increases the risk of victims being re-exploited and complicates their long-term social rehabilitation¹²⁷.

Although projects implemented by international organizations and donors play an important role in protecting victims' rights, their sustainability and scope are often limited. Therefore, coordination of victim protection and reintegration programs between countries, as well as the fair distribution of resources, has become essential.

Overall, weaknesses in the protection and reintegration of victims reduce the effectiveness of efforts to combat human trafficking, because the long-term struggle requires not only bringing perpetrators to justice but also ensuring the full recovery and reintegration of victims into society. In this regard, it is necessary to strengthen international legal frameworks and expand practical measures.

Finally, it is important to emphasize **the insufficiency of political will**.

One of the main obstacles in the fight against human trafficking is the lack of strong political will. The failure of some states to give this issue adequate attention leads to serious gaps and inefficiencies, both in the formation of legal frameworks and in the implementation of laws. Effective action against human trafficking requires high-level political support and commitment, which is crucial for improving legislation, allocating resources, and

¹²⁷ ILO. ILO Global Estimates on International Labour Migration: Results and Methodology. International Labour Organization, 2018, p.49

strengthening the activities of law enforcement agencies. In some countries, combating human trafficking is not considered a political priority, and as a result, financial and human resources allocated to this area remain insufficient. The lack of political will also creates an environment conducive to corruption and the operations of criminal networks, reducing the effectiveness of law enforcement and judicial systems. For example, in some regions, the indifference of government officials to trafficking issues or their failure to take serious action allows criminal groups to operate with impunity. Moreover, the absence of political will hinders international cooperation, as political backing is crucial for organizing information exchange and joint operations between states. To strengthen political will, there is a need for awareness-raising, education, and legislative reforms related to human trafficking, both at the national level and within international platforms.

Finally, it should be emphasized that one of the key conditions for the successful fight against human trafficking is the existence of strong political will. Such political will enables the improvement of legislation, the strengthening of law enforcement agencies, and the implementation of comprehensive measures for the protection of victims.

2.3. Problems of adapting regional legal norms to digital challenges and coordination gaps

Combating human trafficking in the Asian region and key international organizations

Experience in combating human trafficking in Southeast Asia

The Asia region, compared to other geographical areas, is distinguished by its vast territorial expanse, the large number of states it comprises, and its politically and legally fragmented structure. The unequal distribution of international legal entities within the region and the inconsistency of legal systems as a whole reveal institutional incompleteness. This lack of systemic coordination is particularly evident in the fight against human trafficking, including its digital dimensions. Existing legal literature and extensive scientific research predominantly reflect the perspectives of authors from Europe, the Americas, and the CIS. These works pay insufficient attention to the application and development of international law in the Asian region, as well as to regional legal initiatives addressing human trafficking. The available academic sources generally limit their focus on combating human trafficking within the frameworks established by the UN, the Council of Europe, the European Union, and, to some extent, the American continent's mechanisms. In this respect, Asia remains an under-researched and scientifically overlooked area in terms of the fight against human trafficking. There is a clear gap in comprehensive academic analysis regarding how international law is applied, developed, and adapted within this region, especially considering the region's unique institutional, legal, and socio-political landscape.

One of the main reasons why information on regional international legal and national legal approaches to combating human trafficking in the Asia region is only limitedly reflected in the literature stems from the fact that the region lacks a unified political and legal structure. In this vast geography, there is virtually no single, common, and effective regional organization encompassing all states. Furthermore, there are profound differences between the northern, southern, western, and eastern parts of Asia in terms of culture, legal systems, historical development, and statehood philosophy. As a result, the national legal mechanisms applied against human trafficking, as well as existing regional legal norms, are highly diverse and fragmented. Considering these characteristics, conducting scientific research on anti-human trafficking practices within the Asia region becomes an exceptionally complex and challenging task. Such analysis is only possible through a comparative examination of dozens of different regional organizations' activities, dividing the region into sub-regions, and studying the national legal practices of each sub-region individually.

In this context, the research conducted is significant not only for Azerbaijani legal scholarship but also for the broader international academic discourse. Within the scope of this research, the forms of combating human trafficking in the Asia region, the documents and activities of relevant institutions, as well as existing gaps and ways to eliminate them have been analyzed and presented from both national and international legal perspectives. A particular focus has also been placed on the Islamic states located within parts of the Asian region, which have adopted Islamic legal norms and religious legal systems and share similar historical and legal

development characteristics. These states are primarily concentrated within the League of Arab States and the Gulf Cooperation Council frameworks.

The South and Southeast Asian countries of the region are primarily covered by international associations such as ASEAN, SAARC, PIDC, and the Bali Process. Both the member states of these organizations and the population of the region, being part of an information society tradition, make extensive use of the opportunities provided by the digital space, both positively and negatively. In particular, in Southeast Asian countries, the development of the digital economy and the intensive use of social media platforms by the population have had a direct impact on the sphere of combating human trafficking. During the COVID-19 pandemic, with the wider application of digital technologies, there was a transformation of human trafficking into new electronic platforms, which caused serious concern both among the regional states and relevant international organizations¹²⁸. Southeast Asia represents one of the most complex intersections of migration and human trafficking on a global scale. Factors such as political instability, armed conflicts, human rights violations, economic insecurity, and environmental degradation have forced millions of people in the region to become migrants.

A significant portion of these displaced persons live without legal status and lack adequate protection mechanisms, placing them in an especially vulnerable position to exploitation and human trafficking. According to repeated reports by the United Nations

¹²⁸Ullah A., Lee W.C.S., Hassan N.H. Southeast Asia in Pre- and Post-COVID-19: Economy, Society, Mobility and Religion. New York: Routledge, 2025, 162 p., p.20

Office on Drugs and Crime (UNODC), Southeast Asia is considered one of the primary regions of origin, transit, and destination for human trafficking. Displaced persons are among the groups most vulnerable to human trafficking risks, as traffickers exploit their desperate circumstances and lack of viable alternatives¹²⁹.

As noted, under international law, human trafficking is characterized by activities such as the recruitment, transportation, transfer, harboring, or receipt of persons through improper means for the purpose of exploitation. Displaced populations, who are often deprived of legal protection and economic opportunities, face a heightened risk of falling under the influence of trafficking networks. In Southeast Asia, human trafficking is closely linked to the region's deepening displacement crisis. Refugees, asylum seekers, internally displaced persons (IDPs), and migrants fleeing environmental disasters are at risk of being exploited through forced labor, sexual exploitation, and increasingly widespread online scam operations. This policy summary examines the nexus between forced displacement and human trafficking in Southeast Asia, identifies key gaps in protection mechanisms, and analyzes urgent measures needed by governments and international organizations to safeguard vulnerable populations.

Due to globalization and technological advances, the cross-border movement of people and resources has significantly increased. Within this context, and as part of ASEAN's vision for regional integration, issues such as irregular migration, human trafficking, and migrant smuggling have emerged as key regional

¹²⁹ Keo C. Human Trafficking in Cambodia. USA, New York: Routledge, 2014, 240 p., p.88

security challenges. Owing to the transnational nature of these threats, ASEAN member states are affected as countries of origin, transit, and destination. In this regard, criminal groups typically exploit individuals living in severe socio-economic conditions, exposing them to various forms of exploitation¹³⁰. The complex criminal syndicate networks operating across transnational routes continue to facilitate both human smuggling and human trafficking, perpetuating the vulnerable situations where victims face serious threats to their lives. The threats posed by human trafficking and smuggling have intensified, particularly in the context of the COVID-19 pandemic and the post-pandemic reopening of borders, alongside the rise of informal and flexible work arrangements. During this period, a notable increase in the activities of criminal syndicates has been observed.

The Southeast Asia region serves as a major transit and destination hub for human trafficking operations broadly categorized under the term "modern slavery," where millions of people are subjected to forced labor and sexual exploitation. The exploitation of digital technologies and internet platforms for trafficking purposes has further complicated the issue. The COVID-19 pandemic exacerbated existing social and economic instability in the region, creating conditions conducive to the escalation of human trafficking cases in both scale and intensity.

This research aimed to provide an overview of the state of human trafficking in Southeast Asia during the COVID-19 period. As a result of both the large number of vulnerable populations and

¹³⁰ Curley M., Wong S. *Security and Migration in Asia: The Dynamics of Securitisation*. USA, New York: Routledge, 2008, 224 p., p.67

the expansiveness of international borders, Southeast Asia has long been recognized as one of the world's most problematic and high-risk regions for human trafficking.

In addition to the increase in trafficking during the pandemic, the use of digital sources and online platforms by criminal groups to develop new methods of exploitation has expanded considerably. During this period, the role of systematic and organized criminal groups in regional trafficking became more pronounced and institutionalized.

Future research should not be limited to evaluating the effectiveness of specific intervention mechanisms and strategies against human trafficking but should also comprehensively examine the broader impacts of the COVID-19 pandemic on human rights in the region, particularly in the areas of social protection, gender equality, and legal safeguards.

In international legal instruments, the term "human trafficking" is defined through various legal formulations. Generally, human trafficking encompasses the recruitment, transportation, transfer, harboring, or receipt of persons for exploitation through means such as force, coercion, deception, abduction, fraud, or abuse of power. The main purposes of trafficking include sexual exploitation (prostitution), forced labor, domestic servitude, forced marriage, and the illegal removal of organs.

Southeast Asia functions as a source, transit, and destination zone for trafficking. The region is also considered a strategic hub for traffickers from other regions. The phenomenon of "modern slavery" is widespread in Southeast Asia; millions of men, women, and children have fallen victim to complex and clandestine networks of

exploitation characterized by labor and sexual abuse and other inhumane forms.

Human trafficking today is regarded as one of the most profitable forms of organized crime in Asia, generating billions of dollars annually through transnational criminal activities.

In this context, the Palermo Protocol serves as the key international legal framework in the fight against trafficking. Adopted by the UN General Assembly in November 2000 and entering into force on 25 December 2003, this protocol regulates measures related to the protection of women and children, criminal liability, and the imposition of sanctions. By defining trafficking in persons in legal terms, it laid the foundation for global legal standards against modern slavery, drawing inspiration from existing international conventions on forced labor, prostitution, human rights, and the protection of children.

A literature review on the current state and background of human trafficking in Southeast Asia reveals several key trends:

First and foremost, unequal economic development and the demand for cheap, low-skilled labor are cited as principal drivers behind the spread of trafficking in this region. Trafficking occurs both within the region — between Southeast Asian countries — and internationally across transnational borders. Most victims originate from economically and socially underdeveloped countries such as Cambodia, Laos, Myanmar, and Vietnam. They are predominantly trafficked to more developed countries within the region, such as Thailand, Malaysia, and Singapore, and to China, Europe, North America, the Middle East, and Australia. In this context, Thailand serves as a key transit and destination country for victims from

Cambodia, Laos, and Myanmar, while Malaysia is recognized as a major destination for victims from Indonesia, the Philippines, and Vietnam.

Secondly, in Southeast Asia, widespread poverty and harsh socio-economic conditions force people into migration in search of better living conditions, increasing their risk of falling victim to trafficking. In many cases, victims initially accept offers of employment voluntarily, only to realize after crossing borders that they have been deceived and subjected to exploitation.

Thirdly, there is a lack of clear and consistent evidence linking trafficking in the region to large-scale, highly organized criminal networks. Existing studies show that traffickers are often relatives, acquaintances, or even former trafficking victims themselves. In some cases, individuals with prior work experience abroad use the contacts and knowledge they have gained to deceive others upon returning to their home countries, luring them into exploitative situations. Research conducted in Cambodia suggests the possible involvement of serious financial interests and organized criminal groups behind human trafficking. Official statistics show that most of those arrested for trafficking in Cambodia are poor and poorly educated women, which increases their likelihood of being both victims and facilitators of such crimes.

The Association of Southeast Asian Nations (ASEAN) seeks to respond to such issues in the region's poorer countries. The founding members of ASEAN — Indonesia, Malaysia, Thailand, the Philippines, and Singapore — have led this initiative at the foreign minister level. The organization was established through the ASEAN Declaration (Bangkok Declaration) signed on 8 August 1967 in

Bangkok. Subsequently, Brunei Darussalam, Cambodia, the Lao People's Democratic Republic, Myanmar, and Vietnam joined, contributing to ASEAN's expansion.

ASEAN's primary goal is to ensure regional stability and prevent the escalation of potential conflicts and issues. The core principles guiding the organization's activities are as follows:

1. To respect the sovereignty, equality, and independence of every State;
2. To recognize the right of each State to resolve its internal affairs without external interference;
3. To resolve interstate matters through peaceful means and to settle disputes by peaceful methods;
4. To develop mutual relations without resorting to pressure or the use of force;
5. To promote the effective development of cooperation between States.

The Trafficking in Persons Protocol (Palermo Protocol) has been incorporated into the legislation of ASEAN member states at different times. Specifically, it was adopted in the Philippines in 2003; in Brunei in 2004; in Myanmar in 2005; in Malaysia and Indonesia in 2007; in Thailand and Cambodia in 2008; in Vietnam in 2012; and in Laos and Singapore in 2015.

The ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) is the first legally binding regional instrument in the region. This instrument was signed by the Heads of State of ASEAN member states on 21 November 2015 in Kuala Lumpur, the capital of Malaysia. The Convention enters into force 30 days after the deposit of the sixth instrument of ratification

with the ASEAN Secretariat. On 6 February 2017, the Philippines became the sixth member state to ratify ACTIP and submitted the instrument of ratification to the Secretariat. Subsequently, the Lao People's Democratic Republic, Indonesia, Malaysia, and Brunei also ratified the Convention, thereby ensuring the participation of all ten ASEAN member states.

ACTIP regulates measures aimed at the effective protection of victims of trafficking in persons. It also serves to strengthen enforcement mechanisms, demonstrating ASEAN's continued commitment to combating human trafficking. At the same time, this Convention encourages member states to engage in close regional cooperation against trafficking in persons. As the principal regional legal instrument against human trafficking in the Southeast Asian region, ACTIP is recognized as the ASEAN Convention of 2015.

It is important to note that ACTIP is based on the ASEAN Declaration Against Trafficking in Persons, Especially Women and Children, adopted in 2004. Its key provisions are highly consistent with the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol). In this respect, ACTIP is considered the first binding international legal instrument in the Southeast Asian region specifically addressing the fight against human trafficking.

The main provisions of the Convention cover the criminalization of offences related to human trafficking, the protection of victims of trafficking, and the establishment of appropriate state services to ensure their rights. It also addresses interstate cooperation and the exchange of information. The requirements of ACTIP have been incorporated into the national

legal systems of member states within the framework of the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC), as well as through the ASEAN Plan of Action of 2017.

Within the ASEAN structure, an additional regional legal mechanism, the "ASEAN 2025 Initiative," is being implemented to strengthen the fight against the spread of human trafficking through digital technologies. This initiative is particularly focused on the protection of trafficking victims and the enhancement of cross-border cooperation. One of its most significant innovations is the application of the principle of non-punishment of victims for offences committed under coercion, also referred to as the non-punishment principle.

Supported by Australia and implemented by the ASEAN Intergovernmental Commission on Human Rights (AICHR) together with the Senior Officials Meeting on Transnational Crime (SOMTC), this initiative aims primarily to ensure that victims of human trafficking are not prosecuted for acts they were compelled to commit.

The main aspects of the ASEAN 2025 Initiative concerning human trafficking can be grouped as follows:

a) **Non-prosecution of victims of trafficking:** The initiative has provided for the adoption of guidelines to prevent the prosecution of victims of human trafficking for offences committed as a direct result of their trafficking experience.

b) **Enhanced cooperation:** The initiative emphasizes the expansion of cooperation between ASEAN member states and external partners in combating human trafficking, particularly in

response to the rise in forced criminality within organized criminal groups engaged in fraud.

c) **Cross-border investigations:** According to information from the United Nations Office on Drugs and Crime (UNODC), efforts continue to improve cross-border investigations and prosecutions targeting both lower-level and higher-level criminal networks involved in human trafficking.

d) **Victim-centered approach:** The initiative promotes a victim-centered approach and ensures access for victims to protection, rehabilitation, and support services.

e) **Awareness-raising and prevention:** ASEAN member states conduct awareness-raising campaigns for the public and relevant officials on human trafficking and its human rights implications. Initiatives are also undertaken to enhance relevant skills and capacities.

f) **Regional cooperation:** The initiative promotes regional cooperation through platforms such as the Emergency Response Network (ERN) hosted by UNODC. Through this platform, member states assess the evolving threat landscape and explore targeted solutions.

To date, a number of significant developments have been achieved under the “ASEAN 2025 Initiative.” Notably, on June 2, 2025, the “ASEAN Guidelines on the Implementation of the Non-Punishment Principle for the Protection of Victims of Trafficking in Persons” were launched. In May 2025, the Senior Officials Meeting on Transnational Crime (SOMTC) organized a seminar on cross-border investigations and prosecution of human trafficking cases. The purpose of this seminar was to discuss how member states can

apply the existing ASEAN tools on human trafficking more effectively. Currently, SOMTC is finalizing and disseminating a set of practical tools aimed at enhancing cooperation in human trafficking cases.

During the COVID-19 pandemic, the ASEAN region experienced an economic downturn, while people's online activity increased significantly. This situation exposed many individuals to the risk of being deceived with promises of better life and work opportunities. As a result, some individuals were exploited and became victims of human trafficking. Cases began to emerge even in countries previously not targeted by traffickers, where citizens were exploited via the internet. Technology provided traffickers with the means to organize anonymously, build networks, and conduct their operations more quickly and at lower costs, all while evading detection by authorities.

In the Greater Mekong Subregion, law enforcement agencies identified and rescued victims of human trafficking arriving from neighboring countries through the use of social networks such as Facebook, Zalo, and Telegram. Moreover, in some migration destination countries, there were reports of citizens being deceived with false promises of employment, then having their freedom taken away and being held captive for ransom. The widespread use of cryptocurrency and informal payment systems in international transactions has further complicated the detection and investigation of such crimes.

During the COVID-19 pandemic, transnational cooperation in combating human trafficking was primarily conducted via the Zoom platform. Regional conferences were adapted to the webinar format,

and e-learning methods were introduced for classroom-based training for prosecutors. Additionally, some courts prioritized the use of technological tools in the administration of justice, significantly increasing the use of video conferencing technologies. This created a safer and more comfortable environment for victims of human trafficking, particularly in cases where they often serve as the sole witnesses during court proceedings. For example, in response to pandemic restrictions, the Supreme Court of the Philippines issued a circular to continue the submission of documents and the conduct of legal proceedings through electronic courts (e-courts). Judges ensured that, both for COVID-19 prevention measures and for guaranteeing the safety of victims, testimonies in human trafficking cases could be heard via live-streaming technology.

ASEAN member states, with the support of ASEAN-ACT, have organized seminars on the collection and use of digital evidence in cybercrime cases. This type of evidence includes online conversations, texts, photographs, and information related to online transactions, all of which play a crucial role in combating new forms of human trafficking.

Remote testimony allows victims to provide statements without the risk of re-traumatization. Technology is also utilized to support victims' recovery and reintegration into society. For example, Thailand's Ministry of Social Development and Human Security has developed a mobile application for reporting suspected human trafficking cases and requesting protection services in seven languages. In 2021, this application recorded 46 human trafficking cases, provided translation services to 303 users, and enabled 2,585 people to access information about their rights.

In Indonesia, the Witness and Victim Protection Agency uses a mobile application to facilitate the submission of complaints and dissemination of information about state protection services for victims of human trafficking and other crimes. While concerns about the harmful use of technology in human trafficking cases persist, it is important to acknowledge its positive potential. The pandemic period demonstrated that victims and survivors can provide evidence in judicial processes without being physically present. Technology increases the likelihood of victims giving testimony by ensuring that testimonies are provided in a safe and protected environment.

The ASEAN region showcases innovation and creative uses of technology, particularly through accessible mobile applications. Australia plans to continue its cooperation with ASEAN partners in this area and will implement joint projects aimed at protecting and supporting victims and at-risk individuals.

At the same time, it is necessary to ensure continuous training, professional development, and investment in appropriate equipment for judicial bodies to adapt to evolving technologies. It is important to recognize that technology alone is not a universal solution; without targeted education, awareness-raising, and international cooperation, success cannot be achieved. Nevertheless, technology remains an important tool for taking preventive measures against traffickers and providing better protection for victims.

In May 2023, at the 42nd ASEAN Summit held in Labuan Bajo, Indonesia, the leaders of the Association of Southeast Asian Nations (ASEAN) took a significant step in combating the growing threat of technology-facilitated human trafficking by adopting the “Declaration on Combating Trafficking in Persons Caused by the

Abuse of Technology.” The Declaration reflects a collective and comprehensive approach to addressing this complex issue. It emphasizes that human trafficking constitutes a serious violation of human rights and acknowledges the role of technology in facilitating this crime.

In the Declaration, ASEAN leaders reaffirm their commitment to the following key principles:

- Strengthening regional cooperation and information exchange against transnational human trafficking, facilitating rapid intelligence sharing, joint investigations, and the exchange of best practices;

- Establishing a robust legislative framework and enhancing the capacity of law enforcement agencies by aligning national legislation with international standards and ensuring its effective implementation;

- Developing training programs to improve the knowledge of law enforcement officers, judges, and prosecutors on the technology-driven nature of human trafficking;

- Enhancing victim-centered approaches, ensuring survivors’ access to justice, social services, healthcare, and rehabilitation programs, with particular attention to women, children, migrants, and refugees;

- Promoting collaboration with the private sector, civil society, and academia, fostering the development of innovative solutions and preventive measures against human trafficking;

- Establishing a regional coordination and monitoring mechanism to combat technology-facilitated trafficking, enabling

resource-sharing, technical assistance, and capacity building among Member States.

This Declaration demonstrates ASEAN's collective resolve to combat human trafficking in the digital era and marks a significant step towards addressing challenges related to the misuse of technology in the region. Additionally, the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) and the accompanying Plan of Action have strengthened anti-trafficking efforts, with ACTIP having entered into force in all ASEAN Member States by early 2020. Furthermore, by adopting the Bohol Trafficking in Persons Work Plan for 2017–2020, ASEAN demonstrated a systematic approach to addressing the multifaceted dimensions of transnational human trafficking¹³¹.

The Bohol Trafficking in Persons Work Plan, managed by the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC), provided a comprehensive framework to address various aspects of human trafficking, including law enforcement, criminal justice, border security, health, education, and gender.

Following the completion of the Bohol Work Plan, at the 17th ASEAN Ministerial Meeting on Transnational Crime (AMMTC) held on 21 August 2023, ASEAN adopted the ASEAN Multi-Sectoral Work Plan Against Trafficking in Persons 2023–2028. The implementation of this work plan is currently ongoing and involves the ten relevant ASEAN sectoral bodies. This initiative once again demonstrates ASEAN's commitment to combatting the threat of

¹³¹ Capaldi M.P., Petcharamesree S. *Migration in Southeast Asia: IMISCOE Regional Reader*. Switzerland: Springer Nature, 2023, 232 p., p. 207

human trafficking through cross-pillar and cross-sectoral coordination and cooperation¹³².

The ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) is a regional, legally binding agreement among ASEAN member states. It was signed on 21 November 2015 by the respective Heads of State in Kuala Lumpur, Malaysia. Complementing the Convention, the ASEAN Plan of Action¹³³ was developed to ensure that member states adopt specific national action plans within the framework of their domestic laws, policies, and international obligations to address the following common regional challenges effectively: (1) prevention of trafficking, (2) protection of victims, (3) prosecution of trafficking-related crimes, and (4) regional and international cooperation and coordination.

In its Preamble, the Convention acknowledges that trafficking in persons constitutes a violation of human rights and an affront to human dignity. It further recognizes that trafficking is driven by multiple factors such as corruption, poverty, economic instability, ineffective legal systems, organized crime, and all forms of exploitation, particularly of women and children. Therefore, it emphasizes the necessity of strengthening measures to combat trafficking in persons. The participating states also underline the importance of establishing a regional legal framework for Southeast Asian countries to guide regional actions in the prevention of

¹³² ASEAN Document Series on Transnational Crime: Terrorism and Violent Extremism, Drugs, Cybercrime, and Trafficking in Persons. ASEAN Secretariat, 2017, 266 p., p. 94

¹³³ Qiao-Franco G. UN-ASEAN Coordination: Policy Transfer and Regional Cooperation Against Human Trafficking in Southeast Asia. USA, Massachusetts: Edward Elgar Publishing, 2023, 188 p., p.143

trafficking, the prosecution of offenders, and the protection and assistance of victims.

In the preamble to the Convention, the States Parties recognize trafficking in persons as a violation of human rights and an affront to human dignity. They further note that trafficking in persons is the result of numerous factors. These include corruption, poverty, economic instability, ineffective legal systems, organized crime, and, in particular, all forms of exploitation of women and children. Therefore, the States Parties acknowledge the necessity of strengthening efforts to combat human trafficking. They also recognize the importance of establishing a regional instrument that serves as a legal framework for regional action among Southeast Asian countries. This framework aims at the prevention of trafficking in persons, the fight against it, and the protection and assistance of victims.

The Convention establishes legally binding obligations for ASEAN member states regarding national challenges, priorities, and strategies in the fight against human trafficking. It ensures the implementation of robust and coordinated measures at the regional level for the prevention of trafficking, prosecution of offenders, and particularly the protection of women and children. The implementation of the Convention is assessed based on the collection, analysis, and sharing of human trafficking-related data at the national level. The transparent publication of National Annual Reports on Human Trafficking enhances the awareness of both governmental and non-governmental organizations working in victim protection and support in ASEAN states and strengthens

cooperation. The aim is to prevent information on national actions from becoming fragmented and confined to individual agencies only.

ASEAN member states have identified victim-sensitive and attentive treatment of victims at all stages of human trafficking cases as a priority. The prosecution of traffickers largely relies on the participation of victims as witnesses and the evidence they provide. Since this process can be traumatic for victims, it is essential that both the victims themselves and the general public have access to sufficient information at the national level about human trafficking so victims can make informed decisions. The transparent disclosure of National Annual Reports on Human Trafficking demonstrates ASEAN's commitment to its regional efforts. This contributes to improving the treatment of victims and encourages more victims to come forward and testify in future cases.

Another international organization covering the southern states of the Asian region is the South Asian Association for Regional Cooperation (SAARC). Within this framework, several documents on combating human trafficking have been adopted. SAARC was established on 8 December 1985 with the signing of the SAARC Charter in Dhaka. The Association has eight member states: Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka. The SAARC Secretariat officially commenced its activities on 17 January 1987 in Kathmandu.

As stated in the SAARC Charter, the objectives of the Association are as follows:

➤ To promote the welfare of the peoples of South Asia and to improve their quality of life;

- To accelerate economic growth, social progress, and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realize their full potential;
- To promote and strengthen collective self-reliance among the countries of South Asia;
- To contribute to mutual trust, understanding, and appreciation of one another's problems;
- To promote active collaboration and mutual assistance in the economic, social, cultural, technical, and scientific fields;
- To strengthen cooperation with other developing countries;
- To strengthen cooperation among member states in international forums on matters of common interest;
- To cooperate with international and regional organizations with similar aims and purposes;
- Decisions at all levels within the Association shall be taken on the basis of unanimity;
- Bilateral and contentious issues shall be excluded from the deliberations of the Association.

The main instrument adopted by the South Asian Association for Regional Cooperation (SAARC) in the fight against human trafficking is the **2002 Convention on Preventing and Combating Trafficking in Women and Children for Prostitution**. This Convention focuses on the prohibition of trafficking, particularly in its forms related to sexual exploitation, as well as on extradition of offenders, strengthening cross-border cooperation, and rehabilitation of victims. However, the Convention's main limitation is its narrow focus solely on trafficking for sexual exploitation, primarily targeting women and children. As a result, it does not address other

contemporary and complex forms of trafficking, such as forced labour, forced marriage, organ trafficking, or the use of digital technologies in human trafficking. Furthermore, the Convention lacks robust monitoring and enforcement mechanisms, which significantly undermines its overall effectiveness.

The SAARC region faces serious challenges in combatting human trafficking, particularly concerning the exploitation of women and children. Notably, **the 2002 Convention** has not been ratified by all member states, and there are significant differences in the legal and institutional approaches of member countries toward combating human trafficking. This disparity highlights the urgent need for coordinated and unified action mechanisms within the region.

Additionally, gaps in the registration of births and marriages as well as the lack of standardized identity documentation represent major obstacles to preventing human trafficking. Furthermore, economic and political instability, poverty, and social inequality create a conducive environment for trafficking, increasing the vulnerability of marginalized populations. These factors deepen social vulnerabilities and continue to hinder effective efforts to combat human trafficking across the region.

Regarding international mechanisms covering Asia and partially the Pacific region, there are two main frameworks in this field: a) The Pacific Immigration Directors' Conference (PIDC), and b) The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. The PIDC, established in 1996, serves as a regional cooperation forum for the official immigration agencies of the Pacific region. This organization promotes the exchange of

experience and information on migration management, border security, and irregular human movements.¹³⁴

The Pacific Immigration Directors' Conference (PIDC) serves as a multilateral cooperation platform for the heads of immigration agencies from the region's states to discuss issues of mutual interest. The core objective of PIDC is to protect the integrity of member states' borders, while simultaneously strengthening immigration management through regional cooperation and mutual assistance.

The organization's activities are guided by the following fundamental values: commitment and responsibility, transparency and openness, teamwork and a family-oriented approach, mutual trust and respect, integrity, innovation, flexibility, good governance, the rule of law, and leadership. These values contribute to the formation of a reliable and sustainable migration policy in the region.

Membership in PIDC is open to all official state immigration agencies from Melanesia, Micronesia, Polynesia, as well as Australia and New Zealand. Current members include American Samoa, Australia, the Cook Islands, the Federated States of Micronesia, Fiji, French Polynesia, Kiribati, the Marshall Islands, Nauru, New Zealand, New Caledonia, Niue, Palau, Papua New Guinea, Samoa, the Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, and Wallis and Futuna.

Although there is no specific anti-trafficking convention within the PIDC framework, the organization actively participates in

¹³⁴ Watson D., Howes L., Dinnen S., Bull M., Amin S.N. Policing in the Pacific Islands. Switzerland, Cham: Palgrave Macmillan, 2023, 197 p., p. 64

regional efforts to combat this crime. PIDC's main areas of activity include strengthening national immigration borders, facilitating cross-border travel to support social and economic development, and exchanging experience and information among member states to help develop effective and flexible immigration administrations. One of the most significant projects in the fight against human trafficking is the Pacific Regional Immigration Identity Project, which is among the strongest initiatives put forward by PIDC to combat sexual exploitation and cross-border human trafficking¹³⁵.

The Bali Process on Smuggling of Persons, Trafficking in Persons and Related Transnational Crimes is a non-legally binding, multilateral, and informal dialogue platform established in 2002 with the aim of promoting regional and international cooperation, facilitating information exchange, and supporting policy development in the fight against irregular migration within the Asia-Pacific region and beyond¹³⁶. This Process was established at a regional development meeting hosted by Australia and Indonesia with the aim of adopting a distinct approach to combating people smuggling, human trafficking, and other related crimes. To improve practical measures in addressing these challenges, two specialized groups were established. The core member states of the Bali Process are: Afghanistan, Australia, Bangladesh, Bhutan, Brunei, Cambodia, China, North Korea, Fiji, France, Hong Kong, India, Indonesia, Iran,

¹³⁵ Powles A., McNeill H., Batley J., Wallis J. *Security Cooperation in the Pacific Islands: Politics, Priorities, and Pathways of the Regional Security Patchwork*. USA, New York: Routledge, 2025, 334 p., p. 267

¹³⁶ Geddes A. *Governing Migration Beyond the State: Europe, North America, South America, and Southeast Asia in a Global Context*. Oxford University Press, 2021, 233 p., p.81

Iraq, Japan, Jordan, Kiribati, Laos, Macao, Malaysia, Maldives, Mongolia, Nepal, New Zealand, Myanmar, Pakistan, the Philippines, South Korea, Samoa, Papua New Guinea, Solomon Islands, Syria, Sri Lanka, Thailand, Timor-Leste, Turkey, Vanuatu, the United Arab Emirates, the United States of America, and Vietnam. Other participating countries include: Austria, Belgium, Canada, Denmark, the European Commission, Finland, Germany, Italy, the Netherlands, Norway, Poland, Romania, Russia, South Africa, Spain, Sweden, Switzerland, and the United Kingdom. The Bali Process also involves representatives of international organizations such as APC, ICMPD, IGC, IFRC, ICRC, INTERPOL, ILO, UNDP, and the World Bank. In total, more than 45 member states, including many countries of origin, transit, and destination, as well as international organizations such as UNHCR, IOM, and UNODC, participate in the Bali Process.

The Bali Process Working Groups are thematic platforms that bring together government representatives of member states and organizations, subject-matter experts, and practitioners with the aim of promoting partnership in priority areas at the regional level and shaping response mechanisms tailored to emerging transnational challenges. This Process is co-chaired by the Ministers for Foreign Affairs of Australia and Indonesia. Ministerial Conferences are held biennially and ensure ministerial-level representation among member states and participants with observer status. These conferences serve the purpose of assessing progress achieved within the framework of the Process and identifying future priorities and directions of action.

At the conclusion of the Conference, the Co-Chairs issue a Co-Chairs' Statement reflecting the agreed priorities and objectives, as well as an updated Declaration and Cooperation Strategy. The objectives and priorities of the Process are defined in the Co-Chairs' Statement and supporting documents such as the Ministerial Declarations and Cooperation Strategies. The Eighth Bali Process Ministerial Conference was held on 10 February 2023, during which renewed commitment was expressed to the key principles and directions reflected in the Ministerial Declarations and Co-Chairs' Statements adopted in 2016 and 2018. The Conference also underlined the continuity of the priorities set out in the 2018 Cooperation Strategy and contributed to the identification of new directions aimed at expanding cooperation.

The Eighth Bali Process Ministerial Conference took place on 9–10 February 2023 in Adelaide, Australia. The event was co-chaired by Australia's Minister for Foreign Affairs, Senator the Honourable Penny Wong, and Indonesia's Minister for Foreign Affairs, Her Excellency Retno Marsudi¹³⁷. The Bali Process effectively enhances regional awareness regarding people smuggling, human trafficking, and other forms of transnational organized crime. This Process contributes to the improvement of strategies applied in response efforts and practical cooperation.

Up until 2022, seven ministerial-level meetings had been held within the framework of the Bali Process. These meetings are as follows:

¹³⁷ The 8th Bali Process Ministerial Conference and Related Meetings // Official website of the Ministry of Foreign Affairs, Kingdom of Thailand. 22 Feb 2023
<https://www.mfa.go.th/en/content/bpmc8-2?cate=5d5bcb4e15e39c306000683e&menu=5d5bd3da15e39c306002aafa>

- Regional Ministerial Conference, Bali, Indonesia, 26–28 February 2002;
- Second Regional Ministerial Conference, Bali, Indonesia, 27 March 2003;
- Third Regional Ministerial Conference, Bali, Indonesia, 14–15 April 2009;
- Fourth Regional Ministerial Conference, Bali, Indonesia, 29–30 March 2011;
- Fifth Regional Ministerial Conference, Bali, Indonesia, 2 April 2013;
- Sixth Regional Ministerial Conference, Bali, Indonesia, 23 March 2016;
- Seventh Regional Ministerial Conference, Bali, Indonesia, 6–7 August 2018.

The Ad Hoc Group was established at the April 2009 Bali Process Ministerial Meeting with the aim of developing and implementing practical measures to determine the future directions of regional cooperation on people smuggling, trafficking in persons, and related irregular migration. The members of this Group include Afghanistan, Australia, Bangladesh, India, Indonesia, Malaysia, the Maldives, New Zealand, Myanmar, Pakistan, the Philippines, Sri Lanka, Thailand, the United Arab Emirates, the United States of America, and Vietnam, as well as the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM)¹³⁸.

¹³⁸ Schloenhardt A., Weißer B., Calderoni F., Lelliott J. UN Convention Against Transnational Organized Crime: A Commentary. Oxford University Press, 2023, 870 p., p. 464

The Regional Cooperation Framework (RCF) was established in 2011 with the aim of providing an effective and coordinated response to irregular migration processes in the Asia-Pacific region. This framework primarily focuses on the consistent and standardized processing of asylum claims, the provision of durable solutions for refugees, the safe and sustainable return of persons not in need of international protection, as well as targeting people smuggling networks.

The objective of the RCF is to contribute to the strengthening of institutional capacity in migration management by enhancing cooperation among states in the region on migration and protection issues.

To support and coordinate the implementation of this initiative, the **Regional Support Office (RSO)** was officially established in Bangkok, Thailand, on 10 September 2012. The Office aims to facilitate the implementation of the Regional Cooperation Framework, provide technical assistance, and strengthen coordination among member states.¹³⁹ The Office serves as a central point for the exchange of information between states concerning the protection of refugees and international migration.

The main objectives of the Bali Process are as follows:

- To enhance more effective information and intelligence sharing;
- To improve cooperation among regional law enforcement agencies in preventing and combating people smuggling and human trafficking networks;

¹³⁹ Baogang H. *Contested Ideas of Regionalism in Asia*. USA, New York: Routledge, 2017, 196 p., p. 77

- To expand cooperation on border and visa systems to detect and prevent irregular movements;
- To raise public awareness to deter such activities and inform those who may be vulnerable;
- To enhance the effectiveness of return as a strategy to prevent people smuggling and trafficking, including through the conclusion of appropriate agreements;
- To cooperate in verifying the identity and nationality of irregular migrants and victims of trafficking;
- To adopt national legislation criminalizing people smuggling and trafficking in persons;
- To ensure appropriate protection and assistance for victims of trafficking, particularly women and children;
- To strengthen efforts to address the root causes of irregular migration, including by enhancing opportunities for lawful migration between states;
- To assist countries in adopting best practices in asylum management in accordance with the principles of the Refugee Convention.

At the Eighth Ministerial Conference of the Bali Process, the Ministers acknowledged the ongoing impacts of the COVID-19 pandemic, regional conflicts, the increasing misuse of technology, human trafficking linked to online fraud, as well as natural and humanitarian disasters, including climate change-related risks, as regional and global factors contributing to heightened regional instability and the rise in irregular migration.

The Ministers endorsed the updated 2023 Adelaide Cooperation Strategy, which aims to enhance the Bali Process

through a more agile and effective approach, drawing on the experience and outcomes accumulated over the 20 years since the inception of the Bali Process. At the same time, the Ministers reiterated the need for forward-looking, innovative, and adaptive approaches in light of the emergence of new forms of people smuggling, human trafficking, and related transnational crimes within the region covered by the Bali Process.

Under the 2023 Adelaide Cooperation Strategy, activities undertaken by the Bali Process Working Group, other engagement mechanisms, and the Regional Support Office (RSO) have been directed towards eight areas of cooperation: ***law enforcement, stakeholder engagement, information sharing and public awareness campaigns, irregular migration and related transnational crime, border management, victim protection and migration management, return and reintegration, as well as coordination and support***. Despite these measures and the efforts of regional bodies, numerous displacement crises persist in Southeast Asia. Myanmar remains at the epicenter of Southeast Asia's displacement crisis to this day. Since the military coup in 2021, more than 3.5 million people have been forcibly displaced due to armed conflict, political repression, and economic collapse. The situation further deteriorated following the devastating 7.7 magnitude earthquake on 28 March 2025, which resulted in the deaths of over 3,700 people, injuries to more than 5,100 others, and the destruction of tens of thousands of buildings across six regions. The earthquake caused extensive surface ruptures and severe damage to infrastructure. Although a ceasefire was declared to facilitate relief efforts, military operations, including airstrikes, continue in the

affected areas, artificial barriers are imposed on access to humanitarian aid, and civilians continue to suffer severe hardships. Virtually all ethnic and religious minorities in Myanmar face increasing risks during this chaotic recovery period¹⁴⁰.

In late 2024, Thailand faced historic flooding, exacerbated by climate change and the La Nina phenomenon, which displaced an estimated 150,000 families. The agricultural sector was severely damaged, negatively impacting livelihoods¹⁴¹. In December 2024, Malaysia was forced to contend with severe floods caused by heavy monsoon rains, resulting in the displacement of over 90,000 people. Coastal flooding, exacerbated by rising sea levels and torrential rains, continues to pose a serious threat to vulnerable communities. In both Thailand and Malaysia, refugees, undocumented individuals, and internally displaced persons often reside in informal settlements that fall outside the scope of state oversight and lack legal protection. This situation isolates them from social protection mechanisms and renders them extremely vulnerable to human trafficking, exploitation, forced labor, and other forms of transnational crime.

The Philippines, particularly the Mindanao region, is facing a dual humanitarian crisis. On the one hand, the long-standing armed conflict in the region continues to undermine the environment of security and stability. On the other hand, natural disasters caused by climate change — including torrential rains, floods, and landslides

¹⁴⁰ Smith-Cannoy H., Rodda P.C., Smith A.C. *Sex Trafficking and Human Rights: The Status of Women and State Responses*. USA, Washington: Georgetown University Press, 2022, 288 p., p.101

¹⁴¹ Ali G., Bashir M.K., Schilizzi S.G.M. USA, Hoboken: John Wiley and Sons, 2024, 256 p., p. 84

— are leading to the large-scale displacement of vast segments of the population.

As a result of the intense torrential rains that occurred in early 2024, the resulting floods and landslides led to the displacement of approximately **97,000 families**. In a broader context, between 2014 and 2023, **approximately 43 million people** in the Philippines were forcibly displaced due to natural disasters, which constitutes **the highest figure** within the Southeast Asia region¹⁴².

In the Philippines, the intersection of armed conflict, poverty, and environmental degradation further deepens existing social and humanitarian vulnerabilities within the country. This convergence of factors significantly increases the risk of human trafficking and other forms of exploitation, particularly among displaced populations. Weak social protection systems and unstable living conditions create a conducive environment for the exploitation of displaced persons by transnational criminal networks.

More broadly across the region, rising sea levels have become one of the primary drivers of forced displacement in Southeast Asia. This climate change-related trend further exacerbates existing social vulnerabilities caused by conflict and poverty, leaving affected populations with little choice but to migrate.

Two of the most affected areas are Vietnam's **Mekong Delta** and Indonesia's **low-lying archipelagic regions**. The Mekong Delta, often referred to as the "rice bowl" due to its vital importance for food security and agriculture, is currently facing **existential threats** arising from sea level rise, saltwater intrusion into agricultural lands, and increasingly unstable climatic conditions. These processes

¹⁴² Haerens M. Human Trafficking. USA, New York: Cengage Learning, 2012, 211 p., p.31

undermine not only the environment but also social stability and people's ability to sustain their livelihoods¹⁴³. This region is among those most affected by climate-induced displacement, and projections indicate that by 2050 approximately one-third of the Mekong Delta could be submerged. The intrusion of saltwater into agricultural lands has already displaced thousands of farmers and poses a serious threat to the living conditions of millions of people. Although many residents have migrated to major urban centers such as Ho Chi Minh City, the lack of legal protection and social support systems often forces internally displaced persons into precarious and low-paid employment. This, in turn, increases their vulnerability to labour trafficking and other forms of exploitation.

Indonesia, the world's largest archipelagic country, is also facing severe risks associated with rising sea levels. Frequent flooding in major cities such as Jakarta, which is rapidly sinking, has displaced thousands of residents. In addition, small islands such as Pari Island and parts of the Riau Archipelago are experiencing ongoing land loss, forcing these communities to abandon their homes and livelihoods. Due to the increasing climate risks, the Indonesian government plans to partially relocate the capital to the city of Nusantara. However, local and isolated populations are often excluded from formal relocation schemes and are compelled to migrate informally. This situation expands the reach of human trafficking networks operating in coastal and port areas. In the region, the climate crisis is not merely an environmental issue but

¹⁴³ Kranrattanasuit N. *ASEAN and Human Trafficking: Case Studies of Cambodia, Thailand, and Vietnam*. The Kingdom of Netherlands, Leiden: Koninklijke Brill, 2014, 296 p., p.99

also constitutes a serious humanitarian and human rights crisis. Refugees and internally displaced persons frequently settle in informal settlements, remote border areas, or overcrowded and inadequate camps. In such locations, they are left outside formal protection mechanisms, rendered invisible, and exposed to various forms of exploitation, including human trafficking.

Forced migration, poor working conditions, and limited access to social services create fertile ground for human trafficking, forced labor, and other forms of exploitation. Many people seeking better employment and livelihood opportunities are exposed to these risks and fall victim to trafficking situations. In the region, human trafficking evolves in response to economic and technological changes. Particularly widespread are forced labor and child labor in sectors such as fishing, agriculture, construction, and domestic work. Weak protection of workers' rights and the lack of work permits for many displaced persons further exacerbate these problems. Victims and survivors often live in harsh and dangerous conditions. Women and girls displaced by armed conflicts and natural disasters are frequently subjected to sexual trafficking and forced marriage. The rise in child trafficking in the region is also linked to the growth of online child pornography. Forced criminality has emerged as a new key trend, with migrants being compelled to work in online fraud operations. Reports indicate that thousands of individuals sold to criminal groups in Cambodia, Myanmar border regions, and Laos are frequently subjected to violence and torture. Criminal networks exploit weak governance, corruption, and gaps in migration systems to conduct cross-border operations. Individuals who remain in camps with limited services and restricted opportunities for

employment for prolonged periods are lured into risky job offers, which often lead to exploitation and trafficking. These trafficking routes overlap with displacement corridors.

It is crucial to examine these contradictory realities and high-profile cases of human trafficking occurring in Southeast Asia. Rohingya refugees have been subjected to trafficking along the Bay of Bengal. Following the mass displacement from Myanmar in 2017, Rohingya refugees became prime targets for trafficking networks. They are often deceived with promises of safety and employment in neighboring countries such as Malaysia and Thailand, leading to trafficking by sea across the Bay of Bengal. Traffickers place refugees on dangerous, overcrowded boats, exposing them to starvation, violence, and the risk of drowning. Survivors report being forced to work on fishing vessels under slave-like conditions for months or even years without pay, enduring brutal treatment. Others are sent to forced labor camps or brothels, where they are trafficked with no means of escape and under constant threat of violence. The lack of legal status and safe migration pathways leaves Rohingya refugees with no options, making them easy targets for trafficking networks¹⁴⁴.

Myanmar migrants have repeatedly fallen victim to criminal groups engaged in fraudulent activities. Following the 2021 military coup and subsequent economic collapse in Myanmar, many young migrants began seeking employment opportunities abroad, particularly in neighboring countries such as Thailand, Laos, and Cambodia. Traffickers have exploited this desperation by advertising

¹⁴⁴ Ahmed K., Islam R. *Understanding the Rohingya Displacement: Security, Media, and Humanitarian Perspectives*. Singapore: Springer Nature, 2024, 339 p., p.228

fake job offers online, promising high-paying positions in customer service or the technology sector. Upon arrival abroad, migrants are taken to heavily guarded compounds controlled by criminals, where they are often forced to engage in operations targeting foreign victims, including sexual exploitation, online scams, and cryptocurrency fraud.

Many individuals are held under armed guard and subjected to beatings, torture, and threats against their families to compel compliance. Escape attempts are rare and highly dangerous, with victims being treated as "commodities" traded between criminal groups. This model of human trafficking has become one of the most concerning and complex forms of forced labor in Southeast Asia and is rapidly spreading worldwide. Vulnerabilities arising from displacement have resulted in significant regional failures in the protection of refugees' rights and the safeguarding of migrants¹⁴⁵.

A number of systemic gaps increase the risk of trafficking for displaced persons. These gaps include:

- **failures in victim identification.** Many anti-trafficking programmes do not prioritise refugee and migrant populations for proactive identification and support;

- **limited access to asylum.** Few countries in Southeast Asia are party to the 1951 Refugee Convention. However, refugees are often treated as irregular migrants and are denied protection;

¹⁴⁵ Chakrabarti A., Chakraborty A.S., Chakraborty G. Indigeneity, Development and Sustainability: Perspectives from Northeast India. Singapore: Springer Nature, 2024, 422 p., p.95

- **limited legal aid and language services.** Without access to information in their own language or legal representation, displaced persons struggle to assert their rights;

- **punitive approaches to victims.** In many cases, victims of trafficking are imprisoned for immigration offences or for criminal activities they are forced into, rather than being treated as victims.

Interventions against human trafficking often fail to meaningfully integrate refugee protection or take into account the specific vulnerabilities of displaced populations.

Overall, based on the efforts of state governments and international organizations operating in the Southeast Asia region in the fight against human trafficking, the following key recommendations may be put forward:

- Strengthening and ensuring the effective implementation of victim protection mechanisms, and systematically integrating displaced persons and refugees into anti-trafficking screening efforts;

- Provision of legal status — creating temporary protection statuses or humanitarian visas for displaced persons to reduce their vulnerability to human trafficking;

- Expanding safe migration channels — developing legal labor migration pathways to reduce reliance on smugglers;

- Raising awareness among border service and customs officers — equipping immigration and law enforcement personnel to identify victims of human trafficking among migrant populations and refer them appropriately;

- Facilitating the issuance of work authorization documents for displaced persons to reduce risks of forced and illegal labor in unregulated markets;

- Increasing projects and funding sources related to combating human trafficking, supporting programs that serve both displaced communities and survivors of trafficking;

- Enhancing regional cooperation and investing in cross-border anti-trafficking initiatives that take into account the specific needs of displaced populations, while also increasing humanitarian assistance;

- Expanding free and state-funded legal aid services, increasing the number of centers providing such legal assistance, and establishing foundation organizations that ensure culturally competent and trauma-informed legal representation for displaced persons and victims of human trafficking.

On the other hand, it is of significant importance to implement various measures aimed at raising public awareness in the relevant sphere and to explain the nature of the related rights and freedoms to individuals. Targeted awareness-raising campaigns can support efforts to reach at-risk populations and to foster a deeper understanding of how to identify potential employment opportunities linked to human trafficking, particularly fraudulent job advertisements. Increasing awareness among target groups about the risks of human trafficking should help job seekers approach online job postings — especially those that appear too good to be true — with greater caution. These efforts should be complemented by more specific initiatives aimed at highlighting particular risks, such as crossing borders for employment without a valid work visa.

Campaigns should operate on multiple levels, ranging from social media platforms and job search websites to key locations along trafficking routes, including airports and border crossings.

The ability of state agency personnel to accurately and effectively identify potential victims of human trafficking is essential for the prevention of this crime. Strategies that may be implemented for this purpose include the organization of awareness-raising initiatives, the establishment of mechanisms to ensure the active sharing of updates on trafficking profiles and evolving trends among colleagues, as well as the appointment of designated officers or coordinators within immigration departments to oversee this area. In addition, the widespread distribution of updated handbooks, training materials, and practical reference guides containing current information can make a significant contribution to enhancing the awareness of law enforcement personnel.

The emergence of new forms of human trafficking related to online scam centers has rendered previous awareness campaigns, as well as inspection and training processes at border checkpoints, rapidly outdated. Therefore, previous anti-trafficking awareness efforts must be urgently updated and strengthened. Individuals who fit the most common profiles of trafficking victims — typically those with relatively good educational backgrounds and technological skills — are often unaware of these risks and therefore do not exercise sufficient caution toward employment offers made by scam centers. Previous awareness campaigns conducted by governments and civil society organizations have mainly focused on informing those seeking employment in industries such as fishing and garment manufacturing about trafficking risks. However, in light of new risk

profiles and technological exploitation models, these initiatives require urgent reassessment¹⁴⁶.

In the Asia-Pacific region, anti-trafficking awareness campaigns have rarely focused on white-collar, office-based forms of exploitation. In particular, the recruitment practices of online scam centers — including instances where potential trafficking victims are enabled to make contact with purported human resources departments through fraudulent corporate websites and are provided with suspicious employment contracts — highlight the need for broader awareness-raising efforts aimed at identifying high-risk opportunities among target populations in this sector.

In addition, border officials working to identify potential victims of human trafficking at border crossings have received specialized training aimed at detecting particular demographic indicators. These trainings have been incorporated into the core training programs for newly recruited officers, thereby ensuring their familiarity with victim identification practices throughout their careers. However, due to the rapid evolution of victim profiles, it is necessary to update border officials' understanding of typical victim profiles in order to effectively detect new trafficking risks related to online scam centers. This need is particularly relevant in so-called “hotspot” regions and transit points where concentrations of potential victims are highest. To the extent possible, responses should be standardized at the regional level. In order to promote best practices and provide improved tools to distinguish victims from

¹⁴⁶ Sofian A., Nelson F.M., Yulia R., Saefudin Y. Proceedings of the ASEAN Conference on Sexual Exploitation of Children (ACOSEC 2024). France, Paris: S.A.R.L. Atlantis Press, 2024, 343 p., p.167

perpetrators, discussions should be organized with relevant partners to develop clear guidelines for consular officials. These measures will not only enable more accurate identification of victims but will also facilitate the faster and more efficient management of cases by consular staff. Guidelines concerning ransom payments should be standardized among all responsible personnel. Where a unified approach is not possible, any payments made should be communicated among the relevant consular officials in order to support informed decision-making based on the instructions provided to their own nationals. Clear protocols should be established to exempt victims from fines related to overstaying visas.

Victims of human trafficking should not be re-victimized by law enforcement as a result of bureaucratic protocols. Clearer standards should be developed for exempting victims from visa fees and overstay penalties in countries where scam centers operate. At the same time, consular officials should be granted the authority to exert pressure on local law enforcement authorities to secure the release of trafficking victims from detention. When necessary, consular officers should contact national anti-corruption authorities about **cases of coercion and financial exploitation** committed against victims held by fraudulent companies, even if there is a risk of violating local laws and regulations.

In cases of forced criminality, it is sometimes necessary to update legal frameworks to ensure that victims are not prosecuted. Legislation must be amended accordingly to guarantee that victims of human trafficking are not subject to re-victimization within their national legal systems or the legal systems of the countries where they have been exploited. Victims who have committed offences as

a result of manipulation, coercion, hunger, or similar means should not be held criminally liable. Furthermore, victims in such circumstances must be granted full access to other relevant social services.

The displacement crisis in Southeast Asia is not merely a humanitarian issue but also presents a significant challenge contributing to the rise in human trafficking. Against the backdrop of forced displacement caused by climate change, political instability, and human rights violations, the protection of refugees and displaced persons, the weakening of human trafficking networks, and the safeguarding of fundamental rights remain key priorities. An approach that fails to distinguish between the risks of displacement and those of human trafficking prevents a proper understanding of the issue's nature. Governments and international partners must act urgently and in a coordinated manner to close protection gaps, establish safe migration pathways, and prevent displacement from turning into exploitation by trafficking networks. The fact that fraud centres often operate openly in plain sight highlights how corruption, entrenched interests, and political considerations constitute serious obstacles to resolving this issue¹⁴⁷. Nevertheless, it should also be emphasised why the international community can have confidence that effective solutions will be implemented.

Law enforcement authorities are capable of identifying the locations of most fraud centres and, in many cases, have the means to trace their financial flows. Furthermore, a necessary

¹⁴⁷ Rowlett B.J.L., Borba R. *Sex Work and Language*. USA, New York:Routledge, 372 p., p. 343

understanding and an initial framework of action have already been established to initiate efforts against these structures. However, achieving effective outcomes requires broader institutional coordination, strengthened political will, and a clear strategic approach towards the implementation of urgent measures. If law enforcement agencies and decision-makers can act jointly, and if cooperation with the private sector is established in a systematic and targeted manner, the financial sustainability of fraud networks will be weakened. This, in turn, will lead organised criminal groups to perceive such illegal activities not as profitable tools but increasingly as risky and inefficient mechanisms.

Despite the existence of numerous challenges in combating online fraud centres, the introduction of a wide range of proposed activities in this area, as well as the implementation of some of them, gives rise to certain optimism. This research has identified the main challenges encountered during the implementation of such initiatives, provided a solid framework (anchor) for discussions concerning fraud centres, and indicated the key directions in which response measures should be concentrated. Specifically, based on the feedback gathered during the RSO's¹⁴⁸ **Thematic Dialogue on the Prevention of and Response to Online Fraud Enterprises**, this research, albeit often at a general level, has identified a number of potential solutions¹⁴⁹. Regional responses will be trial and error and will require further refinement. Open dialogue, ongoing problem-

¹⁴⁸ Regional Support Office (Asiya Sığınacağı Çərçivəsi)

¹⁴⁹ New RSO policy brief calls for coordinated international response to huge and growing impact of online scam centres // The Bali Process Regional Support Office. 07 April 2023 <https://rso.baliprocess.net/new-rso-policy-brief-calls-for-coordinated-international-response-to-huge-and-growing-impact-of-online-scam-centres/>

solving, and significant resource allocation are essential for these responses to have real impact. The next step will be to determine whether fraud hubs have become a long-term element of the criminal landscape, and to strengthen cooperation between stakeholders to ensure that these activities are a thing of the past in the near future.

Combating human trafficking in the Middle East

Scale and content of the human trafficking threat

The Middle East region has long been recognized as a center of armed conflicts and profound economic inequalities. Such an unstable environment creates fertile ground for the widespread occurrence of human trafficking and the rise of exploitative practices such as forced labor and forced marriage. Furthermore, legal norms based on various religious interpretations, as applied in the region, hinder the effective and systematic implementation of anti-trafficking measures. In contemporary times, the uncontrolled spread of digital technologies, especially social media platforms and mobile applications, has accelerated the transition of human trafficking into the virtual sphere. This development has further expanded the scale of the problem in the Middle East.

Human trafficking is not confined solely to Middle Eastern countries; this crime exists in nearly every country worldwide. The main risk factors contributing to its prevalence include war, forced displacement, and poverty. These issues have persisted consistently in the Middle East over recent decades. Although the list of countries considered part of the "Middle East" may vary across different sources, a general overview of the region can be formed by focusing on those states most frequently associated with human trafficking cases. Typically, the region includes the countries of the Arabian

Peninsula alongside Cyprus, Lebanon, Syria, Iraq, Iran, Israel, Jordan, Saudi Arabia, Kuwait, Qatar, Bahrain, the United Arab Emirates, Oman, and Yemen, as well as certain North African countries. Within these countries, various forms of human trafficking are widespread. These may include sexual exploitation (especially sex trafficking), forced labor, exploitation of underage girls, early and forced marriages, collective violence, sexual violence conducted under the guise of religious ideologies or traditional customs. According to the latest data from the Global Slavery Index, Arab states rank among the highest globally in terms of the prevalence of modern slavery per capita. Statistics indicate that in this region, approximately 10 out of every 1,000 people are subjected to some form of labor exploitation, sexual exploitation, or forced marriage. This data highlights how deeply entrenched structural economic, social, and legal issues in the region create fertile conditions for the proliferation of human trafficking and modern forms of slavery.

According to the most recent findings of the Global Slavery Index, Saudi Arabia ranks among the top four countries globally with the highest prevalence of modern slavery. Estimates for 2021 indicate that on any given day, approximately 1.7 million individuals in Saudi Arabia were subjected to various forms of human trafficking. Of these victims, about 52% were subjected to labor exploitation (including commercial sexual exploitation), while 48% were forced into marriage. Although these statistical indicators are based on reliable data collection methodologies, the actual scale of human trafficking is likely to be even broader in reality. Frequent unrest, conflicts, and the forced displacement of ethnic or religious

groups within the region render trafficking mechanisms opaque and extremely difficult to monitor¹⁵⁰.

The international non-governmental organization network ECPAT International, which has been active for many years in the field of assessing the exploitation and abuse of children, provides important data on the protection of children's rights through its annual reports. In its 2020 report on the Middle East and North Africa region, the organization noted the following: “The lack of sufficient attention and information on this issue leads to serious and devastating consequences for the 160 million children living in the region... More than 61 million children live in countries affected by armed conflicts, and the region as a whole is recognized as the area with the highest concentration of humanitarian needs globally.” From a legal analysis perspective, it should be noted that many of the UN’s individual and country-specific surveys on human trafficking in the Middle East were conducted 10 to 15 years ago. As a result, precise, systematic, and up-to-date data for recent years across the region remains severely limited. This gap in data can be explained by several factors.

First, many international and regional organizations still lack a unified and comprehensive understanding of the legal and operational definitions of human trafficking. This continues to hinder the process of data collection. Second, in the context of ongoing political instability and armed conflicts in the region, the collection of reliable data becomes technically and ethically challenging, and at times impossible. Third, the weak diplomatic

¹⁵⁰ “Walk Free” Global Slavery Index 2024 – Arab States
<https://www.walkfree.org/global-slavery-index/map/#region=5>

relations and prevailing distrust between Middle Eastern countries and other regions hinder effective data exchange. Collectively, these factors prevent an accurate determination of the real scope of the current situation in the fight against human trafficking.

One of the key institutional mechanisms contributing to the widespread nature of human trafficking in the Middle East is the “kafala” system, a regulatory mechanism based on traditional religious law. This system functions, particularly within the Gulf Cooperation Council (GCC) member states, as the primary legal framework regulating the relationship between migrant workers and their employers. For decades, this mechanism has been applied in all Arab Gulf countries, with the exceptions of Jordan, Lebanon, and Iraq. The legal nature of the kafala system is such that the employer, acting as a sponsor (*kafeel*), serves as the main intermediary granting a foreign national permission to enter the country, commence employment, and remain within the territory. In theory, this system enables employers to recruit suitable labor while expecting them, in return, to provide for the workers’ basic needs, such as transportation, accommodation, and wages.

However, in practice, the kafala system facilitates serious instances of exploitation. Migrant workers often fall under the legal and economic control of their employers. Their freedom to exit the country is restricted. Employment contracts are unilaterally altered, and instances of non-payment of wages are frequent. Thus, the kafala system forms a systematic and institutional foundation for human trafficking, particularly in the sphere of labor exploitation. In many Middle Eastern countries, this system indirectly legitimizes forms of modern slavery within a legal framework and leaves labor migrants

without access to adequate legal protection¹⁵¹. Technically, migrant workers have the legal right to retain possession of their own identity and legal documents. However, in practice, employers frequently confiscate these documents unlawfully. By exploiting loopholes in legal mechanisms, private individuals and companies contribute to the continued existence of human trafficking practices based on both labor and sexual exploitation. The kafala (sponsorship) system, particularly in Jordan, Lebanon, and most Arab Gulf countries, grants employers — whether private individuals or commercial entities — near-total control over the immigration status and employment relations of migrant workers. This control makes the workers’ right to remain in the country directly dependent on the will of their employer. Such dependency further reinforces conditions conducive to human trafficking and modern slavery.

The kafala (sponsorship) system emerged in the Gulf countries during a period of rapid economic growth. It developed largely against the background of increased demand for cheap labor and the vulnerable circumstances of migrants seeking employment to provide financial support to their families. For decades, this system has served as the primary legal mechanism regulating the relationship between migrant workers and their employers (sponsors, known as “kafeel”) in all Arab Gulf countries, with the exceptions of Jordan, Lebanon, and Iraq. In particular, it has been the prevailing model in Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the United Arab Emirates. The primary objective of the

¹⁵¹ Aziani A., Savona E.U., Guerette R.T. *The Evolution of Illicit Flows: Displacement and Convergence Among Transnational Crime*. Switzerland: Springer International, 2022, 235 p.,p.195

kafala system is to ensure the large-scale and cost-effective recruitment of labor for the domestic labor market. Proponents of the system claim that this model has accelerated economic development and benefited local businesses. However, over time, the system has faced serious criticism in the field of human rights. Concerns have grown regarding the widespread exploitation of workers. In practice, the system has often resulted in low wages, inhumane working conditions, and violations of labor rights. As a consequence, the fundamental rights and freedoms of migrant workers have been placed at significant risk. Moreover, practices such as racial discrimination and gender-based violence have become endemic features of this system.

In recent years, global anti-racism protests and the socio-economic challenges brought about by the COVID-19 pandemic have further exposed the structural problems inherent in the kafala system. Although Bahrain and Qatar have officially announced the abolition of this system, international observers and human rights advocates report that these reforms have had little practical effect and that the system continues in practice. Thus, the kafala system remains, in essence, a management model that has been systematically criticized. It grants employers disproportionate power over the employment and legal status of migrant workers, creating fertile conditions for human trafficking and modern slavery¹⁵². Under the kafala system, the state grants local natural or legal persons the right to sponsor (kafala) foreign workers for employment

¹⁵² Pati R., Reisman M.W. *Human Flourishing: The End of Law. Essays in Honor of Siegfried Wiessner*. The Kingdom of Netherlands, Leiden: Koninlijke Brill, 2023, 1216 p., p. 465

purposes. (Bahrain constitutes an exception to this rule, as in that country workers are financed through a government agency, and the relationship with individual employers differs accordingly.) Sponsors are responsible for covering travel expenses and often provide migrant workers with accommodation, either in dormitory-style housing or, in the case of domestic workers, within the sponsor's own residence. Instead of direct recruitment, sponsors sometimes engage workers through private recruitment agencies operating in the workers' countries of origin. These agencies ensure the workers' legal and administrative entry into the host country. The kafala system typically falls under the jurisdiction of Ministries of Interior rather than Ministries of Labor. As a result, workers are often not adequately protected under the host country's labor laws. This situation makes migrant workers vulnerable to exploitation and deprives them of legal protection in labor disputes. It also denies them the opportunity to join trade unions.

One of the most critical features of the system is that employment and residency visas are issued, renewed, and cancelled solely through the sponsor. This mechanism places control over the legal status of workers in the hands of private sponsors rather than the state. Consequently, this creates a severe imbalance of power. In most cases, migrant workers require their sponsor's permission to change jobs, terminate employment, or enter and exit the host country. Leaving employment without such permission — even in cases where the worker is fleeing abuse — may result in the loss of legal status. This can lead to serious legal consequences, including arrest and deportation. For these reasons, the kafala system leaves

migrant workers unprotected against exploitation. Many human rights advocates regard it as a form of modern slavery¹⁵³.

The term “kafala” has its roots in Islamic law (fiqh), particularly in matters concerning legal guardianship and other legal issues. However, the modern kafala system was established in the Gulf states from the early twentieth century onwards. Its primary purpose was to regulate the employment of foreign workers, particularly in the pearl industry and other sectors of trade. In the Gulf countries, where expatriates (foreign workers) sometimes constitute a significant portion of the population, the protection of domestic economic actors and firms has been considered a priority within state policy. During the period of enrichment through oil and subsequent economic development — particularly from the 1950s onwards — the Gulf countries increased their demand for foreign workers to carry out large-scale infrastructure projects. Given the small size of the local populations, these states deemed it necessary to attract temporary foreign labor resources. Such workers were expected to return to their home countries when economic conditions deteriorated. In these regions, where migrant workers comprise a large part of the population, the protection of local workers and domestic enterprises has remained one of the main priorities of both economic and social policy. At the same time, the kafala system was intended to provide workers with certain legal and social protection mechanisms. However, in subsequent years, serious cases of

¹⁵³ McCabe K.A., Manian S. *Sex Trafficking: a global perspective*. UK, Plymouth: Lexington Books, 2010, 194 p., p.93

exploitation in the implementation of the system have been reported¹⁵⁴.

In the initial phase of the kafala system, the Gulf countries primarily preferred workers from Arab states such as Egypt. This preference was largely due to geographical proximity as well as linguistic and cultural compatibility. However, during the oil boom of the 1970s, the rising demand for cheaper labor, combined with political concerns over the spread of pan-Arab ideology, led to a shift in favor of non-Arab migrant workers. In particular, workers from South Asia — including India, Pakistan, Bangladesh, and Nepal — gained a dominant position in the Gulf labor market. During the First Gulf War of 1990–1991, approximately two million Egyptian, Palestinian, and Yemeni workers were deported from the Gulf countries. This was due to their support for Iraq’s invasion of Kuwait. This event caused significant changes in the demographic structure of the region. Over the past fifty years, the overall population of the Gulf region has increased nearly tenfold. This growth has occurred primarily due to the influx of foreign workers. Today, with the exception of Saudi Arabia, foreigners outnumber the local populations in all Gulf Cooperation Council (GCC) countries.

As noted by Robert Mogielnicki, Senior Resident Scholar at the Arab Gulf States Institute in Washington (AGSIW), the sharp decline in oil prices in 2014 and the subsequent implementation of austerity measures in the Gulf countries forced governments to support local labor forces. In a context where many migrant workers lost their jobs and social discontent towards migrant labor increased,

¹⁵⁴ Dowlah C. *Cross-Border Labor Mobility: Historical and Contemporary Perspectives*. Switzerland: Springer Nature, 2020, 334 p., p.165

some governments began to introduce various policies aimed at encouraging the employment of local citizens in the private sector. These policies included measures such as employment quotas and increases in minimum wages. Such measures were aimed at reducing youth unemployment and ensuring a balance within the domestic labor market¹⁵⁵. During the global economic downturn that accompanied the COVID-19 pandemic, many Gulf countries encouraged migrant workers to voluntarily return to their home countries. To this end, governments implemented measures such as covering travel expenses, waiving deportation fines, and facilitating exit permits. These steps became particularly relevant during the pandemic when employers faced difficulties in paying wages.

The kafala system currently covers the vast majority of foreigners working in host countries, whether blue-collar workers or more skilled professionals. The system's primary target group consists of workers from Africa and South Asia. These individuals are often employed in sectors considered by locals as low-status and undesirable, such as construction, domestic work, and service industries. Moreover, they typically receive lower wages compared to local workers. For instance, in Jordan, the monthly minimum wage for foreign workers is USD 350, whereas for locals it is USD 367. Conversely, "white-collar" workers from Western countries benefit from better treatment and working conditions under this system.

According to data from the UN Department of Economic and Social Affairs, in 2020, the Gulf Cooperation Council (GCC)

¹⁵⁵ Dakkak N. *Narratives of Dislocation in the Arab World: Rewriting Ghurba*. USA, New York: Routledge, 2023, 213 p., p.167

countries, along with Jordan and Lebanon, hosted a total of 36 million international migrants, representing approximately 50% of the total population in those countries. Critics describe the kafala system as an institutional form of “modern slavery.” Central to these criticisms are the unequal power dynamics between sponsors and workers, as well as the legal impunity often enjoyed by sponsors. Furthermore, Middle Eastern countries lag behind other regions in ratifying international treaties aimed at protecting workers’ rights. For example, none of the Gulf countries has ratified the International Labour Organization’s Domestic Workers Convention (No. 189), which sets standards for minimum wages, the elimination of forced labour, decent working conditions, and other key social protections¹⁵⁶.

The negative consequences of the kafala system in the context of human trafficking and modern slavery can be grouped under the following headings:

1. Restriction of freedom of movement and communication. Employers frequently confiscate migrant workers’ passports, visas, and mobile phones illegally and often keep domestic workers physically confined within their homes. Workers employed outside the household sector typically live in overcrowded dormitories, increasing their risk of exposure to infectious diseases (especially during pandemics like COVID-19). Moreover, these workers are often deprived of access to adequate healthcare services.

2. Debt bondage. Although many host countries legally require employers to cover recruitment costs, in practice these costs

¹⁵⁶ Spires W.R. Preventing Human Trafficking: Education and NGOs in Thailand. USA, New York: Routledge, 2016, 174 p, p.29

are passed on to foreign workers. As a result, migrants are forced to take out loans or borrow directly from their employers. Employers, in turn, exploit this dependency by delaying, reducing or withholding wages as a punitive mechanism.

3. Forced labour and contract violations. Migrant workers are frequently misled during recruitment and are hired without clear information about the actual working conditions. Employment contracts are sometimes provided in languages the workers do not understand, and workers are often forced to sign numerous, conflicting documents. According to the International Labour Organization (ILO), these are indicators of forced labour.

4. Visa trading and informal employment. Some sponsors illegally sell work visas to other employers while formally maintaining sponsorship status. The new employers may offer lower wages, different job roles, or harsher conditions without the worker's consent, violating the initial contractual terms.

5. Irregular legal status and legal dependency. Under the kafala system, a worker's right to reside in the country is entirely tied to their sponsor. Sponsors can revoke a worker's visa status for any reason, resulting in the worker losing their legal status and facing criminal charges or deportation.

6. Racism and ethnic discrimination. According to the UN's 2020 report on racism in Qatar, wages for foreign workers often vary based on national origin rather than qualifications. Even skilled migrants may be confined to lower-status jobs solely due to their ethnic background. This racial discrimination is particularly harsh towards Black African and South Asian workers.

7. Gender-based violence and impunity. Female domestic workers within the kafala system are frequently subjected to sexual and physical abuse. Fear of retaliation from sponsors or of being criminally charged themselves discourages them from reporting these abuses. In some countries like Kuwait and Qatar, women who are victims of rape have been prosecuted for extramarital sex. In Lebanon, where the vast majority of domestic workers are women, gender-based abuses within the kafala system raise significant concern¹⁵⁷.

Despite the risks of exploitation, many migrant workers choose to work in countries where the kafala system is in place. This is primarily because the wages offered in these countries are typically higher than the opportunities available in their countries of origin. This migration flow is also driven by economic factors. Migrant workers often send a portion of their earnings back to their families in their home countries in the form of remittances. According to the World Bank, such remittances play a crucial role in reducing poverty, enhancing social welfare, and supporting economic stability in low- and middle-income countries. Based on 2019 statistics, Kuwait, Saudi Arabia, and the United Arab Emirates were ranked among the top ten countries in the world as sources of remittances.

Supporters of the kafala system argue that it produces positive outcomes by creating legal and accessible pathways to the region. They claim it reduces irregular migration and human smuggling. In their view, the existence of official labor migration channels may

¹⁵⁷ Seigel M. Panic, *Transnational Cultural Studies, and the Affective Contours of Power*. USA, New York: Routledge, 2018, 326 p, p.21

help make migrants less vulnerable to exploitation. However, critics of this argument contend that the mere existence of legal migration channels is insufficient. If the rights of workers are not adequately protected within this system, the risk of exploitation remains high. In this regard, the weak social and legal protection of workers within the kafala system is the main subject of criticism.

Furthermore, some economic experts assess the kafala system not only from a human rights perspective but also through the lens of economic efficiency, reaching negative conclusions in both respects. In 2014, World Bank economist Zahid Hussain noted that short-term contracts, fixed and low wages, and the lack of internal mobility reduce incentives for migrant workers to exert greater effort in production or engage in activities that enhance human capital. This, in turn, hinders both individual productivity and the long-term economic development of the host countries. As Zahid Hussain observed, the continued reliance on the kafala system may deepen the structural weaknesses of host countries in the long term due to their increasing economic dependence on this model¹⁵⁸. He believes that these countries should gradually reduce their dependence on the kafala system, diversify their economies, and aim to transition toward high-skilled, technology-based industries. Labor rights advocates have long voiced calls for the abolition of the kafala system. These calls gained significant international resonance, particularly in the context of the mass global protests against racism in 2020. One of the key events that brought human rights violations into the spotlight of the global public agenda was the FIFA World

¹⁵⁸ Sefa Dei G.J., Hilowle S. *Cartographies of Race and Social Difference*. Switzerland: Springer Nature, 2018, 168 p., p.49

Cup held in Qatar in 2022. At that time, international media and non-governmental organizations widely documented allegations that migrant workers employed in Qatar's construction sector were forced to work in temperatures exceeding 38°C, were deprived of their labor rights, and that, as a result, thousands of workers had lost their lives over the previous decade.

An interesting point is that criticism has not only come from the international community but also from the countries of origin of the migrant workers themselves. Countries such as Indonesia, Kenya, and Nepal have, at various times, imposed migration restrictions or temporary bans on their nationals traveling to Gulf Cooperation Council (GCC) countries due to concerns over human rights violations associated with the kafala system. However, the unintended consequences of such bans have also been noted. Analysts argue that these measures may narrow the opportunities for migrants to move through legal channels, thereby encouraging human smuggling and irregular migration.

Moreover, particular attention must be paid to the gendered aspects of migration bans. For example, a significant proportion of migrants from countries like the Philippines consists of female domestic workers. Such bans may further restrict the economic independence and livelihood opportunities of women in this category and push them toward informal and riskier migration routes¹⁵⁹. For many years, a number of international and regional organizations, including the European Union and the United Nations, have criticized the kafala system within the context of

¹⁵⁹ Nikkel M. Human Trafficking in the Middle East // The Exodus Road. March 20, 2024 <https://theexodusroad.com/human-trafficking-middle-east/>

human rights and modern slavery. However, these criticisms often remain at the level of normative calls and are not accompanied by concrete, enforceable mechanisms at the practical level.

In 2014, the UN Special Rapporteur on the Human Rights of Migrants formally called on Qatar to abandon the kafala system and, instead, to establish a regulated and transparent labor market. Such a system would grant workers the right to freely change their employers and to leave the country without requiring permission. This call gained particular significance in the context of heightened international attention during preparations for the 2022 FIFA World Cup in Qatar. According to information provided by the International Labour Organization (ILO), certain legal reforms were implemented during this period as a result of cooperation with the Qatari government. Qatar abolished the requirement for employer permission to change jobs — one of the most criticized aspects of the kafala system — and granted workers the right to change employment based on notification alone. At the same time, for the first time, a unified minimum wage was established for migrant workers of all nationalities across the country. In order to eliminate abuses in wage payment, financial sanctions on employers were tightened.

In addition, the Qatari government has introduced a digital online platform to simplify the submission of notifications regarding changes of employment. At the same time, awareness-raising campaigns have been conducted to explain the substance of the legal reforms to both workers and employers. Although these reforms are regarded as positive steps, many international observers and human rights organizations emphasize the continued weakness of

enforcement mechanisms. They also highlight that the structural nature of the kafala system has not yet been fully abolished. Therefore, alongside legal reforms, there remains an ongoing need for their practical implementation and for the establishment of effective monitoring mechanisms¹⁶⁰.

According to experts, one of the key factors contributing to the implementation of legal and institutional reforms aimed at modifying the kafala system in Qatar has been the active support of local non-governmental organizations (NGOs), the International Trade Union Confederation (ITUC), and certain high-ranking government officials. Such internal and international support distinguishes Qatar from other host countries in the region. Qatar is also regarded as a country that has adopted a more open stance in responding to criticism from the international community and human rights organizations. Nevertheless, serious concerns remain regarding the actual impact of these reforms. Human rights advocates and labor organizations report that some workers in Qatar continue to face the risk of repression, particularly those who criticize the reforms or engage in activism for labor rights. This underscores the ongoing importance of ensuring that reforms are implemented not only at the legal level but also effectively and fully in practice.

In addition, structural and political obstacles to changing the system still persist. Many international observers, including experts working within Transparency International (TI), emphasize that reforms will never be sufficient and that the kafala system must be

¹⁶⁰ Gurel T.K., Ova N. Migration, Capitalism and Media. USA, Delaware, Wilmington: Vernon Press, 2025, 248 p., p.61

abolished entirely. The protests of migrant workers themselves further reinforce this approach. Notably, during the mass protests in Lebanon in October 2019, the exploitative nature of the kafala system and violations of labor rights became one of the key issues on the public agenda. On the other hand, supporters of the system argue that the sudden abolition of kafala could have serious economic and social consequences. In their view, the complete termination of the system may adversely affect the economies of countries of origin, particularly those heavily dependent on labor migration. Countries such as Nepal, India, and the Philippines rely on billions of dollars in remittances to maintain the stability of their currency balances. As a result, they approach radical changes with caution. According to Xolewinski, a representative of the International Labour Organization (ILO), the reform process must be gradual and long-term. In his view, this is an extremely complex area that cannot be resolved overnight through legislative amendments alone. In this context, alongside the legal framework, the establishment of institutional monitoring, social dialogue, and effective enforcement mechanisms is also considered crucial to the success of the reforms¹⁶¹.

The role of regional organizations and regional law in combating human trafficking

In the Middle East region, the primary institutional actors in the fight against human trafficking, particularly in addressing its digital dimensions, are the League of Arab States and the Gulf

¹⁶¹ Hussain Z. Kafala neither guarantees nor cares: guest workers in the Gulf// World Bank Blogs. April 24, 2014
<https://blogs.worldbank.org/en/endpovertyinsouthasia/kafala-neither-guarantees-nor-cares-guest-workers-gulf-0>

Cooperation Council (GCC). In addition to promoting intra-regional cooperation, both organizations have introduced certain framework documents and initiatives concerning migration, labour rights, and combating cybercrime. Furthermore, the concept of “MENA” (Middle East and North Africa) is widely used to delineate the scope of regional policies and research. Although the “MENA” designation does not correspond to universally agreed geographical boundaries, it is generally understood in Western contexts to cover the area stretching from Morocco in the west to Iran in the east, and from Turkey in the north to Sudan and Somalia in the south.

Within this framework, the MENA region typically includes the following countries: Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, Syria, Tunisia, the United Arab Emirates, and Yemen. These states are regarded as subjects of common legal and research initiatives both due to the existing risks of human trafficking and the potential for the development of regional cooperation mechanisms¹⁶². However, given that the MENA region does not possess a dedicated international organization of its own, matters related to combating human trafficking are primarily addressed through the League of Arab States and the Gulf Cooperation Council (GCC). The League of Arab States actively participates in various international initiatives aimed at combating human trafficking and has developed several regional initiatives to protect against this phenomenon. Almost all member states of the League of Arab States have acceded to the Palermo Protocol adopted in 2000. This

¹⁶² Gerbaka B., Richa S., Tomb R. Child Sexual Abuse, Exploitation and Trafficking in the Arab Region. Switzerland: Springer Nature, 2021, 432 p., p.243

Protocol, as a supplement to the UN Convention against Transnational Organized Crime, established in Article 3 the internationally recognized legal definition of human trafficking and imposed obligations on states to criminalize human trafficking, ensure victim protection, and enhance international cooperation.

While almost all members of the League of Arab States have signed or ratified the Protocol, certain member states (such as Qatar, Saudi Arabia, and Syria) have declared reservations specifically concerning provisions related to victim protection, particularly regarding residence and reintegration measures. Article 9 of the Arab Charter on Human Rights, which entered into force in 2008, prohibits trafficking in human organs and trafficking for the purposes of “medical experimentation.” Furthermore, Article 10 of the Charter explicitly prohibits “all forms of slavery and human trafficking.” According to Article 48, member states are obliged to submit reports to the Secretary-General detailing the measures undertaken to implement the rights and freedoms recognized in the Charter of the League of Arab States.

Additionally, in 2005 the Council of Arab Ministers of Justice and in 2006 the Council of Arab Ministers of the Interior adopted the Arab Model Law on Combating Human Trafficking, aligning its definition of trafficking with that contained in the UN Protocol against Transnational Organized Crime. This Model Law complements the relevant UN Convention and serves as a methodological guide, providing member states with principles for shaping their domestic legislative frameworks¹⁶³.

¹⁶³ Gerbaka B., Richa S., Tomb R. *Child Sexual Abuse, Exploitation and Trafficking in the Arab Region*. Switzerland, Cham: Springer Nature, 2021, 432 p., p.141

In 2007, the Arab League organized a seminar in Cairo on the topic of "Mechanisms for Combating Human Trafficking in Arab Legislation," and the seminar reviewed the progress made by Arab countries in combating human trafficking through legal measures¹⁶⁴. The "Arab Initiative for Building National Capacities to Combat Human Trafficking," adopted by the Council of Arab Ministers of Justice, was introduced in 2010 during the Doha Foundation Forum. Since then, the Forum has evolved into an annual event, serving as an important platform for consultations and the exchange of views among participants. At the Doha Foundation Forum, more than 635 official representatives from the League of Arab States, as well as officials from the League itself, the United Nations, and its UNODC Transnational Organized Crime Program participated. The primary objective of the Forum is to assess the state of human trafficking in the Arab region and to foster political consensus on future actions to combat human trafficking. Simultaneously, the Forum promotes international and regional cooperation, prioritizing the development of national capacities to support the enforcement of anti-trafficking legislation. It formulates recommendations in areas such as victim protection, enhancing the role of the media, NGOs, and civil society institutions, as well as the application of the latest technologies in combating this crime.

The Arab Initiative, supported by the Qatar Foundation for Combating Human Trafficking (QFCHT), the League of Arab States, and the UNODC program, aims to establish and promote national

¹⁶⁴ Gui G. Arab League combating human trafficking // Padova University Antonio Papisca Human Rights Center. 01.01.2024 <https://unipd-centrodirittiumani.it/en/topics/arab-league-combating-human-trafficking-1>

capacities for effectively combating human trafficking in the Arab region. Through the creation of national, sub-regional, and regional coalitions, this initiative not only seeks to ensure the protection of victims' rights but also aims to strengthen the capacities of all relevant stakeholders through the organization of workshops focusing on prevention, investigation, and prosecution of human trafficking. The Arab Initiative aspires to support Arab states in the prevention and combat of human trafficking, as well as to encourage the alignment of domestic legislation with international human rights instruments. In particular, it calls upon states that have not yet ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, to proceed with ratification.

The Comprehensive Arab Strategy to Combat Human Trafficking is a program presented at the headquarters of the League of Arab States General Secretariat during a scientific forum held in December 2011 titled “Towards an Arab Strategy in Combating Human Trafficking,” organized jointly with the Naif Arab University for Security Sciences¹⁶⁵. In February 2012, the Arab Council of Ministers adopted the Comprehensive Arab Strategy to Combat Human Trafficking, which identified “the necessity of crime prevention” as its primary objective. The Strategy outlines eight main areas of focus as strategic priorities:

1. Criminalization of all forms of human trafficking;
2. Ensuring the effectiveness of investigation, prosecution, and adjudication of crimes related to human trafficking;

¹⁶⁵ Chetail V. *International Migration Law*. USA, New York: Oxford University Press, 2019, 449 p., p. 252

3. Strengthening measures and procedures to prevent human trafficking;
4. Protection of victims;
5. Promotion of regional and international cooperation in combating human trafficking;
6. Strengthening institutions necessary for combating human trafficking;
7. Updating guidelines for Arab legislation on human trafficking;
8. Coordination of anti-trafficking efforts within the Arab region.

The Anti-Human Trafficking Coordination Unit, established within the Legal Affairs Department of the League of Arab States, monitors the phenomenon of human trafficking within the Arab region and serves as a coordinating body for the implementation of national laws adopted by member states in this field. Additionally, the Unit is tasked with overseeing the implementation of the Comprehensive Strategy to Combat Human Trafficking and with consolidating the efforts of the countries in the region in this regard. To this end, it organizes seminars, training programs, conferences, lectures, and research activities, and also provides technical assistance to the specialized institutions of the member states of the League of Arab States. Currently, discussions are underway to establish and launch regional justice institutions such as the Arab

Court of Justice¹⁶⁶ and the Arab Court of Human Rights¹⁶⁷, which operate within the Arab League. These trends will further strengthen the principles of justice against human trafficking in the region.

The Gulf Cooperation Council (GCC), in cooperation and close coordination with the League of Arab States, has contributed to the drafting of a number of international legal instruments relating to the fight against human trafficking. One such legal instrument is known as the “Abu Dhabi Document”, which encompasses the Unified Draft Law adopted in 2006¹⁶⁸. The “Abu Dhabi Document” was adopted during the 27th Session of the Supreme Council (Riyadh, December 2006) and was approved as the guiding legislation for the GCC’s initial four-year period. This 17-article document defines human trafficking in accordance with the definition set out in the Palermo Protocol. The document outlines the key elements of human trafficking, namely: recruitment, transportation, transfer, harboring or receipt of persons through means such as threat, coercion, fraud, or abuse of power, and specifies the forms of exploitation involved — sexual exploitation (including forced prostitution), forced or compulsory labor, slavery or servitude, and organ removal and trafficking. The Unified Draft Law further envisages the imposition of specific criminal sanctions and the establishment of institutional mechanisms. In this regard, the model law prescribes criminal penalties against traffickers and calls

¹⁶⁶ Ezzeldin F. Licencié en Droit. *The Projected Arab Court of Justice: A Study in Regional Jurisdiction with Specific Reference to the Muslim Law of Nations*. The Kingdom of Netherlands, the Hague: Martinus Nijhoff Publishing, 2013, 259 p., p.71

¹⁶⁷ Larsen L.B. *The 3 Regional Human Rights Courts in Context: Justice That Cannot Be Taken for Granted*. UK, Oxford: Oxford University Press, 2024, 576 p., p.5

¹⁶⁸ Al-Hamad S.A., Al-Qattan S.A., Khaled Hammoud Al- Razni K.H. *The Thirtieth Gulf Summit: Accomplishments and Aspirations*. Kuwait News Agency, 2009, 180 p., p.96

upon member states to establish national committees for coordination, victim support services, and cross-border judicial cooperation. The automatic renewal of the model law’s validity period was confirmed by a decision adopted at the 31st Session of the GCC in 2010. According to this decision, the validity period of the draft law was extended for an additional four years, with any further automatic extensions being contingent upon the absence of objections from member states. In subsequent years, the requirements of the model law concerning the fight against human trafficking were further reinforced through other regional legal instruments adopted by the GCC. One such instrument is the Declaration of Human Rights (the Gulf Declaration on Human Rights), adopted at the 35th Session in 2014¹⁶⁹. Article 3 of the aforementioned Declaration explicitly prohibits all forms and means of human trafficking, slavery, and forced labor, including those committed through electronic and digital technologies. In this context, the term “forms” refers to the types of human trafficking, whereas “means” encompasses the methods and technologies employed in its commission. This explanation serves to present the content more clearly and professionally.

It should be noted that the model law adopted within the framework of the GCC is also known as the “Abu Dhabi Document” and fully aligns with the Palermo Protocol. For this reason, the six

¹⁶⁹ Walker S. Human Rights in the Gulf Cooperation Council (GCC) States: Prospects for Positive Change // *Contemporary Review of the Middle East*, 2023, Volume 10(2), pp. 126-146, p. 130 <https://doi.org/10.1177/23477989231154147>
el-Mumin M. Gulf Declaration of Human Rights (GDHR) Protection against Slavery: A Double-edged Sword // *Arab Law Quarterly*, 2020, Volume 34(3), pp. 241-266, <https://doi.org/10.1163/15730255-14030067>

GCC member states ratified the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted in 2000, recognizing it as the primary international standard underpinning both the model law and national legislation. At present, the member states continue their participation as parties to the UN Convention against Transnational Organized Crime and various ILO instruments on forced labor. In most states of the region, the fight against human trafficking is regulated through specific national legislation. For instance, such special laws were enacted in Bahrain in 2008, Egypt in 2010, Jordan in 2009, Kuwait in 2013, Oman in 2008, Qatar in 2011, Iraq in 2010, Libya in 2011, the UAE in 2006, Syria in 2010, and Saudi Arabia in 2009¹⁷⁰. However, a number of GCC and Middle Eastern states lack separate, specific legislation dedicated solely to combating human trafficking. Examples of such countries include Libya, Morocco, Algeria, Yemen, and Palestine. In these states, individual elements of human trafficking — such as slavery, forced labour, prostitution, and procuring for prostitution — are regulated through mandatory provisions contained within their respective criminal codes¹⁷¹. Each GCC country has incorporated the core elements of the model law known as the "Abu Dhabi Declaration" into its domestic legal norms and has established corresponding national legal practices. For example, in the United Arab Emirates, Federal Law No. 51 of 2006 on Combating Human Trafficking Crimes introduces definitions aligned with the Palermo Protocol, and establishes a National

¹⁷⁰ Gerbaka B., Richa S., Tomb R. Child Sexual Abuse, Exploitation and Trafficking in the Arab Region. Switzerland: Springer Nature, 2021, 432 p., pp.149-150

¹⁷¹ Gerbaka B., Richa S., Tomb R. Child Sexual Abuse, Exploitation and Trafficking in the Arab Region. Switzerland: Springer Nature, 2021, 432 p., p.115

Committee and a referral mechanism for victims (gulfmigration.grc.net). In Saudi Arabia, Royal Decree M/40 (2009) criminalizes human trafficking, although certain reservations remain concerning victim protection measures under the Palermo Protocol. Other states, including Kuwait, Oman, Bahrain, and Qatar, between 2006 and 2013, similarly adopted specialized anti-human trafficking laws reflecting the unified model's structure and sanctions.

Although several states in the region have acceded to the UN Convention against Transnational Organized Crime (UNTOC) and its Palermo Protocol, certain reservations have been declared. For instance, Saudi Arabia has entered reservations concerning Article 7 (protection of victims) and Article 15 of the Palermo Protocol. Qatar has made reservations to Article 6 (employment and education of victims) and Article 7 (temporary residence), while Syria and Algeria have submitted reservations to Article 15, which concerns dispute settlement¹⁷². The United Nations Economic and Social Commission for Western Asia (ESCWA) also actively engages in collecting and analyzing statistics on crime and human trafficking in the aforementioned region, and prepares relevant recommendations for the member states¹⁷³. A number of bilateral agreements and memoranda concluded among the GCC and Middle Eastern states also reflect the legal aspects of the fight against human trafficking within the region. At the same time, the states of this region also utilize opportunities for universal and global cooperation against human trafficking. In this regard, they continue to cooperate with

¹⁷² Al Khabour A. *Illicit Trafficking of Cultural Properties in Arab States*. UK, Bicester: Archaeopress Publishing Limited, 2022, 208 p., p.97

¹⁷³ Guerreiro A., Borges G.M., Pina M. *Modern Insights and Strategies in Victimology*. USA, New York: IGI Global, 2024, 292 p., p.99

other international organizations and states around the world within the framework of the United Nations Office on Drugs and Crime (UNODC) Regional Office for the Middle East and North Africa (ROMENA) in combating human trafficking¹⁷⁴. The Secretariat of the Gulf Cooperation Council (GCC) periodically convenes the “Government Forums on Combating Human Trafficking in the Middle East” (gcc-sg.org), bringing together ministries of justice and interior alongside the UN and NGOs. These forums aim to share best practices, update the joint Gulf perspective, and coordinate research efforts. However, it must be acknowledged that despite the seemingly well-organized regional legislation and mechanisms against human trafficking, significant gaps remain in practice, and the real threats of human trafficking persist. Currently, in the GCC and the broader Middle East, the levels of economic development are not particularly high; serious armed conflicts are ongoing, and political instability prevails in many member states. Naturally, these negative factors facilitate the spread of human trafficking and enable impunity for perpetrators. Awareness-raising activities regularly conducted by governments and civil society organizations, with the support of international institutions, do not always yield the expected results. In certain states, religious conservatism obstructs the objective assessment of the real situation of human trafficking. In some remote areas of the region, conditions remain favorable for forced labor and slavery; the tragic situation of child labor and sexual exploitation of individuals captured during armed conflicts continues to exist.

¹⁷⁴ Ouassini N., Ouassini A. *Arab Criminology*. USA, New York: Routledge, 2023, 104 p., p.48

Undoubtedly, digital communication platforms and social media applications are also exploited in the commission of such crimes. However, compared to other regions, crimes in the GCC and the Middle East are more often committed in closed, religiously conservative, and confidential environments.

Human trafficking and digital elements in the African region

Compared to other regions, Africa is characterized by a lower-level, agriculture-based economy, political instability, widespread poverty, low living standards, issues in education and healthcare, and serious social issues such as racial discrimination. In this region, the threat of human trafficking has been historically widespread, particularly in territories formerly under European colonial rule, and it has further developed during subsequent periods of armed conflicts and economic instability. Currently, the African region is not free from the problem of human trafficking, and efforts to combat its manifestations through digital technologies, social media, and electronic tools continue at both regional and international levels.

Key international actors combating all forms of human trafficking in Africa include the African Union (AU), the Horn of Africa Initiative (Khartoum Process), the East African Community (EAC), and the Economic Community of West African States (ECOWAS), as well as judicial bodies like the African Court of Justice and the African Court on Human and Peoples' Rights.

Human trafficking remains one of Africa's most serious problems. The region is considered a primary source area for victims trafficked to other parts of the world, such as Western Europe and the Middle East. Internal and intra-regional trafficking is also

widespread in certain areas, especially among Sub-Saharan African countries. In Sub-Saharan Africa, the vast majority of victims are women and children; they are later exploited in agriculture, domestic labor, prostitution, and even in military contexts (e.g., as child soldiers).

It is estimated that 3.7 million people in Africa live in conditions of slavery and forced labor, and the annual profit generated from these illegal activities in the region alone is USD 13.1 billion¹⁷⁵. Interestingly, approximately 50% of human traffickers in Africa are women, which disproves the myth that this crime is dominated solely by men. The acknowledgment of the involvement of complex organized criminal groups further highlights the dangerous and intricate nature of human trafficking operations. From this brief summary, it becomes evident that human trafficking is a widespread and endemic issue in Africa. The complex and transnational nature of human trafficking on the continent requires comprehensive and effective responses, making the role of regional organizations critically important. These bodies can make significant contributions to strengthening both individual and collective efforts against this crime.

Although there are no widely known cases before international courts in the African region specifically addressing human trafficking and its digital dimensions, both the African Court of Justice and the African Court on Human and Peoples' Rights have the potential to establish applicable methodologies for handling such cases. Under the Protocol on Amendments to the Statute of the

¹⁷⁵ Reeves J. *Modern Slavery and Human Trafficking*. UK, London: IntechOpen, 2021, 100 p., p.17

African Court of Justice and Human Rights (Malabo Protocol), which entered into force in 2014, this court holds a unique position in being able to address both state responsibility and individual criminal liability through human rights instruments, as human trafficking is explicitly included within its jurisdiction. This underscores the potential of the African Court to play a more effective role in combating human trafficking within the region, and therefore warrants close examination.

Another noteworthy point is that the concept of exploitation is interpreted differently across African states. For example, in Angola, the Comoros, and the Democratic Republic of the Congo, human trafficking is often associated exclusively with prostitution or sexual exploitation, whereas other countries extend their definitions to include forced marriage, exploitative sports activities, and involvement in armed conflicts as forms of exploitation¹⁷⁶. The perception of crimes, including human trafficking, is shaped by each state's social and cultural traditions as well as its legal and cultural influences. Therefore, some degree of inconsistency is inevitable. However, the practical consequence of these differences is that they can lead to fragmented approaches in the fight against human trafficking in Africa and make regional law enforcement cooperation more difficult.

Moreover, states with weak legislative frameworks are more vulnerable to human trafficking because criminals naturally tend to concentrate their activities in jurisdictions where law enforcement is weak. Therefore, one of the African Court's key responsibilities will

¹⁷⁶ Hepburn S., Simon R.J. *Human Trafficking Around the World: Hidden in Plain Sight*. Columbia University Press, 2013, 552 p., p.273

be to ensure the implementation of more effective national and regional measures by encouraging states that have not yet done so to amend their national legislation, and to adopt a uniform definition of human trafficking in line with the Trafficking in Persons Protocol and the Malabo Protocol on Amendments. This would serve to ensure consistency and enhance coordination.

As the primary subjects of international law, states have core obligations in the fight against human trafficking. The African Court's important task is to examine the nature and scope of these obligations. Under the Protocol on Amendments (Malabo Protocol), the exercise of criminal jurisdiction encompasses the prosecution of those responsible for human trafficking, with the starting point being the recognition of this crime as a violation of human rights.

An increasing number of opinions on human trafficking have been expressed by international human rights bodies, and these can serve as a basis for interpretation by the African Court, particularly concerning relevant provisions such as Article 5 of the African Charter on Human and Peoples' Rights (which prohibits slavery and the slave trade). Likewise, Article 29 of the African Charter on the Rights and Welfare of the Child contains similar provisions relating to sale, trafficking, and abduction.

In general, three core obligations are imposed on states. First, to prohibit and prosecute human trafficking. This requires the existence of an adequate legislative framework. The necessity of adopting specific legislation incorporating a comprehensive definition of human trafficking in line with the Trafficking in Persons Protocol has been repeatedly emphasized by human rights

bodies¹⁷⁷. In other countries influenced by the civil law tradition or based on a general Criminal Code, certain aspects of human trafficking — such as slavery, prostitution, and the trade of slaves — are addressed in legislation. However, these legal frameworks do not always fully align with international standards. This creates an opportunity for the African Court to encourage such countries to make the necessary legislative amendments and to facilitate more integrated regional responses.

The mere existence of legislation on human trafficking is insufficient if it is not effectively enforced by the relevant law enforcement agencies. Therefore, another crucial obligation is to ensure that law enforcement personnel are provided with the necessary resources and training to investigate, prosecute, and punish human trafficking offences. Moreover, the penal system must be effective and sufficiently stringent to deter traffickers from committing such crimes in the future.

Practices across African states in this regard vary. For instance, Burkina Faso, the Central African Republic, and Equatorial Guinea prescribe prison sentences ranging from five to ten years for human trafficking, whereas Gabon, Kenya, and South Africa impose harsher penalties. While these differences are understandable, the main problem from a law enforcement perspective is that inconsistent sentencing regimes may undermine efforts to control human trafficking concentrations effectively.

A noteworthy point here is the role of organized criminal groups in human trafficking. While individuals assisting trafficking

¹⁷⁷ Lawrance B.N., Roberts R.L. *Trafficking in Slavery's Wake: Law and the Experience of Women and Children in Africa*. USA, Ohio University Press, 2012, 271 p., p.201

victims may include close family members, relatives, and friends, the involvement of African and international criminal organizations has also been confirmed. Their sophisticated operational methods enable the successful execution of trafficking activities.

To evade law enforcement, these groups employ tactics such as bribery, intimidation, and violence, minimizing their exposure to risks. Therefore, it is crucial for African states to recognize the involvement of organized criminal groups as an aggravating factor and automatically increase sentencing accordingly. Some states, such as Kenya, Liberia, Malawi, Seychelles, and Zambia, have recognized the necessity of combating organized crime and have introduced stricter penalties for involvement in human trafficking, which is a promising development¹⁷⁸. Nevertheless, many states have not yet fulfilled these obligations, and it is expected that the African Court will have the capacity to address these issues in the future.

The second key obligation concerns the protection of victims of human trafficking, which is of particular importance from a human rights perspective. The Trafficking in Persons Protocol provides certain guidelines in this regard. For instance, Article 6 refers to the protection of victims' privacy, assistance during criminal proceedings, access to accommodation, medical and psychological care, and compensation, all of which aim to safeguard their physical and mental well-being. Article 7 also provides for the possibility of granting temporary or permanent residence permits.

¹⁷⁸ Jalloh C.C., Clarke K.M., Nmehielle V.O. *The African Court of Justice and Human and Peoples' Rights in Context Development and Challenges*. Cambridge University Press, 2019, 1167 p., p.540

These measures help victims recover from their ordeals and decide whether to cooperate with law enforcement authorities in pursuing and prosecuting traffickers.

Thus, it is clear that the obligation to protect victims is closely linked to the primary obligation to prohibit human trafficking. Under international human rights law, the obligation to protect victims of human trafficking arises from the general duty to ensure, protect, and restore rights, as well as to provide effective legal remedies. In this regard, the International Covenant on Civil and Political Rights (ICCPR) imposes on states the duty to ensure that “any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” The right to an effective legal remedy is recognized as a fundamental human right for all persons, including victims of human trafficking.

Although the 1981 African Charter on Human and Peoples’ Rights does not contain an identical provision, Article 1 obliges states to give effect to the rights recognized therein, which can be interpreted as including the duty to protect victims of human trafficking.

While international and regional human rights instruments do not prescribe a specific list of protection measures, guidelines developed by human rights bodies as part of the prohibition of slavery and related provisions may be followed by the African Court in the future.

First and foremost, protection and assistance depend on the proper identification of victims. Therefore, states must establish effective mechanisms for this purpose. For identification to be

effective, public and law enforcement personnel must receive adequate training.

Once victims are identified, other tailored support measures must be provided, including shelter, medical and psychological assistance, rehabilitation/reintegration, and compensation. For transparency and accountability, it is desirable for protection measures to be clearly defined by legislation.

Although some countries — such as Botswana, Ghana, Mozambique, Tanzania, and Uganda — have legal provisions on protection, gaps remain in other states, creating broad protection deficiencies across the region. The African Court could and should play an active role in addressing these gaps.

Another key aspect of protection is the principle of non-refoulement. In the context of human trafficking, states must not return victims to their countries of origin if there is a risk of torture, inhuman or degrading treatment, or re-exploitation through trafficking or servitude, even where these risks come from non-state actors or where the state concerned is unwilling or unable to provide adequate protection.

The principle of non-refoulement may also apply to the removal of victims from the territory. For example, the Inter-American Commission on Human Rights found that the U.S. interdiction and return of Haitian refugees on the high seas amounted to violations of their human rights.

In any case, where victims do not voluntarily and knowingly consent to return to their countries of origin, they should be permitted to remain, and states should adopt appropriate measures,

including granting temporary or permanent residence permits depending on the circumstances of each case.

It is worth highlighting that Lesotho, Mauritius, Mozambique, Seychelles, South Africa, and Zambia provide for temporary and/or permanent residence permits in their national legislation, which serves as a best practice example for other African states.

The third obligation concerns the prevention of human trafficking. The nature and scope of this obligation depend on whether the state is a country of origin or destination. For origin states, the primary duty is to prevent their nationals from falling victim to trafficking. In other words, they must address the root causes of trafficking, such as poverty, gender and racial discrimination, and humanitarian crises that force people to migrate.

In the African context, it is also noted that traditional cultural and religious practices, such as juju, voodoo, and child marriage, often serve as catalysts for this crime. This results in the sexual exploitation of women and children and their trafficking in various labor sectors.

In the context of South Africa, according to INTERPOL (2021), the country sometimes serves as a transit point for human trafficking. In this regard, the Africa Migration and Society Centre (2014) notes that during awareness campaigns in preparation for the 2010 FIFA World Cup, many organizations emphasized that human trafficking had become a serious problem in South Africa, with predictions of significant increases in this crime¹⁷⁹. As identified by A21 (2019), approximately 54% of the population is vulnerable to

¹⁷⁹ Abegunrin O., Abidde O.S. African Migrants and the Refugee Crisis. Switzerland: Springer Nature, 2020, 328 p., p.51

becoming potential victims of human trafficking. A21 (2019) also highlighted that South Africa serves as a source, transit, and destination country, which contributes to the emergence of various hotspots within the country and the increase of crimes such as human trafficking within society.

According to the U.S. Department of State (2021) report, although the South African government does not fully meet the minimum standards for the elimination of human trafficking, it has made significant efforts in this regard. The report emphasizes that these efforts include initiating investigations and prosecutions of individuals involved in human trafficking, imposing long-term imprisonment sentences on convicted individuals, and continuing several investigations concerning government officials suspected of involvement in human trafficking. At the same time, the Department of State (2021) notes that most suspected traffickers are foreign nationals — particularly from Nigeria, China, and Bangladesh¹⁸⁰. Therefore, understanding the forms of technology use in recruiting victims of human trafficking is of critical importance, especially in cases where information about traffickers’ operational models and “working” methodologies remains limited. This intelligence section focuses on this issue with the aim of contributing to the development of possible strategies regarding the use of social media and the internet within the framework of combating human trafficking in South Africa.

The public sharing of personal information by social media users provides traffickers with opportunities to identify and target

¹⁸⁰ U.S. State Department. Trafficking in persons. Report. June 2021, 646 p., p.84
<https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>

potential victims. Researchers note that users who spend more time on social networks are considered to be at higher risk of exposure to human trafficking. This, in turn, confirms that traffickers spend considerable time online, searching for potential victims on internet and social media platforms.

According to the Organization for Security and Co-operation in Europe (OSCE, 2020), after recruitment, traffickers extensively use clandestine websites, social media platforms, dating applications, and escort service websites to advertise individuals who are subjected to sexual exploitation. The same report further states that traffickers create fake online profiles to contact victims and attempt to maintain a certain degree of anonymity on the internet in order to avoid detection by law enforcement and other relevant stakeholders.

Regional legislation and legal framework

For the African Union (AU), combating human trafficking is regarded as one of the priority issues for ensuring stability and prosperity across the continent. In the AU's 50-year strategic plan under "Agenda 2063", it is emphasized that the rule of law is of decisive importance for the development of the continent through structural reforms. Within the framework of the Agenda's third aspiration, it is highlighted that good governance, democracy, respect for human rights, justice, and the rule of law will serve as the fundamental principles of sustainable development plans for African states. This approach envisions the formation of a governance model

in Africa based on common democratic values, gender equality, respect for human rights, and legal stability¹⁸¹.

Within the framework of the African Union's development strategy, it has been agreed under Goals 6 and 17 that the continent's sustainable development must be based on the potential of the African peoples, particularly women and youth, as well as the care provided to children, and should be implemented through a human-centered approach. In this context, it is emphasized that gender equality must be ensured in all spheres of life during the formulation of development policies. In particular, the empowerment of women and girls must remain a focal point, and all forms of discrimination and violence against them must be eliminated.

The aforementioned goals, especially Goal 11, also align with the United Nations Sustainable Development Goals (SDGs) for 2030, as well as with the common principles adopted by the European Union and its member states. In this regard, SDG 16 — the promotion of peaceful and inclusive societies for sustainable development, ensuring access to justice for all, and building effective, accountable, and inclusive institutions at all levels — resonates with the specific objectives of this initiative.

Nevertheless, a key point to note is that Africa does not yet have a single binding convention covering the entire region specifically dedicated to combating human trafficking. Instead, there exists a range of binding (imperative) and non-binding (soft law) normative instruments addressing various aspects of human

¹⁸¹ Amao O., Olivier M., Magliveras D.K. *The Emergent African Union Law: Conceptualization, Delimitation, and Application*. Oxford University Press, 2021, 483 p., p.342

trafficking. The legal analysis of these instruments is of significant importance in terms of regional cooperation and the harmonization of national legal systems.

One of the most important and foundational legal documents adopted in Africa for the protection of human rights is **the African Charter on Human and Peoples' Rights**, also known as **the Banjul Charter**. This document serves as the fundamental legal framework for recognizing and protecting both individual and collective human rights on the continent. The Charter was adopted on 27 June 1981 and entered into force on 21 October 1986.

The document affirms that “freedom, equality, justice, and dignity are essential objectives for achieving the legitimate aspirations of African peoples.” According to Article 5 of the Charter, “every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status.” In this context, “all forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”¹⁸². In terms of the interpretation of the African Charter on Human and Peoples' Rights and other treaties of the African Union, the African Commission holds the primary executive and supervisory mandate. The Commission serves as an essential mechanism for ensuring the realization of the goals and intentions expressed in these instruments. Except for Morocco, which has not yet ratified the Charter, the Commission is recognized by almost all African states and enjoys universal jurisdiction across the continent.

¹⁸² Iroanya R.O. Human Trafficking and Security in Southern Africa: The South African and Mozambican Experience. Switzerland: Springer Nature, 2018, 253 p., p.199

The right of individual and civil society organizations to submit communications to the Commission makes it more accessible and closer to the African peoples. Since individuals do not have direct access to **the African Court on Human and Peoples' Rights**, the Commission holds the mandate to consider their complaints at the preliminary stage and, where appropriate, refer these matters to the Court. The Commission's legal interpretations and recommendations can play a significant role in the African human rights system if they are given due consideration. Nevertheless, the Commission's interpretations must align with the decisions and interpretations of the African Court on Human and Peoples' Rights, established under the Protocol to the Charter.

Alongside the Banjul Charter, the main regional normative framework for combating human trafficking in Africa is reflected in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, more commonly known as the Maputo Protocol.

This Protocol is considered one of the most comprehensive and systematic legal instruments for the protection of women's rights in Africa. It contains a wide range of provisions defending women's rights in the environmental, civil, political, economic, social, and cultural spheres.

It particularly emphasizes that every woman has the right to human dignity, recognition, and protection of her human and legal rights, and that her life, personal integrity, and security must be respected. Within this framework, all forms of exploitation against women — including violence, physical or psychological pressure, whether in private or public settings — must be strictly prohibited.

The Protocol urges states to adopt and implement effective laws prohibiting all forms of violence against women, including unwanted or forced sexual relations. Therefore, the Maputo Protocol serves as one of the key legal instruments strengthening the legal protection of women with consideration for the gender aspects of human trafficking.

Currently, 49 member states of the African Union have fully signed or ratified the Maputo Protocol¹⁸³.

The document dedicated to children's rights in the fight against human trafficking is the African Charter on the Rights and Welfare of the Child. The Charter ensures the protection of the child's physical and psychological development, and in particular, Article 15(1) emphasizes that every child must be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, moral, or social development. Since 2001, based on the Common Position adopted by the African Union to end child marriage in Africa, member states have undertaken the commitment to mobilize financial and human resources for the prevention of child marriage, as well as to develop and implement national strategies and action plans. These measures include the establishment of implementation, monitoring, and reporting mechanisms and institutions. According to UNICEF, following the 2007 Action Plan, member states assessed progress and current challenges during the Second Pan-African Forum on Children held in Cairo, and adopted

¹⁸³ Musembi C.N., Makunya T.M. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa: A Commentary. Pretoria University Press, 2023, 641 p., p.13

the Call for Accelerated Action Towards an Africa Fit for Children for the period 2008–2012.

In November 2012, under the theme “Accountability for Investment in Children”, the African Union organized the Third Pan-African Forum on Children (19–20 November 2012). The main objective of this Forum was to promote and strengthen national-level actions for the protection of children within the framework of the Renewed Call for Action Towards an Africa Fit for Children for the period 2012–2017¹⁸⁴.

The Protocol on Amendments to the Statute of the African Court of Justice and Human Rights (Malabo Protocol) is another important regional legal instrument that sets out provisions against human trafficking. The Protocol will enter into force once it is ratified by at least fifteen member states and will pave the way for **the African Court of Justice and Human Rights (ACJHPR)**, endowed with international jurisdiction over crimes against humanity, including human trafficking, to begin functioning.

Article 28J of the Protocol defines human trafficking, the issue of the victim’s consent, and exploitation in accordance with the similar and related concepts contained in Article 3 of **the Palermo Protocol**. Once the Protocol comes into force, Article 28J will serve as the sole specific legal provision concerning human trafficking.

However, there is some debate as to whether Article 28J is comprehensive in itself regardless of existing legislation on human trafficking. For example, the article does not differentiate between

¹⁸⁴ Ssenyonjo M. *The African Regional Human Rights System: 30 Years After the African Charter on Human and Peoples' Rights*. The Kingdom of Netherlands, Leiden: Koninklijke Brill, 2011, 628 p., p.445

whether the crime is committed across borders or within a country and lacks specific provisions regarding the rights of victims, particularly concerning repatriation, protection, and interstate cooperation. This indicates certain legal gaps in fully regulating the context of human trafficking as a crime.

The binding provisions analyzed above are further strengthened by a number of soft law instruments. One such soft law instrument is **the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children, adopted in 2006**. Although not legally binding, the Ouagadougou Action Plan is significant as the first European Union initiative aimed at addressing human trafficking issues in Africa.

This document, adopted within the framework of cooperation with the European Union, makes extensive reference to existing international legal treaties on human trafficking and regional human rights frameworks. For example, the general principles of the Action Plan indicate that measures undertaken to prevent trafficking must be based on human rights principles aimed at protecting victims, particularly the provisions of the Palermo Protocol on the prevention, suppression, and punishment of trafficking in persons, especially women and children.

The Ouagadougou Action Plan highlights preventive measures, awareness-raising, the establishment of victim protection and support mechanisms, and the improvement of legislative frameworks as key priorities. The document recommends that member states ratify the Palermo Protocol and ensure its integration into national legislation. At the same time, it emphasizes the importance of collecting and analyzing data on human trafficking at

the national level and calls for the strengthening of multifaceted coordination and cooperation at both national and regional levels.

The Migration Policy Framework for Africa also plays a significant role in combating human trafficking. This framework is the first policy document aimed at addressing migration and trafficking issues in a unified and coordinated manner, to be implemented in parallel by the African Union's member states.

Member states have recognized migration as both an advantage for sustainable development and a challenge to human and national security, while also acknowledging that existing migration policies often place many people in vulnerable situations. It has been emphasized that migration in Africa is not solely related to the search for labor but also includes a large population of refugees and internally displaced persons.

Therefore, member states agreed to adopt policies treating irregular migrants who are victims of trafficking as victims rather than criminals, in order to prevent deportation. It was also recommended that general regional countermeasures be developed to respect the human rights of trafficking victims, including the harmonization of immigration laws, the strengthening and modernization of border management, and the development of cooperation and coordination among the relevant ministries — particularly state security agencies.

In addition, **the African Union Commission Initiative against Trafficking in Persons (AU COMMIT)** is regarded as one of the effective mechanisms in the region in this field and plays a

significant role in combating human trafficking¹⁸⁵. In order to operationalize the Ouagadougou Action Plan, the African Union (AU) COMMIT campaign was launched in 2010 by the AU Commission with the aim of raising awareness across the continent on how to combat human trafficking and to explore ways to enhance the implementation of the Action Plan. Consequently, the campaign was rolled out in SADC countries, the Intergovernmental Authority on Development (IGAD), the Horn of Africa, and ECOWAS. It was observed that, due to its nature, Africa simultaneously serves as a source, transit, and destination region for commercial sexual exploitation controlled by organized criminal groups. Furthermore, it was noted that there are numerous push and pull factors, particularly linked to the increase in industrialization and the demand for commercial sexual exploitation, which in turn creates demand for cheap labor. Therefore, the Commission recommended the following measures to address these challenges: bilateral and multilateral cooperation; the establishment of coordination focal points at both national and regional levels; the improvement of legislation; further strengthening of capacity to combat human trafficking and migrant smuggling; enhanced coordination through state-funded shelters; improvement of cooperation, focal points or units; and the creation of databases.

The AU-Horn of Africa Initiative (AU-HOA Initiative) on Trafficking in Persons and Smuggling of Migrants possesses a number of unique features in the fight against human trafficking. This initiative became one of the key focal points of **the AU**

¹⁸⁵ Mitsilegas V., Hufnagel S., Moiseienko A. Research Handbook on Transnational Crime. UK, Cheltenham: Edward Elgar Publishing, 2019, 544 p., p.491

COMMIT campaigns at the subregional level. The initiative targeted close cooperation among Horn of Africa countries — Eritrea, Ethiopia, Sudan, Djibouti, Kenya, Somalia, and South Sudan — as well as with other international organizations and countries involved in combating human trafficking, such as Egypt, Libya, Tunisia, Norway, Italy, Malta, Switzerland, and Saudi Arabia.

The main objectives of the initiative were to find effective solutions to the rapid increase of human trafficking and migrant smuggling in the region, as well as to accelerate the implementation of the Migration Policy Framework for Africa and the Ouagadougou Action Plan. In this regard, strengthening cooperation among member states, identifying common solutions to the challenges of human smuggling and trafficking, facilitating technical assistance, and mobilizing resources were identified as priorities. Moreover, special attention was paid to establishing a shared understanding of the causes, consequences, and patterns of irregular migration in the region and to forecasting future trends.

In addition to the existing soft law instruments at the general regional level in Africa, there are also a number of mechanisms operating at the subregional level, along with the legal instruments upon which they are based. One such subregional organization is the East African Community (EAC)¹⁸⁶. **The East African Community (EAC)** is composed of six Member States — Uganda, Kenya, the United Republic of Tanzania, Rwanda, Burundi, and South Sudan. The EAC is a politically and economically integrated union that

¹⁸⁶ Magu S.M. *Towards Pan-Africanism: Africa's Cooperation Through Regional Economic Communities (RECs), Ubuntu and Communitarianism*. Switzerland: Springer Nature, 2023, 354 p., p.98

ensures the free movement of people, goods, and services through a common passport. The main organs of the Union include the Council of Ministers, the East African Legislative Assembly, the East African Court of Justice, the Sectoral Committees, which oversee the conceptualization and implementation of programs, and the Secretariat.

Currently, EAC does not have a unified legislative framework against human trafficking, and no specific policies or initiatives have been introduced in this area. However, in 2016, **the East African Community Counter-Trafficking in Persons Bill (EAC-CTIP Bill)** was adopted, though it still awaits presidential assent.

Although there is no binding model law at the subregional level, the 2016 report prepared on the basis of public hearings by the Legislative Assembly on the EAC-CTIP Bill contains important findings and is noteworthy. The report highlights that, with the exception of South Sudan, the Member States hold varying positions and responses regarding human trafficking. Nonetheless, all participating countries agreed that severe forms of trafficking prevail and, despite unreliable statistical data, human trafficking is significantly on the rise across all EAC Member States. Furthermore, the absence of international minimum standards on human trafficking within these countries remains a serious concern.

It was also noted that although all Member States have ratified the Palermo Protocol, anti-trafficking legislation varies significantly across jurisdictions. This discrepancy negatively impacts the prevention of cross-border crimes and enables traffickers to operate freely in countries where anti-trafficking laws and penalties are weak.

The Member States unanimously agreed that the following issues should be addressed in the new Bill:

- protection of children with disabilities such as albinism and those trafficked for ritual purposes;
- repatriation of victims from abroad;
- protection of victims, including relocation and psychological support;
- harmonization of anti-trafficking laws; abolition of international adoption and closure of national guardianship centers; legal protection of witnesses;
- responsible cooperation of all recruitment and employment agencies; exchange or extradition of criminals;
- establishment of specialized regional police forces and community-based shelters to support victims from abroad.

For example, Kenya has a shelter in Malaysia serving the majority of victims from the Far East¹⁸⁷.

The main subregional organization covering primarily the western states of the African region is the Economic Community of West African States (ECOWAS). ECOWAS is one of the largest subregional organizations within the African Union, comprising Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo as its fifteen Member States. Its new ECOWAS Law covers bodies such as the Community Court of Justice, the Community Parliament, the ECOWAS Bank for Investment and Development (EBID), the West African Health

¹⁸⁷ Koizumi K., Hoffstaedter G. *Urban Refugees: Challenges in Protection, Services and Policy*. UK, Oxford: Taylor&Francis, 2015, 294 p. p.273

Organization (WAHO), the Inter-Governmental Action Group against Money Laundering in West Africa (GIABA), and other related institutions. In response to the fight against human trafficking, ECOWAS in 2016 adopted free movement as a policy to ensure the safe migration of people, goods, and services, as well as the detection of victims of human trafficking. Thus, the Member States introduced the ECOWAS National Biometric Identity Card (ENBIC) for all community members (the identity cards are already in use in Senegal, Ghana, and Guinea-Bissau). To ensure the effectiveness of identification, the ECOWAS Commission launched an awareness campaign involving all stakeholders, such as transporters and law enforcement agencies responsible for managing border controls.

These measures play a crucial role in the fight against human trafficking and in strengthening security architecture and data management at ECOWAS borders¹⁸⁸.

Previously, **ECOWAS's Initial Plan of Action against Trafficking in Persons (2002–2003)** was developed with a particular focus on criminal justice responses. The primary objective of the Plan was to ensure that all Member States ratify and implement community legal instruments such as the **ECOWAS Convention on Mutual Assistance in Criminal Matters A/P1/7/92** and the **ECOWAS Convention on Extradition A/P1/8/94**.

It was subsequently decided that all Member States should adopt similar criminal codes or amend existing ones and also take administrative or victim-centered measures reflecting the provisions

¹⁸⁸ Alexander J.H. *The Nationality and Statelessness of Nomadic Peoples Under International Law*. Oxford University Press, 240 p., p.74

of the Palermo Protocol. States were expected, where appropriate and in cooperation with non-governmental organizations and other representatives of civil society, to take steps to establish or further develop reception centers that could serve as shelters for victims of human trafficking.

In order to ensure the implementation of the initial proposed decisions by Member States, the Plan of Action is subject to annual review. At the meeting held in June 2019 in Abuja, Nigeria, ECOWAS representatives noted the close links between irregular migration and forced displacement, human trafficking, and forced labor, which place a significant number of women and children in the region in vulnerable situations¹⁸⁹.

Although the African Union does not possess a stand-alone convention specifically dedicated to combating human trafficking, it has established a comprehensive legal and policy framework addressing human trafficking, particularly with regard to the protection of women, children, and displaced persons. Despite the persisting gaps in implementation, coordination, and digital regulation, the AU continues to promote regional cooperation, capacity-building, and legal harmonization. To date, the African Union (AU) does not have any binding legal instrument explicitly focusing on digital human trafficking. However, through a combination of human rights treaties, policy frameworks, cybersecurity and digital governance instruments, and regional strategies on migration and organized crime, the AU is increasingly

¹⁸⁹ Ogunnubi O., Okunade S.K. ECOWAS Protocol on Free Movement and the AfCFTA in West Africa: Costs, Benefits and Challenges. Switzerland: Springer Nature, 2023, 298 p., p.159

recognizing the threat of digitally facilitated human trafficking. This evolving framework lays the groundwork for combating ICT-enabled trafficking, particularly in relation to online exploitation of children, recruitment through social media, cyber-facilitated sexual slavery, and transnational digital crime networks.

While the activities of regional international organizations covering the African region can be considered satisfactory to a certain extent, there remain several critical areas in the fight against human trafficking and its digital elements that require further development. None of the African organizations has yet adopted an international legal instrument specifically dedicated to combating digital human trafficking. The increasing prevalence of human trafficking through social media and digital platforms and the rise in related crimes have been reflected only in certain soft-law instruments of a recommendatory nature.

In the majority of African states, specific legislative frameworks addressing both digital aspects and the broader fight against human trafficking are still underdeveloped. Regional international courts have not fully directed their focus towards the issue of human trafficking, and the victim-oriented activities of state and regional institutions, particularly with regard to the rehabilitation of trafficking victims, remain limited. The involvement of information technology and information-sharing professionals in strengthening the fight against digital human trafficking is practically non-existent. Against this background, the achievements thus far can be characterized as largely declarative.

For example, the Malabo Convention and the African Charter on the Rights and Welfare of the Child have criminalized online child

exploitation, while the Maputo Protocol has entirely prohibited digital sexual slavery. Instruments adopted in the fields of migration and cybersecurity have defined directions for combating illegal online recruitment centers. Several instruments have also emphasized the need to strengthen regional cooperation. Moreover, provisions of other international and regional legal instruments may also be applied to the digital aspects of combating human trafficking.

For instance, Article 29 of the African Charter on the Rights and Welfare of the Child (1990) prohibits the purchase, sale, and trafficking of children for any purpose. Although this provision is not directly dedicated to digital human trafficking, it may equally be applied to cases of trafficking facilitated through social media and electronic communication platforms. The same approach may be applied to the Maputo Protocol (Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003), which requires states to prohibit the trafficking of women, particularly for sexual exploitation. Its provisions are widely applicable to instances of digital sexual exploitation occurring on platforms such as OnlyFans, TikTok, WhatsApp, and other digital communication tools.

The Malabo Convention (2014), formally known as the African Union Convention on Cyber Security and Personal Data Protection, serves as the principal legal instrument for combating digital and cybercrime in the region. Article 29 of the Convention criminalizes child pornography disseminated through electronic means, while Article 30 criminalizes the use of information and communication technologies for the sexual exploitation of vulnerable groups and online abuse. Article 31 supports international

cooperation on cyber-enabled crimes. Other provisions of the Convention prohibit the online recruitment of human trafficking victims, the sale of sexual content on electronic platforms, and the use of cryptocurrency in human trafficking operations.

The conventional provisions across the African region have also been reflected in other soft-law instruments. One such instrument is the African Union’s Migration Policy Framework for Africa (2018)¹⁹⁰. Section 6 of the document is entitled “Irregular Migration, Smuggling and Human Trafficking”. This section focuses primarily on the dangers associated with the increasing use of digital platforms for the purposes of online recruitment and exploitation linked to human trafficking. It requires states to monitor the digital channels utilized by traffickers and recommends that law enforcement agencies be provided with training in cyber-investigations and the handling of digital evidence in this regard. In addition, there exists another soft-law instrument within the African Union, namely the “Digital Transformation Strategy for Africa (2020–2030)”¹⁹¹.

Although this strategy is not directly dedicated to digital human trafficking, it nevertheless incorporates requirements such as creating safe digital ecosystems, enhancing capacities to combat cybercrime, and ensuring the ethical use of artificial intelligence, biometric data, and information. These soft law norms are also supported through various regional projects.

¹⁹⁰ Triandafyllidou A. *Handbook of Migration and Globalisation*. 2nd Edition. UK, Cheltenham: Edward Elgar Publishing, 2024, 442 p., p. 318

¹⁹¹ Lloyd G.A. *Examining the Rapid Advance of Digital Technology in Africa*. USA, Pennsylvania: IGI Global, 2024, 320 p., p.313

Among such projects are the "Horn of Africa Initiative" (Khartoum Process), which incorporates provisions against human trafficking through the online recruitment of migrants; the Joint Migration Initiative of the African Union, European Union, and the UN, which envisages combating online fraud on migration routes; and the "Silencing the Guns Initiative" (African Union Peace and Security Initiative), which targets the fight against online arms and human trafficking.

It is commendable that the African Union's Peace and Security Initiative also encompasses cooperation with international organizations such as Interpol, UNODC, Meta, and Google, which conduct research in the field of online human trafficking and exploitation.

Although the African Union lacks a binding legal instrument explicitly targeting digital human trafficking, its existing legal frameworks—including the Malabo Convention, the Maputo Protocol, and the AU Migration Policy—lay the groundwork for combating this modern crime. Nevertheless, the absence of harmonized legislation, weak enforcement mechanisms, and limited cooperation opportunities with the technology sector remain persistent challenges.

In this regard, alongside the African Union's legal framework, the frameworks of two subregional organizations—namely, the East African Community (EAC) and the Economic Community of West African States (ECOWAS)—have been analyzed as examples. The purpose of this analysis was also to provide recommendations aligned with the AU's strategic goals, particularly the Malabo Protocol and Agenda 2063 and its First Ten-Year Implementation

Plan (FTYIP) for 2013-2023, in accordance with the principles of governance, human rights, justice, and the rule of law.

The assessment was conducted through qualitative analysis of existing literature, international and regional legal documents, reports, recommendations, and materials from subregional and regional economic communities. In addition, a comparative analysis was carried out between the African Union (AU) and the Association of Southeast Asian Nations (ASEAN) regarding responses to human trafficking challenges.

In assessing the effectiveness of existing legislation, particularly concerning the protection of women and girls against human trafficking, a human rights-based and gender-sensitive approach was adopted. The analysis observed that human trafficking within the African Union is diverse and structural in nature. The trafficking of child victims, baby factories, international adoptions, ritual sacrifices of persons with albinism, and irregular migration are newly emerging phenomena closely linked to human trafficking.

Thus, states' goals toward regional multilateral cooperation and the free movement of people, goods, and services increase the complexity of these new human trafficking incidents, requiring these issues to be primarily addressed at the national level by member states. One of the main reasons for this is the absence of a reliable statistical data system at the regional level, which consequently reflects a lack of political will for the adoption of a more comprehensive and binding legal instrument on the continent. As a result, each member state responds to these challenges according to its own capacities and priorities.

In response, the African Union (AU), as a general regional body, possesses key human rights treaties and non-binding frameworks. These include the African Horn of Africa Initiative on Human Trafficking and Migrant Smuggling (AU-HOA Initiative), the African Union Commission Initiative against Human Trafficking (AU COMMIT), the Migration Policy Framework for Africa, the Ouagadougou Action Plan on the Fight against Trafficking in Human Beings (particularly regarding women and children), as well as other subregional initiatives. However, the absence of annual reports at the regional level to assess the effectiveness of these frameworks constitutes a serious shortcoming.

Observations indicate that human trafficking, the exploitation of women and girls, and the vulnerability of children, particularly those suffering from albinism, remain common problems within the African Union and signal the persistence of dangerous trends in the region. Although men are also victims, the current trends of climate change and the increasing search for employment among young women expose them to the risk of gender-based violence both within the continent and abroad.

The African Union possesses general legal measures and specific policy frameworks to combat human trafficking and provide assistance to victims at the national level. At the subregional level, some measures are also being implemented within economic unions such as the East African Community and ECOWAS. For example, ECOWAS has a strategic plan that is reviewed annually, and the East African Community has proposed draft legislation on human trafficking. However, the fact that this law has not yet been adopted complicates the assessment of its effectiveness. Therefore, the lack

of an effective and comprehensive regional body responsible for monitoring the implementation of the existing regional framework and politically mandating cross-border data exchange and cooperation among member states poses a significant problem.

Based on the above observations, it is recommended that the African Union establish a centralized regional database system managed by a centralized body, such as the Commission, to ensure the collection and sharing of data at the subregional and community levels. The absence of such a system increases the difficulty of detecting criminal networks, identifying traffickers, and tracking victims.

With centralized subregional data centers and close cooperation with civil society organizations, the African Union could also maintain information on high-ranking criminals or corporate actors. Given the nature of the crime and the social, economic, and political impacts of criminals in member states, a regional system is necessary for data collection, witness protection, and ensuring victims' fair access to justice. Nevertheless, for such an initiative to succeed, both political will and the willingness of heads of state to establish a regional data system and prevent the misuse of personal data for political purposes are crucial. This commitment could take the form of an official declaration by states to assign the function of collecting human trafficking data within their jurisdictions to the relevant body of the African Union. This would also require the creation of a trust fund to build stakeholders' capacities and cover the operational costs of the body.

Secondly, within the African Union, the fight against human trafficking is conducted at both regional and national levels through

collaboration with various stakeholders, including international organizations striving to find optimal solutions. However, at the continental level, there is no single, comprehensive guide used by all stakeholders for the identification and support of victims. As a result, each stakeholder, including state bodies, acts according to its own capacities and approaches in identifying and protecting victims. Therefore, the African Union should adopt a unified toolkit containing regional minimum standards for the identification and protection of victims. This would not only strengthen the protection of human trafficking victims' rights but also help reduce the number of repeat victims by considering the specific challenges of subregional organizations.

All forms of human trafficking and modern slavery are complex and multifaceted problems within the African Union. This problem also encompasses newly emerging phenomena such as child victims, baby factories, international adoptions, ritual sacrifices of albinos, and irregular migration. The increase in human trafficking incidents, alongside the promotion of the right to free movement of people, goods, and services, economic cooperation, and political integration, requires interstate multilateral cooperation at the subregional level. For instance, in West Africa, ECOWAS has implemented the Free Movement and Regional Migration Protocol and introduced regional biometric identity cards in 2019. In East Africa, since 2010, the East African Community Common Market Protocol (EAC CMP) has been in place, and in 2019, the East African Union passport was introduced. Other subregional organizations, including SADC, COMESA, IGAD, CENSAD,

ECCAS, and UMA, also continue adopting legal documents to ensure the free movement of people within their regions.

The complexity and uniqueness of human trafficking in Africa pose a strategic policy challenge as to how effectively it can be combated. Without a comprehensive legal framework, many victims continue to suffer extreme exploitation, re-trafficking, and revictimization. Therefore, in response to this policy challenge—and recognizing the continued lack of political consensus and preparedness for a regional treaty on human trafficking in the AU, as well as the fragmentation of laws on human trafficking among AU member states—this core project was considered an effective rule of law intervention that could contribute to the AU’s objectives in reducing human trafficking cases in Africa.

Human trafficking, especially the trafficking of women and girls, is an increasingly serious problem in AU member countries. According to the Global Slavery Index, Africa ranks second globally after Asia in terms of the number of victims of modern slavery. These crimes are committed both domestically and on a transnational and interregional scale. For example, numerous cases of human trafficking involving violations of the dignity of Africans have been recorded on Libya’s coasts and in black markets operating in the Middle East. Although there is no reliable statistical data, it is reported that each year approximately 65,000 to 120,000 people are either smuggled or subjected to human trafficking along routes from the Sub-Saharan region to the Maghreb.

The African Union reports that the majority of internal human trafficking victims in the region are children subjected to forced labor, estimated at approximately 72.1 million. Additionally,

women, young girls, and sometimes young men are forced into prostitution and hard labor both in Africa and on other continents. What is particularly alarming is not only the exposure of victims to horrific violence and inhumane treatment but also the fact that traffickers sometimes force them into sexual contact with HIV/AIDS-infected individuals with the intent of spreading the virus, keeping them in captivity¹⁹². The high level of complexity and the broad scale of the problem have posed significant challenges to the work of the United Nations High Commissioner for Refugees (UNHCR) in rescuing victims within the region. In 2018, it became evident that criminal groups engaged in human trafficking were deceiving victims by impersonating “UNHCR officials” at disembarkation points and smuggling hubs. These criminals used vests and insignia resembling the agency’s logo as part of this fraudulent scheme.

On the other hand, the African Union’s legal framework on human trafficking exists at both regional and subregional levels, taking the form of varied approaches and fragmented structures. For example, in November 2006, the African Union adopted the “African Union Plan of Action” as a non-binding framework aimed at combating human trafficking in a timely and responsible manner. Subsequently, in 2010, the African Union Commission Initiative against Human Trafficking (AU COMMIT) was launched. The AU Commission has since issued a number of statements on human rights within this framework. Libya and other member states have

¹⁹² Segrave M., Pickering S. *Sex Trafficking*. UK, Oxford: Taylor&Francis, 2012, 248 p., p.225

been called upon to respect the protection of the most vulnerable groups and to make progress in this area.

At the subregional level, various means of communication and non-binding initiatives exist to strengthen coordination and cooperation on migration and human trafficking among regional economic organizations such as the Southern African Development Community (SADC), the Intergovernmental Authority on Development (IGAD), and the Economic Community of West African States (ECOWAS).

Moreover, within the African Union, there is no comprehensive, victim-centered database covering all 55 member states for the measurement and analysis of crime, including detailed data on perpetrators and victims. The European Union emphasizes the importance of regional statistical data on human trafficking. It notes that a clear understanding of the nature, scale, and economic impact of this crime is essential for the development and implementation of effective policies and appropriate measures at the regional level. In this regard, the availability of comparable, reliable, and comprehensive statistical data is considered crucial for identifying and addressing trends, for the formulation of evidence-based policies, and for the evaluation of the impact of initiatives¹⁹³. Nevertheless, the effectiveness of cross-border policies on human trafficking, and particularly of regional information systems, depends both on political will and on the harmonization of relevant laws. At present, there is no binding legal instrument within the

¹⁹³ Winterdyk J., Perrin B., Reichel P. *Human Trafficking: Exploring the International Nature, Concerns, and Complexities*. 1st Edition. USA, New York: Routledge, 2011, 318 p., p.50

African Union specifically dedicated to combating human trafficking, although a number of regional human rights treaties do exist. In terms of international law, key instruments such as the United Nations Protocol against the Smuggling of Migrants by Land, Sea and Air and the Palermo Protocol have not been signed or ratified by all African Union member states. Moreover, trends in human trafficking within Africa are closely linked to migration phenomena. This underscores the need for a more coherent regional approach, as reflected in the United Nations Global Compact for Migration adopted in 2018. Human trafficking is regarded as an international crime against humanity. A concise definition of this crime is provided in Article 28J of the Palermo Protocol. Once the Protocol enters into force, national and subregional courts will complement international jurisdiction in this field. This will serve to enhance victim protection and ensure the effective administration of justice¹⁹⁴.

Human trafficking, also known as forced labor or modern slavery, is a criminal phenomenon present in almost every country in the world. It is considered one of the most widespread criminal enterprises of the modern era. Human trafficking can occur both domestically and internationally. Domestic trafficking usually involves movement from rural areas to cities or tourist centers within the same country. In contrast, international trafficking most often involves routes leading toward more developed countries. Countries are generally classified as source, transit, or destination countries for the purposes of trafficking. Research indicates that political unrest,

¹⁹⁴ Kahimba N.F. Human Trafficking Under International and Tanzanian Law. The Kingdom of Netherlands, the Hague: ASSER Press, 2021, 518 p., p.137

armed conflict, economic crises, and natural disasters increase vulnerability to human trafficking. For example, following the devastating earthquake in Haiti in January 2010, hundreds of thousands of orphaned children emerged as a high-risk group for trafficking. Some scholars argue that large international events, such as the Olympic Games or the World Cup, may exacerbate trafficking problems. Others, however, claim that such concerns are exaggerated.

In 2000, the United Nations adopted two protocols aimed at combating human trafficking and migrant smuggling, commonly known as the Palermo Protocols. Human trafficking and migrant smuggling are often confused, but there are fundamental differences between them. Migrant smuggling involves the voluntary consent of individuals to be transported illegally across borders for unauthorized entry into another country. This process typically ends upon the migrant's arrival at the destination. The Smuggling Protocol treats smuggled persons as voluntary participants in a criminal act and requires "humane treatment and full protection of their rights" upon return to their countries of origin. Many legal scholars and observers categorize smuggling as a "crime against the state" and support the deportation of smuggled migrants. In contrast, victims of human trafficking are considered victims of a "crime against individuals" and are entitled to assistance, protection, and immigration relief from the state.

According to the U.S. Department of State, the key element distinguishing trafficking from smuggling is the presence of force, fraud, or coercion. Under U.S. immigration law, a person subjected to trafficking is recognized as a victim, whereas an irregular migrant

who consents to smuggling is considered a participant in a criminal act and may be subject to penalties. Distinguishing between a trafficking victim and a smuggled migrant is particularly challenging in cases involving unaccompanied minors.

The U.S. Department of State's 2014 Trafficking in Persons (TIP) Report identified migrants from Central America as being at particular risk of trafficking in Mexico. Moreover, according to a 2016 report by Polaris, 34% of Latin American women subjected to sexual slavery in the United States since 2007 fell victim through recruitment mechanisms linked to smuggling schemes¹⁹⁵. These victims were either kidnapped, sold to traffickers, or told they needed to repay debts when they were smuggled into the United States. Cases of human trafficking are often influenced by migration flows, particularly when such flows are irregular and unregulated. In recent years, migration flows from Latin America and the Caribbean have been shaped by several factors. The main factors encouraging migration from Latin America to the United States include family ties, poverty and unemployment, political and economic instability, natural disasters, geographical proximity, and crime and violence.

Apart from geographical proximity, these factors have also led to smaller migration flows to Europe and Canada. The primary destination countries for Latin American migrants are the United States, Spain, Italy, Canada, the Netherlands, and the United Kingdom. Due to declining birth rates and aging populations, these countries have, in recent decades, increasingly relied on migrant

¹⁹⁵ Coverdale J.H., Gordon M.R., Nguyen P.T. Human Trafficking: A Treatment Guide for Mental Health Professionals. American Psychiatric Association Publishing, 2020, 284 p., p.175

labor from Latin America to fill low-wage positions in agriculture, construction, manufacturing, and domestic services. At the same time, security concerns, competition for jobs, and other issues related to the intake of large numbers of foreign populations have led many developed countries to adopt stricter immigration policies. These factors, in turn, have contributed to a global increase in irregular migration.

In the Western Hemisphere, irregular migration flows have been most pronounced in Mexico, particularly along its 1,951-mile northern border with the United States and its southern borders with Guatemala (596 miles) and Belize (155 miles). Since the mid-2000s, unauthorized migration from Mexico to the United States has significantly decreased, while flows from Central America have increased. In Fiscal Year 2014, for the first time, U.S. Customs and Border Protection (CBP) apprehended more unauthorized migrants from Central America than from Mexico along the Southwest border.

Methods of regional international organizations in combating human trafficking

Several economic and politically oriented international organizations operate within North and South America, each employing its own methods to combat human trafficking. The legal practices of these organizations can also be applied to combat the digital dimensions of human trafficking. Information about the performance of one of the key organizations is presented below:

Andean Community (CAN) – The Andean Community (CAN), established in 1969, is a regional bloc comprising four Member States: Bolivia, Colombia, Ecuador, and Peru. CAN possesses mechanisms that promote regional cooperation and legal

harmonization in the fight against human trafficking. In particular, the open borders among CAN Member States necessitate the exchange of information on human trafficking and the implementation of joint law enforcement measures. At the same time, the organization is developing regional monitoring and mutual support programs aimed at combating the use of digital technologies for trafficking purposes¹⁹⁶.

Andean Community (CAN) – its role in regional development and combating human trafficking. The Andean Community (CAN) seeks to ensure the comprehensive and balanced development of its Member States through regional integration. The organization’s members are Bolivia, Colombia, Ecuador, and Peru. Argentina, Brazil, Chile, Paraguay, and Uruguay hold associate member status, while Spain and Morocco participate as observers. The headquarters of CAN is located in Lima, and for the 2022–2023 period, the Pro Tempore Presidency is held by Peru.

The origins of CAN date back to 1969 with the signing of the Cartagena Agreement, which established the Andean Pact. Its founding members were Bolivia, Chile, Colombia, Ecuador, and Peru. Venezuela joined in 1973, but later developments saw Chile withdraw in 1976 due to economic discrepancies, while Venezuela withdrew in 2006 after Colombia and Peru signed Free Trade Agreements with the United States.

CAN’s institutional structure expanded with the creation of the Andean Council of Foreign Ministers, the Andean Court of Justice, and the Andean Parliament in 1979. In 1990, the Andean Presidential

¹⁹⁶ Holden P. A Dictionary of International Trade Organizations and Agreements. UK, Oxford: Taylor&Francis, 2011, 336 p., p.42

Council was established. The Trujillo Protocol of 1996 changed the name from the Andean Pact to the Andean Community (CAN). Under this protocol, the Administrative Board of the Cartagena Agreement was transformed into the General Secretariat, located in Lima. These reforms provided political direction to the integration process.

In 2001, CAN introduced the Andean Passport, enabling visa-free travel among member countries. In 2006, the Andean Free Trade Area became fully operational. Since 2005, the integration of the Latin American and Caribbean regions has been a priority on CAN's agenda. These integration processes, which aim to soften regional borders, facilitate the free movement of citizens, and strengthen economic relations, present both opportunities and challenges in the fight against human trafficking. To prevent human trafficking at the regional level, legal harmonization, information exchange, and joint law enforcement cooperation among CAN Member States are essential. Regional integration enhances coordination in identifying and protecting victims and prosecuting offenders, especially in cases where digital technologies are involved.

CAN aims to: promote balanced and harmonious development of its Member States on equal terms through socio-economic cooperation and integration; stimulate growth and productive employment; facilitate participation in the regional integration process towards the common market of Latin America; reduce external vulnerabilities and strengthen the position of Member States within the international economic context; strengthen subregional solidarity and reduce development disparities; improve living standards. In this context, CAN addresses issues including: trade in

goods and services, customs union, mobility of individuals, common market, common foreign policy, border development, social agenda, sustainable development, and economic policies. At a meeting held in November 2021, the Andean Parliament discussed various measures to deepen integration among members and to strengthen regional development through economic recovery. In 2022, CAN focused its discussions on key topics such as food security, equal access to healthcare, sustainable development, illegal fishing, standardization of university degrees, and other regionally significant issues. These efforts aim to enhance the social and economic welfare of member states, ensure the sustainable use of resources, and strengthen the integration process. The wide range of topics discussed demonstrates that CAN serves as a platform for closer cooperation and mutual understanding among its Member States. This also lays the groundwork for joint actions in other critical areas, such as combating human trafficking.

The Andean Community (CAN) has made significant contributions to combating human trafficking through various initiatives, including the adoption of the Andean Plan against Corruption in 2007. This plan, together with the Andean Cooperation Plan for the Control of Illicit Drugs and Related Crimes, adopted in 2001, reflects CAN's continued efforts to combat human trafficking and related crimes. CAN is actively involved in matters of border management, human mobility, and migrant smuggling, all of which are highly relevant to the fight against human trafficking. Recognizing human trafficking as a serious threat to both development and security, CAN pursues a comprehensive and multi-faceted approach to addressing this issue.

The organization collaborates with international bodies such as the European Union (EU) and the United Nations (UN) in the field of combating human trafficking. Peru has developed a national plan against human trafficking among CAN Member States and has also established cross-border cooperation mechanisms, such as the Binational Rapid Response Team (ERI) between Peru and Ecuador, which provides swift support to victims and facilitates access to justice. Moreover, CAN continues to expand cooperation in areas such as gender equality, combating organized crime, preventing transnational crime, and protecting victims of human trafficking¹⁹⁷.

MERCOSUR (The Southern Common Market) - is a South American trade bloc established in 1991 by Argentina, Brazil, Paraguay, and Uruguay. Among its primary objectives are the promotion of free trade among its Member States, the free movement of goods, people, and currency, and the harmonization of economic policies.

MERCOSUR, also known as the Mercado Común del Sur (Southern Common Market), is considered an ambitious project of economic integration within the South American region. In 2008, Venezuela, Chile, and Bolivia acquired associate membership status. Peru, Ecuador, and Colombia have expressed intentions to join, while Mexico has shown increasing interest in the process.

The main objectives of MERCOSUR include: opening markets; promoting economic development within the context of a globalizing world; improving infrastructure and communications; enhancing the utilization of existing resources; protecting the

¹⁹⁷ OECD Investment Policy Reviews: Colombia 2012. OECD Publishing, 2012, 150 p., p.70

environment; developing industrial structures; and coordinating macroeconomic policies to enhance the efficiency and competitiveness of the economies of all its Member States. Achieving a common external tariff is one of the bloc's principal goals.

MERCOSUR's official operations commenced with the signing of the Treaty of Asunción in March 1991 by its four founding members. However, the spirit of regional integration in the area dates back much earlier and is rooted in a rich history of bilateral complementarity agreements. These include organizations such as the Latin American Free Trade Association (ALALC), established in the 1960s, and the Latin American Integration Association (ALADI), founded in 1980.

Towards the end of the twentieth century, bilateral trade agreements between MERCOSUR's future members, particularly Argentina and Brazil, expanded significantly. These countries began to move beyond competition for regional leadership and embraced economic complementarity. Strategically located between these two economic giants, Uruguay and Paraguay also joined the integration process. The city of Montevideo became the administrative center of MERCOSUR.

MERCOSUR is governed by the Common Market Council (Consejo del Mercado Común – CMC), which is responsible for the political decisions related to the integration process.

As the Southern Common Market, MERCOSUR has undertaken various measures to combat human trafficking. These include the creation of an Action Plan against Human Trafficking and the development of national policies within its Member States.

These efforts primarily focus on prevention, prosecution of offenders, and, in particular, the protection of victims, as well as on the coordination of cases of cross-border human trafficking.

For instance, in 2006, under the MERCOSUR/RMI framework, an Action Plan to Combat Human Trafficking was established. In the same year, Brazil adopted Decree No. 5948, which approved its National Policy to Combat Human Trafficking and established an Inter-Ministerial Working Group. Subsequently, in 2008, Brazil adopted Decree No. 6347, approving a National Plan to Combat Human Trafficking with the aim of further developing this policy.

The key elements of Brazil's policy are as follows:

- **Emphasis on human dignity and prohibition of discrimination:** The policy prioritizes respect for human dignity and prohibits discrimination based on gender, sexual orientation, social origin, or other grounds.

- **Broadened definition of human trafficking:** The policy recognizes labor exploitation and organ trafficking as forms of human trafficking, thus expanding beyond the earlier focus primarily on sexual exploitation.

- **Focus on the protection and assistance of victims:** Particular efforts are made to provide support and assistance to victims of human trafficking, including those from non-MERCOSUR countries.

Within this framework, MERCOSUR adopts a comprehensive and inclusive approach to combating human trafficking. It aims, through regional cooperation, to ensure both the protection of victims' rights and the prosecution of offenders.

International cooperation - MERCOSUR promotes cooperation among its Member States and with other countries to facilitate the exchange of information on human trafficking and the harmonization of legal procedures¹⁹⁸.

The Union of South American Nations (UNASUR) was established in 2012. It carries out its activities in the fight against human trafficking through the Council on Public Security, Justice, and the Coordination of Actions against Transnational Organized Crime in South America (CSSCJDOT). This Council operates with the purpose of coordinating efforts within the region against transnational organized crime, including human trafficking. It also seeks to ensure public security and justice¹⁹⁹. This Council aims to coordinate efforts against organized crime, including combating human trafficking, and to promote justice and security. UNASUR has also introduced a special action plan to combat human trafficking, supported by the Common Initiatives Fund. Furthermore, it has established the CSSCJDOT structure for the purpose of combating human trafficking and transnational organized crime. According to the United Nations Office on Drugs and Crime (UNODC), UNASUR's efforts are influenced by international standards such as the Palermo Protocol, which defines human trafficking and provides guidelines for combating it.

The Central American Integration System (SICA) — Sistema de la Integración Centroamericana — is a regional organization of

¹⁹⁸ Boister N., Currie R.J. Routledge Handbook of Transnational Criminal Law. USA, New York: Routledge, 2014, 482 p., p.85

¹⁹⁹ O'Keefe T.A. Latin American and Caribbean Trade Agreements: Keys to a Prosperous Community of the Americas. The Kingdom of Netherlands, the Hague: Martinus Nijhoff Publishers, 2009, 490 p., p.448

the Central American Isthmus. It was established by the Tegucigalpa Protocol, signed on 13 December 1991, which was adopted as an addition to the Charter of the Organization of Central American States and entered into force for its members in 1992²⁰⁰. **Union of South American Nations (UNASUR)** - In 2012, the Union of South American Nations (UNASUR) established a mechanism called the Council on Public Security, Justice, and the Coordination of Actions against Transnational Organized Crime in South America (CSSCJDOT). The purpose of this body is to coordinate regional efforts against transnational organized crime, including human trafficking. This Council aims to strengthen efforts to combat organized crime, including human trafficking, promote regional cooperation, and coordinate policies in the fields of justice and security. UNASUR has also introduced a Special Action Plan dedicated to combating human trafficking, funded by the Common Initiatives Fund. According to information provided by the United Nations Office on Drugs and Crime (UNODC), UNASUR's activities in this area have been significantly influenced by the international legal framework on the prevention and punishment of human trafficking, particularly the Palermo Protocol.

Central American Integration System (SICA) - The Central American Integration System (Sistema de la Integración Centroamericana – SICA) was established by the Tegucigalpa Protocol, signed on 13 December 1991 and entered into force in 1992. This regional organization aims to promote the integration process within the Central American Isthmus.

²⁰⁰ Latin America Economic Integration and Cooperation Handbook. Volume 1-Strategic Information, Organizations and Programs. IBP USA. 2012, 282 p., p.60

The current member states of SICA are Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama. In addition, the Republic of Belize joined the organization in 2000.

The predecessor to SICA was **the Organization of Central American States** (Organización de Estados Centroamericanos – ODECA), which was established under the Charter of San Salvador, signed on 14 December 1951. ODECA’s headquarters are located in San Salvador, and its secretariat is referred to as the “Central American Office”. During the 1950s and 1960s, ODECA played a significant role in advancing political and economic integration in Central America. One of the most notable outcomes of these efforts was the signing of the General Treaty on Central American Economic Integration, known as the “Managua Treaty”, on 13 December 1960. This treaty sought to promote free trade within the region. Although it superseded previous bilateral and multilateral trade agreements, it did not formally annul their legal force.

The Managua Treaty established the following institutional mechanisms:

- Chapter I: The establishment of the Central American Common Market;
- Chapter VII: The establishment of the Central American Bank for Economic Integration (CABEI) as a Regional Development Bank;
- Chapter IX (Articles XXIII–XXIV): The establishment of the Secretariat for Central American Economic Integration.

In 1962, five Central American states, with the aim of further strengthening regional integration, signed the Second Charter of the Organization of Central American States (“San Salvador Charter

II”). This instrument entered into force on 30 March 1965. By doing so, these states reaffirmed their commitment to integration as a political and economic community in Central America (San Salvador Charter, Article 1). However, these ambitious objectives were not fully realized, particularly due to conflicts in the Isthmus region during the 1960s through the 1980s. Some of these conflicts were bilateral in nature, such as the 1969 conflict between Honduras and El Salvador, commonly known as the “Football War”. Others arose as a result of internal conflicts provoked by U.S. political intervention in the region, notably in Nicaragua, Honduras, and El Salvador.

From 1975 onwards, ODECA also participated in matters related to Guatemala’s territorial claims over parts of Belize (the Belize dispute). However, amid these tensions, ODECA became largely inactive for approximately two decades, functioning unofficially but in practice ceasing its activities.

After the period of violence and conflict came to an end, the heads of state of the Central American countries decided to revitalize the integration process. This decision was made during the “Esquipulas negotiations”, held on 24–25 May 1986 and 6–7 August 1987. As a result of these meetings, the Central American Parliament (PARLACEN) was established. Later, the Central American Integration System (SICA) was created.

The Tegucigalpa Protocol, which constitutes the primary legal instrument for the establishment of SICA, goes beyond a mere reform of the San Salvador Charter. This document provided legal form to the political will to establish a new institutional framework for Central American integration across all levels and sectors

through the creation of the new organization, SICA. In 1993, the headquarters of the organization and the Secretariat-General (SG-SICA) were located in San Salvador (Tegucigalpa Protocol, Article 29)²⁰¹.

The Tegucigalpa Protocol is currently regarded as the constitutional foundation of Central American integration. Therefore, it possesses superior legal force over other regional legal norms — that is, within the framework of *regional international law* — regardless of the existence of any international treaty, agreement, protocol, or other binding act adopted either before or after its entry into force. Article 3 of the Protocol establishes that the primary objective within the framework of the Central American Integration System (SICA) is the establishment and maintenance of peace in the region. Pursuant to subparagraph (b) of Article 4, in order to achieve these objectives, the idea of democracy and development is to be promoted in a unified, indivisible, and coordinated manner as the guiding principle for the actions of the Member States.

The Tegucigalpa Protocol sets forth the following objectives: the strengthening of democracy and of governments formed on the basis of universal, free, and electoral rights; the promotion of regional welfare; the establishment of a new security model founded on economic and social justice; the promotion and protection of human rights and regional solidarity; and the commitment to act in conformity with the principles of the United Nations Charter and the Organization of American States (OAS).

²⁰¹ Leathley C. *International Dispute Resolution in Latin America: An Institutional Overview*. The Kingdom of Netherlands, Alphen aan den Rijn: Kluwer Law International, 2006, 440 p., p.191

Within this framework, the Central American Integration System (SICA) also operates in the field of combating human trafficking. Although no specific and independent convention or normative instrument has been adopted with respect to human trafficking, measures against this type of crime are envisaged within SICA's broader policies on security, migration, and human rights. **The Regional Security Strategy**, adopted by SICA in 2011, identifies the fight against transnational organized crime, including human trafficking, as a priority area.

In addition, SICA carries out cooperation activities with international and hemispheric organizations, such as the United Nations (UN) and the Organization of American States (OAS), in order to strengthen regional efforts to combat human trafficking. This cooperation is aimed at: harmonizing legislation; exchanging information and best practices; enhancing cross-border coordination; providing technical assistance; and strengthening institutional capacities for the protection of victims. SICA's integrated approach is of strategic importance both for regional security and for the systematic protection of human rights.

Key initiatives implemented within the framework of SICA are:

- **Central American Commission of Migration Directors (OCAM):** This body is responsible for the coordination of migration policies. It adopts an integrated approach to issues related to migration, human rights, and socio-economic development, including efforts to combat human trafficking.

- **Regional Network of Prosecutors Against Organized Crime:** Under this initiative, SICA member states have been encouraged to

establish specialized police and prosecutorial units dedicated to combating drug-related offenses and organized crime.

Central America Security Strategy. This strategy includes objectives aimed at combating organized crime, protecting victims of human trafficking, and prosecuting and punishing traffickers.

Caribbean Community (CARICOM). The Caribbean Community (CARICOM) is a regional organization that promotes economic integration and cooperation among its member states within the Caribbean region. Established in 1973 by the Treaty of Chaguaramas, the organization's primary goal is to create a sustainable and competitive unified Caribbean community that shares economic, social, and cultural prosperity. CARICOM is considered one of the oldest regional integration initiatives operating within the developing world.

The Community comprises twenty-one countries: fifteen full Member States and six Associate Members. The region has a population of approximately sixteen million people, with 60% under the age of 30. The population is ethnically diverse, including indigenous peoples, Africans, Indians, Europeans, Chinese, Portuguese, and Javanese as the primary ethnic groups. CARICOM functions in a multilingual environment. Although English is the principal language, French and Dutch and their dialects, as well as expressions of African and Asian origin, are also in use.

Geographically, CARICOM extends from The Bahamas in the north to Suriname and Guyana in South America. With the exception of Belize in Central America and Guyana and Suriname in South America, all full and associate members are island states. Although these countries are relatively small in terms of population and

territory, they demonstrate significant diversity in their geographical location, demographic structure, and levels of economic and social development.

In various concepts, functional cooperation has consistently remained one of the main priorities for the countries of the Caribbean region. This approach has evolved from the political union initiatives that began with the establishment of the West Indies Federation in 1958, to economic cooperation realized through the creation of the more structurally developed Caribbean Free Trade Association (CARIFTA) in 1965, and ultimately to the institutionalization of regional integration under the framework of the Caribbean Community (CARICOM) in 1973. This model of integration is regarded as the most promising platform for the economic development of the Caribbean region by its member states.

CARICOM has established a legal and institutional framework for its member states in the fight against human trafficking. This framework includes model legislation and strategic objectives to guide national efforts. CARICOM's activities in this field are based on four key pillars: prevention, protection, prosecution, and partnership. Particular emphasis is placed on international cooperation and the exchange of intelligence information.

One of the key components of CARICOM's approach to combating human trafficking is the *CARICOM Crime and Security Strategy (CCSS)*. In this strategy, human trafficking is classified as a second-tier threat, and member states are called upon to take joint action to prevent this crime from escalating into a first-tier threat. The 12th Strategic Objective of the strategy is titled "*Strengthening Mechanisms Against Human Trafficking.*" As indicated on the

CARICOM IMPACS website, this objective is aimed at exposing and disrupting human trafficking networks through enhanced international cooperation and the collection of intelligence.

Model Legislation. CARICOM has developed model legislative instruments to guide its member states in harmonizing their national legal frameworks against human trafficking. These documents serve as legal templates and frameworks for states to adopt or adapt in their domestic legal systems.

Regional Cooperation. The CARICOM Implementation Agency for Crime and Security (IMPACS) is one of the region's key institutions responsible for coordinating security and crime control efforts, including actions to combat human trafficking. Within this framework, Standard Operating Procedures (SOPs) have been developed for front-line officers to ensure effective identification and timely response to trafficking cases.

Joint Initiatives. CARICOM collaborates with international organizations such as the International Organization for Migration (IOM) to implement joint action plans aimed at achieving more effective outcomes in the fight against human trafficking.

Monitoring and Evaluation. CARICOM monitors the implementation of anti-trafficking measures and evaluates their effectiveness. Based on these evaluations, the organization issues recommendations for shaping future policies.

Comprehensive Approach. Overall, CARICOM's anti-human trafficking strategy embraces a multidimensional and comprehensive approach, emphasizing regional cooperation, a strengthened legal framework, and a firm commitment to the protection of trafficking victims.

Community of Latin American and Caribbean States (CELAC)

– The Community of Latin American and Caribbean States (CELAC) is a regional political coordination mechanism encompassing all 33 countries of Latin America and the Caribbean. Established in 2011, its objectives include promoting political, social, and cultural integration, improving quality of life, stimulating economic growth, and fostering the well-being of the region’s population. CELAC serves as a unified voice on international issues for the region and promotes cooperation among its member states. As an intergovernmental platform, it brings together 32 permanent member countries from Latin America and the Caribbean to engage in political dialogue and consensus-building.

As the only forum that includes all countries in the region, CELAC plays a crucial role in strengthening regional unity and coordination. It seeks to support regional integration programs through enhanced political dialogue and expanded cooperation activities, while also establishing structured decision-making mechanisms to develop a unified political stance.

Founded with a commitment to advance regional integration, unity, and the balanced development of the region’s political, economic, social, and cultural diversity, CELAC represents over 650 million people across Latin America and the Caribbean.

Since its formal launch in December 2011, CELAC has made significant contributions to deepening respectful dialogue among countries in the region on matters such as social development, education, nuclear disarmament, family farming, culture, finance, energy, and the environment.

After only two years of active operation, CELAC had already strengthened its position as a regional organization capable of promoting dialogue and reaching consensus on matters of common interest to Latin American and Caribbean states.

Based on the mandate of heads of state and government, CELAC functions as a platform expressing the unified and collective voice of the region on issues requiring consensus²⁰².

Overview of CELAC's Regional and Global Role

CELAC has assumed the role of spokesperson for Latin American and Caribbean countries in their relations with other nations and regional organizations, representing the collective voice of the region. Within this framework, CELAC conducts formal dialogues with the European Union, China, the Russian Federation, the Republic of Korea, the Gulf Cooperation Council (GCC), Turkey, and Japan.

The organization is considered the legal and political successor to the Rio Group and the Summit of Latin American and Caribbean States on Integration and Development (CALC). In July 2010, CELAC appointed Venezuelan President Hugo Chávez, Chilean President Sebastián Piñera, and Cuban President Raúl Castro as the first co-chairs of the forum. The organization held its next summit in Cuba in 2014.

CELAC functions not only as a platform for political and economic cooperation but also plays a significant role at the regional level in addressing security and social issues, including human trafficking. The organization supports efforts to strengthen justice

²⁰² Latin America Economic Integration and Cooperation Handbook. Volume 1 - Strategic Information, Organizations and Programs. IBP USA. 2012, 282 p., p.44

and security institutions in the fight against trafficking, while also promoting integration among member states.

CELAC's Role in Combating Human Trafficking

1. **Regional Cooperation** – CELAC provides an institutional platform for member states to engage in joint discussions and coordinate actions against transnational crimes, including human trafficking. This cooperation facilitates information sharing, exchange of best practices, and harmonization of policies across the region.

2. **Strengthening Justice and Security** – CELAC emphasizes the importance of institutional reinforcement of law enforcement and justice systems in combating transnational organized crimes such as human and drug trafficking. To this end, the organization supports the enhancement of legal frameworks and the effective implementation of enforcement mechanisms within the region.

3. **Promotion of Human Rights** – CELAC's agenda includes the protection of trafficking victims and the promotion of human rights, which are essential for preventing future occurrences of human trafficking.

4. **Partnerships** – CELAC has established cooperative relationships with other regional and international actors, such as the European Union, to address the challenges of human trafficking through collaborative efforts.

5. **Focus on Prevention** – Member states of CELAC are increasingly adopting preventive approaches, addressing root causes of human trafficking such as poverty and inequality.

6. Monitoring and Evaluation – Initiatives such as the TRACK4TIP project are designed to monitor and assess the effectiveness of anti-trafficking measures implemented across the region.

In conclusion, although CELAC does not have a standalone legal framework specifically dedicated to human trafficking, it plays a crucial role in facilitating cooperation and action among member states through various initiatives and partnerships aimed at combating this crime.

Regional Efforts of the International Organization for Migration (IOM)

The International Organization for Migration (IOM) began its counter-trafficking activities in 1994. Since then, the organization has implemented a range of comprehensive and systematic programs in the field. IOM's primary areas of focus include:

- ***Awareness-Raising and Public Information Campaigns:*** Enhancing public awareness of human trafficking through large-scale information and education campaigns aimed at prevention.
- ***Capacity Building for Governments:*** Strengthening the institutional capacities of law enforcement agencies and other government entities by organizing training programs to improve the identification of and assistance to trafficking victims.
- ***Support and Rehabilitation for Victims:*** Providing psychosocial assistance, legal counselling, and rehabilitation services to victims of human trafficking.

- **Data Collection and Analysis:** IOM has developed the Counter-Trafficking Data Collaborative (CTDC), a global database that compiles primary and structured data on trafficking victims. This database serves as a vital analytical tool for governments, international organizations, and researchers.

OAS Efforts to Combat Human Trafficking

Since 2005, the General Secretariat of the Organization of American States (OAS) has undertaken several initiatives to combat human trafficking. These efforts focus on the following key areas:

- **Training Programs:** The OAS participates in organizing anti-trafficking training programs, provides technical support, and assists in their implementation.
- **Policy Advocacy:** The organization promotes the development of national and regional policies on combating trafficking in persons among its member states.
- **Information and Experience Sharing:** It establishes institutional platforms to facilitate the exchange of information and best practices among member states in the fight against human trafficking.

Through a mechanism known as the “Meetings of National Authorities on Trafficking in Persons,” the OAS regularly brings together high-level government officials responsible for anti-trafficking efforts. These meetings play a critical role in strengthening regional coordination in combating human trafficking.

The most recent such meeting was held on 4–5 December 2014 in Brasília, the capital of Brazil. During this meeting, the participating states adopted two important documents by consensus:

1. The Second Plan of Action Against Trafficking in Persons in the Western Hemisphere (2015–2018)

2. The Brasília Declaration

In 2016–2017, the Organization of American States (OAS) provided technical assistance to its member states to help them develop common indicators in the following areas, with the goal of evaluating the implementation levels of this Action Plan:

- Prevention
- Prosecution and punishment
- Victim assistance
- Victim protection

The results were scheduled to be presented during the Fifth Meeting of National Authorities on Trafficking in Persons, planned for the first half of 2017. In recent years, most governments in Latin America have taken steps to address the problem of human trafficking. Most of countries in the region have signed and ratified several international instruments to combat trafficking in persons. These include: The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, ILO Conventions on the elimination of forced labor and the worst forms of child labor, The Optional Protocol to the UN Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography, The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict. With Barbados' signature, every country in the region is now a party to the UN Trafficking in Persons Protocol.

In 2015, six countries enacted new or updated anti-trafficking laws. Additionally, many countries appointed national trafficking

coordinators, established task forces, and launched programs to lead anti-trafficking initiatives. However, a persistent challenge in Latin America is that many countries lack the necessary resources and political will to finance and implement their anti-trafficking strategies. Several governments try to address trafficking alongside other major criminal issues, such as drug trafficking and gang violence. In countries like Haiti and Venezuela, political instability further complicates anti-trafficking efforts.

In many countries, there is a shortage of shelters for trafficking victims, and there are no structured reintegration programs to assist victims upon returning to their communities.

The OAS promotes close cooperation between member states, international institutions, governments, and civil society to achieve effective results in the fight against trafficking and to prevent future crimes. Through its Department of Public Security, part of the Multidimensional Security Secretariat, and under the auspices of the Hemispheric Security Committee of the Permanent Council, the OAS provides: technical assistance, training programs, capacity-building initiatives, and mechanisms for the exchange of information and resources. Human trafficking manifests in various forms, including: labor exploitation, commercial sexual exploitation, forced marriage, sex tourism, deceptive recruitment, forced domestic servitude. In most cases, victims are not only subjected to exploitation but are also held against their will and threatened with violence against themselves or their loved ones. These individuals often receive symbolic or inadequate compensation for their labor, which is falsely framed as repayment of debts that supposedly justify

their ongoing servitude. Because of these characteristics, human trafficking is frequently described as a form of modern-day slavery.

In 2000, as part of the United Nations Convention against Transnational Organized Crime, the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” was adopted in Palermo, Italy. This instrument—commonly known as the “Palermo Protocol” or the “Trafficking in Persons Protocol”—is recognized as the first legally binding international instrument to provide a universal legal definition of human trafficking. The main objectives of the Protocol are: to prevent and combat trafficking in persons, to protect and assist victims of trafficking, to promote cooperation among states in these efforts.

The adoption of the Palermo Protocol has contributed to: the establishment of a unified global approach to combating trafficking, the development of national and regional legislation, the facilitation of information exchange among states, the implementation of coordinated anti-trafficking measures. The Protocol entered into force in 2003, and as of now, it has been signed by 147 countries and ratified by 159 states.

There is a very fundamental distinction between human trafficking and migrant Smuggling

There is a significant difference between human trafficking and migrant smuggling. Migrant smuggling typically occurs with the individual’s consent and aims to facilitate the illegal entry of that person into a country. This process often involves a mutual agreement between the smuggler and the migrant. The primary objective is for the migrant to reach a destination country in search of better economic, political, or social conditions. The smuggling

relationship usually ends upon arrival at the destination. The smuggler's profit is generally limited to the fee paid for crossing the border. In contrast, the principal source of profit in human trafficking stems from the prolonged and systematic exploitation of the victim.

Special attention must be paid to cases involving children. According to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, any exploitation of a person under the age of 18 constitutes human trafficking. In such cases, the use of means such as deception, coercion, or force is irrelevant to the legal qualification of the act.

The Organization of American States (OAS) focuses its anti-trafficking efforts on three key areas: prevention, prosecution of offenders, and protection of victims. The OAS works in collaboration with both governmental and non-governmental organizations across member states. It supports initiatives aimed at developing anti-trafficking legislation, identifying trafficking cases, protecting victims, and prosecuting offenders. To this end, the OAS provides training for law enforcement officers, immigration officials, judges, legislators, and other relevant stakeholders. It also facilitates the exchange of information and best practices.

In 2003, the OAS General Assembly adopted Resolution 1948, titled "Fighting the Crime of Trafficking in Persons, Especially Women, Adolescents and Children." This resolution marked a significant step in strengthening anti-trafficking efforts across the Americas. It also mandated the OAS General Secretariat to: facilitate the exchange of information among member states; and support their efforts to prevent and combat the threat of human trafficking. Currently, the OAS provides training and technical assistance to law

enforcement agencies across countries in the region. Its programs characterize human trafficking as a modern form of slavery and a serious violation of fundamental human rights. Such crimes often involve forced sexual exploitation, forced labor, and involuntary servitude.

One of the notable programs is the initiative titled: “Strengthening the Capacities of Law Enforcement Officials, Judges, and Prosecutors in the Caribbean to Identify and Combat Human Trafficking, Especially of Women and Children.” This project is currently being implemented in thirteen English-speaking countries of the Caribbean.

As part of the project, OAS experts conduct two-day training seminars covering the following areas:

- The fundamental differences between human trafficking and migrant smuggling;
- Basic principles of crime scene management;
- Victim identification, assistance, and protection measures;
- Implementation of standard operating procedures for immigration control;
- Understanding gender perspectives in the context of human rights;
- The differing impacts of trafficking on women, men, boys, and girls.

In addition, the OAS has conducted similar trainings for UN peacekeepers and for consular and diplomatic personnel assigned to missions abroad. These trainings are provided at five peacekeeping training centers located in the Americas and are delivered prior to deployment.

In 2010, the OAS General Assembly approved the Hemispheric Work Plan Against Trafficking in Persons, as adopted by the Committee on Hemispheric Security. Member states were urged to implement the activities outlined therein. The plan also encouraged engagement from other sectors of society to support such efforts. The Work Plan was designed to guide the actions of member states and the OAS General Secretariat between 2010 and 2012. It focused on prevention, prosecution, and victim protection. It also recommended that member states: assess the existence of relevant laws, policies, and programs concerning the protection, relocation, and prevention of violations of the rights of women and children; identify vulnerable groups susceptible to trafficking; develop and implement protection measures for those groups. Furthermore, the Work Plan instructed the OAS General Secretariat to: develop training materials for security forces, law enforcement personnel, immigration officers, prosecutors, and judges in the region; explore opportunities to integrate human trafficking issues and training modules into police academy curricula; promote the training of justice system personnel on trafficking-related matters; and propose the establishment of national, sub-regional, and regional networks for information-sharing on training and awareness-raising programs²⁰³.

Despite being a serious global issue, human trafficking is being addressed through effective strategies adopted by the Organization of American States (OAS) and its partners. These efforts have led to

²⁰³ Mitsilegas V., Hufnagel S., Moiseienko A. *Research Handbook on Transnational Crime*. UK, Cheltenham: Edward Elgar Publishing, 2019, 544 p., p.231

meaningful changes in the lives of many victims. The collaboration between local, regional, and national governments, civil society organizations, and international bodies such as the OAS has enabled the transformation of trafficking “victims” into “survivors,” giving them new opportunities to rebuild their lives.

Populations around the world—including those in the Americas—face numerous socio-economic challenges. These include poverty, unemployment, inequality, discrimination, social exclusion, and a lack of life prospects. Such conditions can render individuals vulnerable to seemingly promising opportunities that ultimately lead to exploitation and trafficking.

As a result, regardless of a person’s gender, social or economic status, political affiliation, religion, sexual orientation, or gender identity, what may initially appear to be an opportunity may in fact constitute a violation of fundamental human rights and fulfill the elements of the crime of human trafficking. Countries around the world, including OAS member states, have ratified relevant conventions and protocols to combat trafficking in all its forms. These include: sexual and labor exploitation, sex tourism, illegal adoption of children, forced and early marriage, child abduction, forced begging, and other related crimes

According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the UN Convention against Transnational Organized Crime, human trafficking includes acts such as: the recruitment, transportation, transfer, harboring, or receipt of persons, conducted through threats, use of force, coercion, abduction, fraud, deception, abuse of power, or abuse of a position of vulnerability, as well as the

giving or receiving of payments or benefits to obtain the consent of a person who has control over another individual. These acts must be committed for the purpose of exploitation, which includes, at a minimum: exploitation of the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery

The OAS General Secretariat remains strongly committed to the prevention and eradication of human trafficking in the Americas. It applies a dual-track approach: At the political level, by facilitating the adoption and implementation of agreements and resolutions; At the programmatic level, through the development and execution of concrete programs and activities. At the political level, OAS member states engage through their highest national authorities in combating human trafficking. Between 2006 and 2014, four high-level meetings were convened—two in Venezuela (2009 and 2012) and one in Brazil (2014)—bringing together public, private, and non-profit sectors. These meetings issued recommendations and mandates to ensure compliance with globally and regionally recognized anti-trafficking guidelines.

During the 2014 meeting of high-level authorities in Brazil, the member states adopted by consensus the “Brazil Declaration” and the Second Work Plan to Combat Trafficking in Persons in the Western Hemisphere (2015–2018). This Action Plan does not merely reiterate the commitments of member states to prevent trafficking, prosecute offenders, and protect victims. It also serves as a foundational document that reflects the realities of trafficking in the Americas. The Plan: acknowledges the various manifestations of exploitation associated with trafficking, pays special attention to

vulnerable populations, including local communities and LGBTI groups, provides specific indicators to assess state-level progress and challenges. The following are among the core themes and directives included in the Plan:

- Development of national strategies for the creation of trafficking oversight mechanisms;
- Ensuring that consent—regardless of the victim’s age—does not negate the existence of trafficking;
- Recognition of all persons under 18 as victims of trafficking without requiring proof of force, coercion, or deception;
- Promotion of national capacity-building through training initiatives;
- Formulation of comprehensive anti-trafficking strategies and broad preventive measures;
- Establishment, enhancement, and expansion of national tools and programs to combat trafficking;
- Adoption of policies to ensure access to protection mechanisms for trafficking victims with irregular migration status;
- Promotion of legislation and procedures that safeguard the rights of trafficking victims involved in immigration or deportation processes;
- Encouragement of legal measures to prevent victims from being prosecuted for unlawful acts they were compelled to commit as a result of their exploitation.

At the programmatic level, the OAS General Secretariat has developed and continues to implement various initiatives. These initiatives are designed to strengthen institutional capacity among

member states, with particular consideration for human rights and gender perspectives. The Secretariat's mission encompasses: raising public awareness, organizing targeted training programs, promoting international legal frameworks and instruments, facilitating the sharing of best practices that enable states to effectively investigate and prosecute offenders, and to protect victims when necessary. Currently, in alignment with the Second Work Plan, the Secretariat is actively collecting data from member states. This effort supports regional knowledge enhancement and greater intergovernmental cooperation. The OAS General Secretariat, in line with the Second Work Plan, continues to focus on the following core areas:

- Functioning of national authorities;
- Implementation of legislation, policies, and programs;
- Advocacy and legal representation;
- Training and awareness-raising;
- Regional and international cooperation;
- Development of information systems;
- Victim protection and assistance;
- Application of best practices in preventing and combating human trafficking.

Established in 1948 in Bogotá, Colombia, the Organization of American States (OAS)²⁰⁴ unites 35 member states, including the United States and Canada. This regional organization was created to promote cooperation among member states and to advance shared goals in democracy, human rights, security, and development. To fulfill its human rights mandate, the OAS established the Inter-

²⁰⁴ Sheinin D. *The Organization of American States*. USA, Bloomsbury Publishing, 2012, 220 p., p.103

American Commission on Human Rights (IACHR) in 1959. The Commission operates on the basis of principles set forth in the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights. The IACHR: receives and reviews individual petitions concerning alleged human rights violations; conducts country visits to assess the human rights situation in member states; publishes its findings and recommendations in annual reports.

In addition to the IACHR, the Inter-American Court of Human Rights (IACtHR) was established under the American Convention and is headquartered in Costa Rica. The Court: hears cases regarding human rights violations filed against member states; issues binding judgments; provides advisory opinions on legal questions submitted by member states or organs of the OAS. A comprehensive record of its jurisprudence by country is available on the Court's official website. The Inter-American Convention on Violence Against Women (Belém do Pará Convention)

In 1994, the OAS adopted the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women—also known as the Convention of Belém do Pará. This was the first treaty in history to specifically address violence against women. It legally obligates member states to uphold every woman's right to live free from violence, whether inflicted by family members, intimate partners, community actors, or state agents. This includes physical, sexual, and psychological violence. The Convention provides a comprehensive framework of protection, detailing: state obligations to prevent and respond to violence against women; requirements to enact relevant legislation; establishment of

judicial procedures; promotion of awareness and legal education; efforts to change discriminatory social norms and eliminate gender-based discrimination. As of 2012, 32 of the 35 OAS member states have ratified the Convention. The United States, Canada, and Cuba remain the only non-ratifying states. The implementation of the Convention has been monitored through a series of follow-up reports, including the Second Hemispheric Report on the Implementation of the Convention of Belém do Pará, published in 2012²⁰⁵.

Human trafficking and migrant smuggling are grave and widespread crimes occurring in every region of the world. In Latin America and the Caribbean, understanding these crimes and their characteristics is essential. The following summarizes seven key questions and answers that help illuminate the issue. Human trafficking is often concealed, underreported, and poorly understood. Its true scale likely affects millions of individuals. In Latin America, trafficking victims are most often exploited within their own countries. Likewise, traffickers are frequently nationals of the countries in which they are convicted. Hundreds of thousands of people across the Americas are on the move, fleeing poverty or violence. Many travel with irregular immigration status and fall into the hands of traffickers. Migrants may be deceived, coerced, or forced into exploitative labor, often with little or no compensation.

Human trafficking and smuggling are closely linked to broader structural factors that drive displacement and vulnerability. These include: poverty, inequality, armed violence, criminal activity,

²⁰⁵ Hennebel L., Tigroudja H. *The American Convention on Human Rights: A Commentary*. Oxford University Press, 2022, 648 p., p.308

political instability, natural disasters, climate change. Such conditions create desperation, pushing individuals to seek better opportunities—even when that pursuit exposes them to exploitation abroad. In Latin America and the Caribbean, women and girls represent a significant proportion of trafficking victims.

They are often lured under false pretenses to work in nightclubs or other venues, only to be subjected to systematic exploitation and control. Traffickers operate in a variety of forms. They may act alone, in loosely connected networks, under front businesses, or as part of highly organized and hierarchical criminal groups. By contrast, smuggling in the Americas often involves low-level individuals with no prior criminal records. These individuals typically act through personal connections and on a small scale. Although major criminal groups may not be directly involved in smuggling, they often profit by extorting migrants, charging “fees” for allowing passage through their controlled territories.

The OAS (Organization of American States) maintains a unique system of regional legal instruments and mechanisms to address the digital dimensions of human trafficking. One such instrument is the Inter-American Convention on International Traffic in Minors, adopted in 1994. This convention: criminalizes the transnational trafficking of minors; promotes harmonized extradition procedures; and encourages the establishment of child protection systems. The OAS plays a crucial role in regional anti-trafficking efforts through the development of: legal instruments, political declarations, model laws, coordination mechanisms

Although the OAS does not possess a binding treaty framework comparable to the Council of Europe, it has built a strong

legal and institutional foundation based on cooperation in human rights, security, and justice. The OAS General Assembly has adopted numerous resolutions on the subject of human trafficking, including:

- AG/RES. 2961 (2023) – “Fighting the Crime of Human Trafficking in the Americas”

- AG/RES. 2866 (2014) – “Adoption of the Hemispheric Plan of Action Against Transnational Organized Crime”

Between 2019 and 2024, the General Assembly adopted additional resolutions focused specifically on digital aspects of human trafficking. For example, Resolution AG/RES. 2961 (2023) addresses: the identification and prevention of trafficking through digital technologies; partnerships with the private sector and internet-based companies; ensuring justice for victims of online exploitation.

The OAS has launched pilot collaborations with companies such as Meta and Microsoft, and with NGOs like Thorn, to improve responses to digital human trafficking. Within the OAS structure, the Department of Public Security provides training to national law enforcement personnel on: digital evidence collection, cybercrime investigation, combatting online human trafficking. However, these efforts—while significant—remain insufficient to meet the growing threat.

Although the OAS has not adopted a binding legal instrument specifically addressing digital trafficking, it provides a legal and political foundation through:

- Model laws that support national criminalization;
- Resolutions addressing digital risks;
- Institutional support for cybersecurity initiatives;

- Engagement with major private tech sector actors

These measures support Latin American, Caribbean, and North American countries in modernizing their responses to trafficking and bridging the legal gap between traditional and online forms of this crime.

The OAS is currently pursuing the following initiatives:

- Drafting amendments to its Model Law to explicitly address digital human trafficking;
- Launching regional alert and intelligence-sharing platforms to combat tech-enabled trafficking;
- Expanding hotlines and digital reporting mechanisms, including mobile applications, to enhance victim support;
- Institutional partners in the fight against trafficking.

The Inter-American Drug Abuse Control Commission (CICAD) addresses trafficking as part of broader organized crime and smuggling networks. The Meeting of Ministers of Justice or Other Ministers or Attorneys General of the Americas (REMJA) promotes judicial cooperation and harmonization of anti-trafficking legislation²⁰⁶. At the same time, within the framework of the OAS, there exists the OAS Model Law to Combat the Crime of Human Trafficking, which was adopted in 2005 and updated in 2016. Although non-binding, this legal instrument serves as a model law that encourages Member States to criminalize all forms of human trafficking comprehensively. In addition, the OAS has developed the Model Law on Special Measures for Victims of Human Trafficking (2018). This model law focuses on the rights and protection needs of

²⁰⁶ Lloyd M.B. *Transnational Crimes in the Americas: Law, Policy and Institutions*. UK, London: Anthem Press, 2018, 310 p., p.37

trafficking victims, outlining specific measures that States are encouraged to adopt to ensure victim-centered and trauma-informed responses²⁰⁷. The Model Law also includes digitally specific protection measures for victims. These measures encompass protections such as online privacy and data confidentiality, assistance in the removal of explicit or exploitative online content, the right to avoid re-traumatization during judicial proceedings involving digital evidence, and procedures for reporting trafficking incidents through digital platforms.

Human trafficking is an increasingly serious concern in Latin America and the Caribbean. The region serves as a major source, transit, and destination area for trafficking victims. The most prevalent forms of trafficking in the region include the commercial sexual exploitation of women and children, forced labor within and between countries—especially in South America—and the trafficking of undocumented migrants in Mexico and Central America.

Compared to Europe and Central Asia, the region demonstrates a higher proportion of trafficking for forced labor outside the commercial sex industry. Populations most vulnerable to so-called “modern slavery” are predominantly concentrated in two countries.

Human trafficking is driven by a combination of individual risk factors and external socio-economic conditions. Individual-level vulnerabilities include: poverty, unemployment, belonging to marginalized social groups, illiteracy, experiences of physical or

²⁰⁷ Gallagher T.A. *The International Law of Human Trafficking*. Cambridge University Press, 2010, 596 p., p.417

sexual violence, homelessness, drug use, and association with criminal gangs. The U.S. Department of State has also noted that LGBT individuals—including lesbian, gay, bisexual, and transgender persons—are particularly vulnerable to trafficking.

Additional factors that encourage individuals to accept risky and exploitative job offers abroad, such as the hope of better economic opportunities, act as “pull” factors contributing to the spread of human trafficking.

Among the external and structural factors contributing to the persistence of trafficking in the region are:

1. High global demand for domestic workers, agricultural laborers, sex workers, and factory labor;
2. Political, social, and economic crises, as well as natural disasters such as the 2010 earthquake in Haiti;
3. Deep-rooted patriarchal norms and discriminatory practices against women and girls, including entrenched machismo;
4. The existence of trafficking networks operating through complex and informal recruitment mechanisms;
5. Widespread corruption, including collusion between traffickers and officials within law enforcement and border control agencies;
6. Restrictive immigration policies in some destination countries, which limit legal migration routes and increase reliance on dangerous alternatives;
7. Lack of political will and insufficient resources among state authorities to effectively address human trafficking;
8. Limited economic opportunities for women throughout Latin America.

Notably, in many Latin American countries, although women may attain equal or even higher educational levels than men, their access to the labor market is often restricted to low-paying and informal sectors. This exacerbates women's economic vulnerability and increases their susceptibility to exploitation.

There is a significant lack of academic research on the scope and nature of human trafficking in Latin America and the Caribbean when compared to Asia and Europe. Existing studies have, until recently, predominantly focused on the trafficking of children for sexual exploitation. This form of trafficking is particularly prevalent in countries known for sex tourism or that are popular tourist destinations.

Children most frequently trafficked into the sex industry include street children and orphans. However, some trafficked children continue to live with their families and are forced into commercial sexual activities to contribute to the household income. These cases are directly linked to economic pressures and weak social protection systems.

Other risk factors for children vulnerable to trafficking include: poverty, irregular school attendance, experiences of physical or sexual abuse, substance dependence, and recruitment into criminal youth gangs. Children may be trafficked both within their own countries and across international borders. According to U.S. Department of State officials, millions of children in Latin America work as domestic servants, many of whom experience verbal, physical, and sexual abuse. The trafficking of children in domestic servitude, especially in Haiti under the "restavek" system, has been a longstanding source of concern.

Latin American children are also trafficked for other exploitative purposes, including: illegal adoption, use as child soldiers in armed conflict, forced involvement in organized criminal groups, and sexual slavery. In Central America, the forced recruitment of children into gangs is repeatedly identified as a major issue in reports by both the United States Department of Labor and the United Arab Emirates. There are numerous documented cases across the region of children being forced to work under hazardous conditions in the agricultural and mining sectors.

While forced labor trafficking remains a serious issue in Latin America and the Caribbean, the trafficking of persons for sexual exploitation has historically been more widespread and recognised as a priority concern at the regional level. Most victims are exploited in prostitution, while others are trafficked for pornography or strip club performances. Children are generally trafficked within their own countries, while young women are trafficked domestically or internationally, sometimes with the consent or complicity of spouses or family members. For instance, one study found that approximately 10,000 women are trafficked annually from southern and central Mexico to the northern border regions of the country for sexual exploitation.

According to U.S. Department of State officials, tens of thousands of Latin Americans are trafficked internationally each year, with the majority of victims originating from Colombia and the Dominican Republic. A 2016 UNICEF report indicated that in Guatemala, a convergence of criminal groups, families, and drug trafficking organizations has resulted in the formation of sex trafficking networks capable of involving up to 48,500 individuals.

Additionally, there are widespread cases of intra-regional trafficking throughout Latin America and the Caribbean²⁰⁸. Argentina and Brazil are considered major destination countries for women trafficked from the Andean region and Caribbean states such as the Dominican Republic. Panama serves as a key transit point for women trafficked from Colombia and Central America, particularly those intended for exploitation in the sex industry. Human trafficking is especially prevalent at border crossings throughout Central America and Mexico, including along the Mexico–Guatemala border. Undocumented women who are unable to reach the United States are frequently forced into prostitution.

According to data from the International Labour Organization (ILO), approximately 1.8 million individuals in Latin America are subjected to conditions of forced labor, with around 33% identified as trafficking victims as of 2012²⁰⁹. These figures do not include Latin American individuals who became victims of forced labor after migrating to Europe or the United States. Across many parts of the world, human trafficking, along with the trafficking of money and weapons, is largely controlled by criminal gangs or mafia networks. For organized criminal groups, human trafficking may serve as a profitable revenue stream, used to finance other illicit activities. In Guatemala, relatively large criminal organizations primarily traffic women from neighboring Central American countries to foreign destinations for purposes of sexual exploitation. In Mexico, drug trafficking organizations—particularly Los Zetas—have become

²⁰⁸ Brysk A., Choi-Fitzpatrick A. *From Human Trafficking to Human Rights: Reframing Contemporary Slavery*. USA, University of Pennsylvania Press, 2012, 280 p., p.148

²⁰⁹ Iroanya R.O. *Human Trafficking and Security in Southern Africa: The South African and Mozambican Experience*. Switzerland: Springer Nature, 2018, 253 p., p.93

increasingly involved in both human smuggling and human trafficking operations. According to information from the Bilateral Security Corridor Coalition (BSCC)²¹⁰, criminal networks originating from countries including Russia, Mexico, Ukraine, and others have been apprehended in attempts to traffic victims across the Mexican border.

Officials from the U.S. Department of State have emphasized that human trafficking remains an emerging area that requires further research. Nevertheless, there is evidence indicating that criminal groups in countries such as Ecuador, Chile, and Brazil are coercing children into committing crimes.

One of the most serious public health impacts of human trafficking is the elevated risk of victims contracting and transmitting HIV/AIDS and other infectious diseases. Globally, HIV/AIDS prevalence is particularly high among women involved in both voluntary and forced prostitution. Sex trafficking may contribute to the spread and mutation of the HIV virus, posing a significant health threat.

In Latin America, human trafficking victims, along with other undocumented migrants subjected to forced labor, face a heightened risk of contracting tuberculosis (TB) and other serious health conditions. Contributing factors include poverty, discrimination, hazardous working conditions, lack of education, cultural isolation, exploitation, and limited legal and social protection. In addition, restricted access to quality healthcare services exacerbates the vulnerability of these high-risk populations.

²¹⁰ Seelke C.R. *Trafficking in Persons in Latin America and the Caribbean*. USA, Congressional Research Service, 2009, 18 p., p.8

Combating human trafficking in Europe

Regional organizations and regional international legal instruments on human trafficking play a key role in complementing the universal legal framework in combating human trafficking in Europe. These instruments are adapted to the specific social, economic, and legal realities of the regions, often establishing special and mandatory obligations that go beyond the scope of the Palermo Protocol. In this regard, regional legal regimes strengthen the universal approach by providing more practical and contextual solutions.

The Council of Europe's experience in combating human trafficking

The Council of Europe has introduced the most significant legal instrument in combating human trafficking — the **Council of Europe Convention on Action against Trafficking in Human Beings**, adopted in 2005 and entering into force in 2008. This Convention adopts a human rights-based and victim-centered approach, aiming to prevent trafficking, protect victims, and prosecute offenders. The main features of the Convention include:

- **Comprehensive legal framework:** The Convention comprehensively regulates prevention of trafficking, victim protection, and punishment of perpetrators, thus creating a complex and systematic legal basis for this fight.
- **Victim-centered approach:** It places victims' rights at the core of anti-trafficking efforts. Within this framework, victims are granted a "recovery and reflection period," as well as access to social, medical, and legal assistance, and in some cases, renewable residence permits.

- **Monitoring mechanism (GRETA):** Implementation of the Convention is monitored by the independent expert body, the Group of Experts on Action against Trafficking in Human Beings (GRETA). GRETA assesses how member states fulfill their obligations under the Convention and provides recommendations.
- **Legal binding force:** The Convention is legally binding, and states that have ratified it are obligated to comply with all its provisions.
- **Wide scope:** It covers both national and transnational forms of trafficking, regardless of whether the crime is organized, and applies irrespective of the victim's age or gender.

European Convention on Human Rights (ECHR): Since trafficking constitutes a serious violation of human rights, the provisions of the ECHR and case law of the European Court of Human Rights play a significant role in this field.

Strategic Plan for Combating Trafficking in Human Beings (2012–2015): This document defines activities based on the "4P" principle — prevention, protection, prosecution, and partnership.

Official online resources of the Council of Europe: Public information is provided regarding the implementation of the Convention, GRETA reports, and other related activities.

Distinctiveness and Legal Framework of the Council of Europe's Convention on Action against Trafficking in Human Beings

The 2005 Council of Europe Convention on Action against Trafficking in Human Beings possesses several important and

unique features compared to other international legal instruments in the field. It adopts a human rights-based and victim-centered approach as its core, focusing on preventing trafficking, protecting victims, and punishing offenders.

While it accepts the definition of "human trafficking" as given in the Palermo Protocol, it further expands it. Legally, trafficking is characterized by acts of recruitment, transportation, transfer, harboring, or receipt of persons for the purpose of exploitation.

The Convention's systematic structure covers the following key areas:

- **Awareness-raising and prevention:** Articles 5–9 cover measures related to awareness campaigns, public information, and training aimed at preventing trafficking.

- **Protection of victims' rights:** Articles 10–17 define broad obligations regarding victim identification, protection, assistance, and rehabilitation.

- **Non-punishment principle:** Article 26 mandates the application of the non-punishment principle, meaning that victims of trafficking should not be held criminally liable for unlawful acts they were compelled to commit as a result of being trafficked.

- **Criminal law measures:** Articles 18–24 require states to criminalize trafficking, attempts, inducement, facilitation, and participation in trafficking under national law.

The Council of Europe has established one of the strongest regional legal frameworks in combating human trafficking through this Convention, supported by institutional mechanisms such as:

- **GRETA (Group of Experts on Action against Trafficking in Human Beings):** The main body conducting independent monitoring

and periodic evaluation reports on the implementation of the Convention.

- Committee of the Parties: Acts on GRETA's recommendations to apply political and legal pressure on states parties to comply with the Convention.

- European Court of Human Rights: Plays a crucial role in investigating human trafficking-related human rights violations based on individual complaints and in developing case law.

This structure gives the Convention special normative weight in terms of legal binding force, monitoring, and enforcement mechanisms, making it a more advanced and victim-centered legal instrument compared to universal frameworks, particularly the Palermo Protocol. At the same time, this approach has become one of the key components of the regime for combating and preventing serious crimes such as human trafficking. Within the European Union, there has been an agreement to intensify efforts in this direction since the 1990s, as evidenced by the 97/154/JHA Framework Decision on Combating Trafficking in Human Beings, adopted in 1997²¹¹. The strengthening of the Amsterdam Treaty and the Tampere momentum made a decisive contribution to the development of various legal acts in the field of criminal prosecution²¹². A paradigmatic example of this trend is the

²¹¹ Joint Action 97/154/JHA of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children. Official Journal L63, 04.03.1997, p. 2.

²¹² Vilacampa C. La nueva directiva europea relativa a la prevención y a la lucha contra la trata de seres humanos y a la protección de las víctimas. ¿Cambio de rumbo de la política de la Unión en materia de trata de seres humanos? // Revista electrónica de Ciencia Penal y Criminología, 14, 2011, pp.1-52

2002/629/JHA Framework Decision on combating trafficking in human beings²¹³. In the last decade of the 20th century, the fight against human trafficking was configured as an important objective for achieving the EU's Area of Freedom, Security, and Justice. These documents defined human trafficking as a "Euro-crime," which in practice significantly facilitated its criminal prosecution within the Union²¹⁴. In fact, with the entry into force of the Lisbon Treaty, human trafficking was included among the crimes that require combating with "common criteria" due to its severity and transnational nature (TFEU Article 8)²¹⁵. In line with this idea, the Stockholm Programme encouraged the Commission to begin revising the Framework Decision, a process that concluded with the adoption of Directive 2011/36/EU on combating human trafficking²¹⁶. This process culminated in the adoption of Directive 2011/36/EU, which establishes minimum standards for the definition, prosecution, and prevention of human trafficking. Furthermore, as stated in its preamble, the Directive seeks to apply a

²¹³ Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings. Official Journal L203, de 01.08.2002, p. 1

²¹⁴ Van Sliedregt E. "The dual criminality requirement", in Keijzer, N., and Van Sliedregt, E. (eds.), *The European Arrest Warrant in practice*, T.M.C. Asser Press, 2009, p. 51-70, p. 52

²¹⁵ Zuniga L. *Trata de Seres Humanos y criminalidad organizada transnacional: problemas de política criminal desde los derechos humanos // Estudios penales y criminológicos*, 38, 2018, pp.361-408

²¹⁶ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. Official Journal L101, 15.04.2011, p. 1.

comprehensive and respectful approach to human rights²¹⁷. In this regard, before analyzing the content of Directive 2011/36/EU, it is important to define the nature of the phenomenon of human trafficking, clarify who qualifies as a victim, and emphasize the practical and legal challenges this issue poses for EU member states. Within the European Union framework, human trafficking is categorically prohibited by the Charter of Fundamental Rights of the European Union, where according to Article 5(3), human trafficking is recognized as a form of slavery. However, unlike the Palermo Protocol, Directive 2011/36/EU offers an alternative conceptual approach to human trafficking, presenting slavery as a form of trafficking. Referring to Article 3 of the Palermo Protocol, the Directive regards human trafficking primarily as a multifaceted process consisting of three stages — action, means, and purpose:

The first stage involves the recruitment of victims, which may include methods such as deception, coercion, and even abduction.

The second stage covers the transfer process, particularly in transnational cases, where victims are moved from their country of origin to another state.

The third stage concerns the exploitation of the victim for profit by the organization, which may involve various relocations. Sometimes, a fourth stage is added, involving crimes such as money laundering, tax evasion, or financing of other legal activities with the proceeds derived from trafficking.

²¹⁷ Antana V., D., “La Directiva 2011/36/UE, relativa a la prevención y lucha contra la trata de seres humanos y la protección de las víctimas: análisis y crítica”, *Nova et Vetera*, 20, 64, 2011, pp.211-226.

By its nature, the Directive aims to harmonize the legal systems of member states through establishing common standards.

This approach obliges member states to criminalize human trafficking in their criminal laws. Article 2 of the Directive recommends that member states apply effective criminal sanctions against trafficking offenses. Similar to the Council of Europe, the concept of human trafficking in Directive 2011/36/EU closely aligns with the definition given in the Palermo Protocol. However, assessments conducted by the European Commission regarding the transposition of the Directive into national legislation indicate that in some member states, the legal definition of human trafficking is still not fully developed and requires improvement. Specifically, in some countries, legal gaps have arisen due to the omission of certain means such as theft, fraud, or abuse of power alongside coercion in the definition of trafficking.

Moreover, there are several issues within the EU framework that require legal and normative discussion. Notably, none of the definitions adopted by member states considers the transnational factor as a mandatory element. This approach acknowledges the reality that trafficking can occur not only cross-border but also domestically. In fact, many exploitation cases happen within the victims' own countries. However, the situation across the EU shows that a significant portion of trafficking victims have crossed borders — legally or illegally. Cases without crossing at least one internal border are very rare. Thus, the transnational element is clearly present both in the recruitment phase and in the transfer of victims for exploitation from one EU country to another.

Secondly, although the main purpose of trafficking is exploitation, this element is not always necessary, for example, in classifying traffic offenses as human trafficking. Exploitation may manifest in forms such as labor or forced services. Statistics collected in the EU indicate that approximately 56% of trafficking victims (65% excluding the UK) suffer sexual exploitation. These forms of exploitation include street prostitution, red-light districts, brothels, strip clubs, bars, pornography industry, escort services, and saunas. Meanwhile, 26% of victims (20% excluding the UK) are subjected to forced labor, mainly in agriculture, construction, and fishing sectors. Finally, other forms of exploitation include begging, domestic work, involvement in criminal activities, and organ removal²¹⁸.

The multidimensional (apertus) approach provided in Article 2(3) of the Directive allows for the inclusion of all practices related to human trafficking within the concept of exploitation. In fact, Directive 2011/36/EU emphasizes the existence of a specific intent or state of mind in carrying out the exploitation of the victim. This approach ensures that the human trafficking phenomenon is assessed not only based on the outcomes but also on the deliberate commission of the act.

Article 3 of the Council of Europe Convention explicitly establishes criminal liability for all persons involved in the process — organizers, participants, and attemptors. The Directive adopts this principle by recognizing acts such as “organization, participation, or attempt” as punishable offenses. This approach is considered one of

²¹⁸ European Commission, Data collection on trafficking in human beings, p. 18, for the 2010-2012 triennium *vid.* EUROSTAT, Trafficking in Human Beings, p. 30.

the Directive's strengths because it has led to the incorporation of these concepts into the national legal systems of some member states where they were previously absent. At the same time, the Directive, paralleling the Warsaw Convention, keeps the issue of consent under focus. The key principle is that in most human trafficking cases, the victim's consent either does not exist at all or is obtained through force, threats, deception, or other illegal means. Therefore, such consent is not legally valid. In the case of minors, the issue of consent is altogether disregarded, and the mere intent to exploit is sufficient to consider that trafficking has occurred.

Indeed, in some cases, the victim may have initially given voluntary consent. However, this does not exclude the existence of human trafficking. For example, practical experience shows that citizens of non-EU countries sometimes travel with the mediation of criminal groups unaware that they will be exploited. In such cases, the initial consent does not have real legal content and is considered invalid because it was based on deception²¹⁹. In both this and other cases, the initial consent completely loses its value as a result of coercion, deception, or abuse by traffickers. In summary, the examined regional instruments reiterate the core principles of the definition of human trafficking accepted in the UN context and reflected in the Palermo Protocol. Both the Warsaw Convention and the European Union Directive complement this general definition by adding specific nuances and explicit lists, allowing for a more precise coverage of the various forms of the human trafficking phenomenon. This approach contributes to eliminating impunity and vulnerability among victims. The flexible yet comprehensive nature

²¹⁹ FRONTEX, Annual Risk Analysis. Warsaw, 2012, p. 32.

of the human trafficking definition stems from the complex nature of the crime. Depending on the type of activities carried out by criminal organizations, cases of human trafficking may be concealed or masked by various methods to evade legal responsibility. In fact, human trafficking is not understood as an isolated crime but as a process consisting of multiple stages²²⁰ or a series of linked crimes²²¹, depending on the complexity of the activities performed. Thus, human trafficking is commonly accompanied by related crimes committed by criminal groups such as rape, sexual exploitation, bodily harm, forced abortion, child pornography, torture, murder, kidnapping, forced marriage, illegal retention of documents, labor exploitation, and even corruption. In some cases, these crimes are confused with human trafficking or intermingle with it, causing legal uncertainty. For example, the lack of clear boundaries between human trafficking and smuggling often leads to disputes²²². In fact, when the victims are undocumented immigrants, the rules distinguishing crimes related to human trafficking are not entirely clear in many European Union member states. As will be shown in the next section, this legal ambiguity creates serious

²²⁰ Vazquez G.S. Inmigración ilegal y trata de personas en la Unión Europea: la desprotección de las víctimas // *Revista de Derecho Comunitario Europeo*, 10, 2008, pp. 231-274, p. 236.

²²¹ Oortega M. La trata de seres humanos en el derecho de la Unión Europea // in Donaire F.J. and Olesti A. *Técnicas y ámbitos de coordinación en el espacio de libertad, seguridad y justicia*. Marcial Pons, 2015, pp. 181-196, p. 186

²²² Barrado D. C.M. La lucha contra la trata de seres humanos en la UE: los componentes para una política propia // *Revista de Derecho Comunitario Europeo*, 45, 2013, p. 461-498, p. 467

difficulties in identifying human trafficking victims by support services and law enforcement agencies²²³.

Although the European Union does not have a separate normative document specifically addressing digital human trafficking, it possesses a fairly comprehensive legislation covering all forms of human trafficking. Human trafficking is an extremely serious crime involving gross violations of human rights. There are two main reasons for the existence of this phenomenon: first, the high demand for human exploitation, usually of a labor or sexual nature, in destination countries; and second, the fact that human trafficking is considered a highly profitable business for traffickers. Over the decades, the primary goal of the European Union has been to dismantle the operations of organized criminal groups involved in human trafficking, although in some cases the influence of these groups has not directly manifested within European territory²²⁴. Evidence of this was the adoption of the EU Strategy to Combat Trafficking in Human Beings²²⁵, which envisages increasing prosecutions through joint and coordinated work of the Union's institutions.

²²³ Guild E. "Immigration and Criminal Law in the European Union: The Legal Measures and Social Consequences of Criminal Law in Member States on Trafficking and Smuggling in Human Beings" // Guild E. and Minderhoud P. (eds.), *Immigration and criminal law in the European Union. The Kingdom of Netlerhands*, the Hague: Martinus Nijhoff, 2006, pp. 1-7, p. 3.

²²⁴ Alonso E.J. *Política legislativa y criminal de la Unión Europea contra la trata de seres humanos* // Mercado Pacheco, P. et al., *Formas contemporáneas de esclavitud y derechos humanos en clave de globalización, género y trata de personas*, Tirant lo Blanch, 2020, pp. 647-678

²²⁵ Moreno Urpi A.M. *Las víctimas de la trata de seres humanos en Europa y la acción de las agencias ELSJ* // Blasi Casagran, C. and Illamola Dausà, M., *El control de las agencias del Espacio de Libertad, Seguridad y Justicia : contrapeso necesario a su autonomía* , Marcial Pons, 2017, pp. 177-190.

Based on partially available data, it is estimated that thousands of people are exploited within the territory of the European Union. According to the U.S. Department of State, a total of 16,838 victims were identified in the European region in 2018. The most recent official statistics on human trafficking victims in the European Union cover the two-year period of 2015–2016. According to these official records, during that period, 20,532 individuals were registered as victims of human trafficking by the competent authorities of the Member States²²⁶. Additionally, the number of human trafficking victims coming from third countries continues to increase. The unreliability of the data is mainly due to the absence of a unified, standardized registration system and the reluctance of some Member States to share information. Differences in the legal definitions of human trafficking among Member States, as well as the selective identification or concealment of human trafficking cases from other crimes, lead to errors and inconsistencies in data collection²²⁷.

Between 65% and 80% of registered human trafficking victims are women, while 20% to 35% are men. Ninety-five percent of victims of sexual exploitation are women, whereas 71% of victims of labor exploitation are men²²⁸. Approximately 17% of registered human trafficking victims are children aged 12 to 17, and nearly 3% are children under the age of 11. These figures highlight two main

²²⁶ European Commission. Data collection on trafficking in human beings in the EU. Final report – 2018, Publications Office of the European Union, 2018, p.34.

²²⁷ EUROPOL. Trafficking in Human Beings in the European Union, Den Haag, 2011, p. 3 and EUROJUST, Strategic project on Eurojust’s action against trafficking in human beings, Den Haag, 2012, p. 27.

²²⁸ EUROSTAT. Trafficking in Human Beings. Statistical working papers. Publications Office of the European Union, 2015, p. 15.

points: on one hand, the phenomenon of human trafficking inevitably includes a gender component; on the other hand, dismantling organized criminal groups alone is not sufficient — adequate protection must also be ensured for victims, especially children. The human rights approach to combating human trafficking emerged at the beginning of this century, developed within the UN framework, and has since been integrated into other international documents at the European regional level. Although this regulatory framework is not entirely new, the fight against human trafficking continues, with particular challenges remaining in the area of victim protection.

Although some references are made, the purpose of this work is neither to examine progress²²⁹ in criminal prosecution nor to analyze the ECtHR's doctrine on the interpretation of Article 4. This paper aims to analyze the extent to which the status of human trafficking victims is respected from a human rights perspective within the territory of the European Union. To this end, victim protection measures in the area of human trafficking will be examined comparatively under the Palermo Protocol, the Warsaw Convention, and Directive 2011/36/EU. Before proceeding with this analysis, it is necessary to first define the crime of human trafficking and to establish the boundaries of the concept of "victim of human trafficking." This approach will help assess whether the European Union has made tangible progress in protecting victims of human trafficking in the context of human rights.

²²⁹ EUROSTAT. Trafficking in Human Beings. Statistical working papers. Publications Office of the European Union, 2015, p. 10

Once the definition of human trafficking is explored in the selected international instruments, it becomes both interesting and important to study the concept of “victim” and the protective measures envisaged for them. The analysis of these measures will allow for the identification of existing challenges in providing protection from a human rights perspective. In the Council of Europe Convention, the term “victim” is defined as “a natural person who is subjected to trafficking in human beings.” This term refers to any person exploited through means such as threats, coercion, abduction, fraud, abuse of authority, or abuse of vulnerability. On the other hand, while Directive 2011/36/EU contains numerous references to victims, it does not provide a precise definition of the term within its text. However, the preamble refers to the definition of “victim” found in Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings, which was later replaced by Directive 2012/29/EU. According to these provisions, a “victim” is defined as any natural person who has suffered physical or mental harm, or economic loss, as a result of an act or omission that violates the criminal law of a Member State. Unlike other international instruments, the European Union also recognizes the relatives of a person who has died as a result of human trafficking as victims. Moreover, Article 2(2) of Directive 2011/36/EU takes into account the abuse of a position of vulnerability—specifically, the lack of a real or acceptable alternative available to the victim. For child victims (persons under the age of 18), the Directive states that the mere existence of an intention to exploit is sufficient for the crime of trafficking to be deemed to have occurred, regardless of the means used or the child’s individual circumstances.

Accurate identification of victims is of fundamental importance to ensure respect for human rights in the fight against human trafficking.

In fact, the identification of the victim is crucial for both prosecution and protection purposes. From the perspective of criminal prosecution, an additional dimension underscores the importance of detecting victims: in many cases, these individuals are witnesses to unlawful acts and therefore play a central role in the prosecution of traffickers. In certain cases of human trafficking, the process of identifying the victim's identity is particularly complex²³⁰, because their situation of exploitation may be confused with other criminal acts or, in some cases, may appear to be part of other criminal activities²³¹, in other cases, those victims of exploitation are forced into criminal activities²³².

The experience of European Union agencies shows that there are serious difficulties in identifying victims in a timely manner, especially before the exploitation phase begins.

The identification of victims of human trafficking also presents an additional problem in border control²³³, because many indicators of human trafficking only become evident once inside EU

²³⁰ Meneses F.C. Por qué se identifican tan pocas víctimas de trata de seres humanos? // Revista de las Facultades de Derecho y Ciencias Económicas y Empresariales- ICADE, 107, 2019

²³¹ Cabera R.E. La trata de seres humanos con fines de explotación sexual. La detección e identificación de las víctimas // Revista de derecho y proceso penal, 45, 2017, pp. 97-115.

²³² Villa C.C., Torres R.N. Trata de seres humanos para explotación criminal: Efectos sufridos por las víctimas a su paso por el sistema de justicia penal // in Mercado Pacheco, P. et al., Formas contemporáneas de esclavitud y derechos humanos en clave de globalización, género y trata de personas, Tirant lo Blanch, 2020, pp. 731-758.

²³³ EUROPOL, Child trafficking for exploitation in forced criminal activities and forced begging. Den Haag, 2014, p. 2.

territory; furthermore, potential victims are often unaware of their actual situation²³⁴. Research by the European Migration Network shows that it is rare for victims to seek assistance from state authorities²³⁵. This situation is primarily linked to several factors: the intense control exercised by traffickers over the victims; the victims' inability to recognize themselves as such during the exploitation phase; their lack of knowledge of the host country's language; the fear of being identified as having an irregular status and subsequently deported; their unawareness of their rights; and other contributing elements. Although the Palermo Protocol on Trafficking in Persons does not directly address this issue, the Legislative Guide for the Protocol emphasizes the necessity for States to establish specific procedures in this regard. At the regional level, Article 10 of the Warsaw Convention addresses the matter in greater detail and affirms that various measures in this area are of a mandatory nature. Accordingly, it becomes a legal obligation to identify all public officials who may come into contact with potential victims and to ensure that they receive appropriate training in this field. Furthermore, the Convention places particular emphasis on the need for effective coordination between competent state authorities and civil society organizations. In addition, when there is reasonable suspicion of trafficking, the individual concerned may not be expelled from the country during the identification process, and provisions are made for the issuance of residence permits for this

²³⁴ FRONTEX, *Situational Overview on Trafficking in Human Beings*. Warsaw, 2011, p. 6, also FRONTEX, *Annual Risk Analysis*. Warsaw, 2012, p. 32.

²³⁵ EMN, *Identification of victims of trafficking in human beings in international protection and forced return procedures* (synthesis report). European Migration Network Study, 2014, p. 20

purpose. Special measures are also stipulated for particularly vulnerable groups, such as unaccompanied minors. Although Directive 2011/36/EU does not elaborate on the procedural details, it obliges Member States to take appropriate measures to establish mechanisms for the early identification of victims and the provision of assistance and support. Nonetheless, the preamble of the Directive explicitly highlights that these measures are closely linked to the training of all public officials who may come into contact with potential victims²³⁶. Thus, the Directive leaves the selection and specification of measures to the discretion of the Member States. This, however, may lead some States to comply only with the minimum requirements, resulting in the absence of a sufficiently effective system for victim identification²³⁷.

As mentioned above, the failure to identify victims amounts to evading the obligation to protect them, thereby increasing the risk of violations of their rights. Considering the challenges victims face, the support periods defined as a minimum of 30 days in the Warsaw Convention and 90 days in the Directive can easily be criticized as too short and insufficient—there is a serious need for their extension. According to Article 11 of the Directive, support and protection for victims of human trafficking must be ensured from the moment a criminal investigation is initiated against traffickers, throughout the

²³⁶ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

<https://eur-lex.europa.eu/eli/dir/2011/36/oj/eng>

²³⁷ Second report on the progress made in the fight against trafficking in human beings (2018) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, Brussels, 3 December 2018, COM(2018)777 final, p.9.

proceedings, and even after their conclusion. However, the vagueness and underdevelopment of certain provisions in this article negatively affect the effectiveness of the “support–criminal prosecution” tandem, and this issue remains open to debate²³⁸.

Firstly, the Directive does not specify how long after punishment victims should receive assistance. It only refers to an “adequate period,” meaning the duration of protection can vary significantly depending on the decision-making authority and the criteria it uses to determine the timeframe. Moreover, the adequacy of this period is closely linked to the provision of legal assistance related to the criminal process, as well as the exercise of rights such as being informed about or explained legal procedures. Therefore, the continuation of support for the victim after the conclusion of the criminal proceedings is left to the discretion of each Member State. Secondly, Directive 2011/36/EU states that support for the victim must be unconditional, as it should be provided regardless of whether the victim decides to cooperate with the investigation or intends to testify in court. However, an explicit reference to Directive 2004/81/EC²³⁹ creates interpretative difficulties, since that regulation offers the possibility of residence permits only to victims who decide to cooperate with judicial authorities²⁴⁰. In this regard, the Warsaw Convention stipulates that after the recovery and

²³⁸ Rosell T.N., Villa C.C. Protección jurídica y asistencia para víctimas de trata de seres humanos // *Revista General de Derecho Penal*, 27, 2017.

²³⁹ Gomez F. I., Perez G.C. La protección de los menores de edad víctimas de trata de seres humanos: derecho internacional, europeo y español // in Alcácer Guirao, R., Martín Lorenzo, M. and Valle Mariscal De Gante, M. (Coords.), *La Trata de seres humanos: persecución penal y protección de las víctimas*, Dykinson 2015, pp. 223-263.

²⁴⁰ Gromekbroc K. EU Directive on preventing and combating trafficking in human beings and protecting victims: Will it be effective? // *Nove et Vetera*, vol. 20, 64, 2011, pp. 227-238, p. 232

reflection period ends, the victim has the opportunity to cooperate with the criminal investigation and to obtain a temporary residence permit based on their personal circumstances. In this respect, the provisions of the Warsaw Convention offer more concrete and favorable solutions for victims than those provided for in the Directive. As noted by Eurostat²⁴¹ at that time, there is no concrete or reliable data on how many residence permits have been issued to human trafficking victims under the implementation of Directive 2004/81/EC. It is determined that this mechanism is often abolished due to the possibility of asylum claims under the Refugee Convention, as it imposes higher requirements than those for human trafficking victims who have the right to reside regularly within the EU territory. The latest data presented by the European Commission do not allow for definitive conclusions in this area, as information is available for only six Member States. These data indicate that approximately 15% of victims have had the right to a “reflection period,” about 5% have received residence permits as a result of the implementation of Directive 2004/81/EC, and only 1% have applied for international protection. If victims cannot obtain residence permits and no other protective measures exist, they may be expelled from the EU due to their irregular status. They can only be returned on a voluntary basis. In any case, a human rights-based approach requires that the return of human trafficking victims be carried out in accordance with safety standards.

Although some states opposed this issue during negotiations, Article 8 of the Palermo Protocol requires the voluntary and safe

²⁴¹ EU Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. Official Journal L26, 06.08. 2004, p. 19.

repatriation of human trafficking victims. Undoubtedly, in many cases, repatriation is not the most suitable option for the victim, especially when there is a risk of re-exploitation or other humanitarian reasons. Additionally, weak social ties in the country of origin or the state of permanent residence can complicate repatriation.

Discussions on non-voluntary repatriations in the European context have not been definitively concluded. The Warsaw Convention recommends that returns be carried out “preferably” on a voluntary basis, emphasizing that this process should fully respect the dignity of the victim²⁴². As stated in Article 13(2) of Directive 2008/115/EC, after the expiry of the temporary residence permit, victims who remain in an irregular situation are subject to immigration rules and, therefore, may be subject to removal from the country²⁴³.

During the court proceedings, additional protective measures are implemented for the victims. These measures serve two main purposes: first, to ensure that victims are informed and receive assistance at various stages of the process, allowing their views and concerns to be taken into account; second, to safeguard the confidentiality of the victim’s identity and personal data throughout the judicial process.

Regardless of the human rights-based approach, protection of victims must be guaranteed strictly prior to investigation and prosecution. One of the most important advantages of the European

²⁴² EUROSTAT. Trafficking in Human Beings. Statistical working papers. Publications Office of the European Union, 2015, p. 45.

²⁴³ Ortega M. La trata de seres humanos en el derecho de la Unión Europea // iDonaire F.J., OlestiA. (coords.), Técnicas y ámbitos de coordinación en el espacio de libertad, seguridad y justicia. Marcial Pons, 2015, pp. 181-196, pp.191-192.

Directive is the inclusion of a provision that exempts persons engaged in illegal activities as a result of human trafficking from criminal liability. Although this is a significant advancement, the wording of this provision remains vague and raises certain issues concerning the effective protection of victims. In particular, the Directive does not explicitly oblige Member States to establish specific legal mechanisms to avoid prosecuting or to exempt victims from criminal prosecution.

Firstly, the Directive's broad discretion granted to states may lead to diverse and unequal approaches to the protection of human trafficking victims across different countries. Secondly, the document does not prohibit the detention of victims. This situation allows for the continuation of inhumane treatment towards victims and prevents them from accurately assessing their situation. Sometimes victims see themselves merely as illegal migrants indebted to their helpers. In such cases, they may be coerced into controlling and exploiting other victims, thereby participating in the criminal activities of human traffickers. Moreover, in some instances, criminal groups share a small portion of the profits with victims to create a sense of involvement in the crime. Such manipulative tactics hinder victims' proper understanding of their legal status and significantly reduce their likelihood of cooperating with law enforcement agencies. The Directive also includes a comprehensive set of special measures aimed at the protection of children²⁴⁴. Such protective measures include the appointment of a guardian or legal representative, provision of assistance to family

²⁴⁴ EUROJUST, Strategic project on Eurojust's action against trafficking in human beings. Den Haag, 2012, p. 16.

members of minors located within the EU territory, ensuring the participation of an appropriate representative in procedures where parents may be involved in human trafficking, and other safeguarding mechanisms. The report on the implementation of the Directive reveals the necessity for broader and more advanced measures in this area, demonstrating that mere compliance with minimum standards is insufficient. Indeed, the European Commission's report highlights that only six Member States have established specific and differentiated measures aimed at protecting minor victims of human trafficking²⁴⁵. Other Member States restrict the application of special protective measures to persons under the age of 14. However, the Directive establishes the age threshold for victims as 18 years and additionally emphasizes that when the age of a person is unknown, they should be presumed to be a minor. It is essential that these provisions are properly and fully integrated into national legislation, especially considering that a large proportion of human trafficking victims within the European Union are girls aged between 15 and 17. Finally, a brief overview should also be provided regarding measures related to the compensation of harm suffered by victims. The Palermo Protocol does not establish specific obligations in this area. In fact, its Article 6 only requires the incorporation of certain provisions into the internal legal systems of Member States. It is particularly important to note that states may include legal provisions allowing for the exploration of civil law non-contractual liability, the issuance of compensation decisions, or compensation for damages related to criminal proceedings, including the

²⁴⁵ Europol, *Trafficking in Human Beings in the European Union*. Den Haag, 2011, p. 11

establishment of state funds or relevant compensation funds within special programs²⁴⁶.

Within the framework of the Council of Europe, the issue of compensation for harm suffered by victims is more comprehensively regulated in Article 15 of the Warsaw Convention. This article defines the State's obligation to ensure victims' right to material compensation both within criminal proceedings and civil jurisdiction. Unfortunately, unlike the regime applied to victims of other crimes such as terrorism, the Convention only cites the establishment of a state fund for the compensation of human trafficking victims as an example.

Regarding procedural rights, Article 15 emphasizes the provision of clear information to victims about judicial and administrative procedures and access to free legal aid. These provisions are as important as the establishment of resources since lack of information and poor legal advice may result in the absence of claims. In the Directive, Article 17 mandates Member States to ensure victims' access to compensation schemes available for victims of "intentional violent crimes," which is not considered a revolutionary innovation.

As a result, victims in some Member States may not receive adequate compensation due to the absence of relevant compensation schemes. Moreover, disagreements persist in the process of transposing the Directive into national legislation, especially concerning the inclusion of support measures for victims suffering

²⁴⁶ Com (2016) 722final – Report from the Commission to the European Parliament and the Council assessing the extent to which Member States have taken the necessary measures in order to comply with Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims in accordance with Article 23 (1), p. 13.

from psychological or physical violence. At the EU level, human trafficking is prohibited by the Charter of Fundamental Rights of the European Union²⁴⁷ (Article 5) and is recognized as a serious form of organized crime constituting a grave violation of fundamental rights under Article 83 of the Treaty on the Functioning of the European Union²⁴⁸. The EU's legal and political framework on human trafficking is victim-centered, gender-specific, child-sensitive, and grounded in human rights principles.

The EU Anti-Trafficking Directive is the primary legislative act addressing human trafficking within the EU. This Directive establishes the following key elements:

- Minimum rules on the definition of criminal offenses and sanctions;
- Common provisions to strengthen victim protection, assistance, support, and prevention;
- Key actors involved in combating crime.

The Directive was adopted on 5 April 2011 and came into force on 15 April 2011.

The 2011/36/EU Directive replaced the following three legal acts:

- The Council Directive 2004/81/EC on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities

²⁴⁷ Document 12012P - Charter of Fundamental Rights of the European Union <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A12012P>

²⁴⁸ Document 12012E/TXT - Consolidated version of the Treaty on the Functioning of the European Union https://eur-lex.europa.eu/eli/treaty/tfeu_2012/oj

— this document remains the only one still in force among the three foundational acts of the Directive.

- The Council Framework Decision 2002/629/JHA on combating trafficking in human beings — this instrument aimed to establish a framework for measures to be adopted at the European level. It is noteworthy that human trafficking was defined only in terms of sexual exploitation and labor exploitation.

- The Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings — this act sought to ensure minimum rights for victims within criminal proceedings.

Based on a proposal from the Council of the European Union, a new Anti-Trafficking Directive was adopted by the European Parliament and the Council on 13 June 2024. This Directive will significantly enhance the effectiveness and coordination of the fight against human trafficking and will ensure legal harmonization among Member States. It broadens the fight against various forms of human trafficking, prioritizing victim protection and the improvement of prosecution procedures.

The current primary legislative act, Directive 2011/36/EU, adopted in 2011 and applicable to all EU Member States except Denmark, sets out common objectives, but the concrete means to achieve these objectives are left to the national legislation of each Member State. Therefore, effective combat against human trafficking remains the responsibility of Member States, who must develop their national laws accordingly.

European Commission reports on human trafficking indicate a growing number of victims in Europe, including women, men, girls, and boys. However, the reports emphasize that due to complex

statistical methodologies and high levels of confidentiality, the actual number of victims may be significantly higher than reported figures. Furthermore, the reports particularly highlight the rapidly increasing proportion of children among trafficking victims²⁴⁹. The reports also highlight the links between human trafficking and other types of crime, as well as the increasing use of the internet, social media, and new technologies to recruit victims.

The updated rules of the Anti-Trafficking Directive provide law enforcement and judicial authorities with stronger mechanisms to investigate and prosecute new forms of exploitation, including those occurring online, while ensuring a higher level of assistance and support for victims. The revised Directive introduces the following innovative legal solutions:

- Explicit inclusion of new forms of exploitation within the scope of the Anti-Trafficking Directive, such as forced marriage, exploitation of surrogate motherhood, and illegal adoption;
- Clear references to human trafficking crimes related to sexual exploitation committed or facilitated through information and communication technologies;
- A requirement for the formal establishment of National Referral Mechanisms;
- Criminalization of knowingly using services obtained from victims of human trafficking, aimed at reducing demand for all forms of trafficking and exploitation;

²⁴⁹ “Data collection on trafficking in human beings in the EU,” European Commission, 2018, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-security/20181204_data-collection-study.pdf.

- Expansion of training for more professionals who may encounter potential trafficking victims and ensuring the application of technological tools;

- Improved coordination between National Referral Mechanisms and asylum authorities;

- Formalization of an annual data collection on human trafficking in the EU conducted and published by Eurostat.

The revised EU Anti-Trafficking Directive was published in the Official Journal of the EU on 24 June 2024 and entered into force on 14 July 2024. Member States have been granted a two-year period to transpose the provisions of this Directive into their national legislation.

On 14 April 2021, the Commission adopted a new EU Strategy on Combatting Trafficking in Human Beings (2021–2025)²⁵⁰. This initiative encompasses a comprehensive response to human trafficking. The strategy integrates key directions such as crime prevention, protection and empowerment of victims, and the accountability of those involved in trafficking. The document emphasizes reducing the demand that fuels trafficking, dismantling the criminal business model through effective operational tools, establishing robust criminal justice to combat impunity, and strengthening institutional capacity for these purposes. At the same time, it prioritizes measures against traffickers' digital business models, with special attention to the protection, support, and empowerment of women and children victims. The strategy also

²⁵⁰ Com/2021/171 final - Communication from the commission to the European Parliament, the Council, The European Economic and Social Committee and The Committee of the regions on the EU Strategy on Combatting Trafficking in Human Beings 2021- 2025

highlights the importance of enhancing international cooperation. It should be noted that since human trafficking is often carried out by organized criminal groups, this strategy is closely aligned with the European Union’s 2021–2025 Strategy against Organized Crime ²⁵¹. Every two years, the European Commission adopts reports on the progress made in combating human trafficking. The fifth progress report was presented on January 20, 2025²⁵². The Commission’s first (2016), second (2018), third (2020), and fourth (2022) reports provide a factual overview of the progress achieved and present examples, challenges, and key issues in addressing human trafficking within the EU.

Within the framework of discussions on combating human trafficking in Europe, the concept of “demand reduction” (also known as the “end demand” approach) against prostitution has emerged and garnered increasing international attention. Broadly, improving workers’ rights, strengthening trade unions, and expanding the scope of collective bargaining are recognized as effective strategies to combat trafficking in labor markets. However, in the context of sexual exploitation, the focus has shifted away from such socio-economic approaches toward the abolition of the entire sex industry through criminal justice systems. During the first decade following the adoption of the Palermo Protocol in 2000, international organizations sought to balance the Protocol’s criminal

²⁵¹ Com/2021/170 Final - Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions on the eu strategy to tackle organised crime 2021-2025

²⁵² Com/2025/8 Final - report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the regions on the progress made in the European Union in combating trafficking in human beings (Fifth Report)

justice framework with human rights-based approaches, contributing to the development of policies that promote the protection and defense of human rights within anti-trafficking measures. This effort aimed to provide normative guidance to states on respecting human rights in the fight against trafficking. Nonetheless, due to the fragile consensus internationally on the definition of trafficking and states' obligations, intergovernmental organizations (IGOs) often preferred to avoid this contentious issue, especially minimizing discussions related to sex work and prostitution. Concurrently, sex workers' collectives and trade unions across Europe and globally have developed their own strategies to address widespread problems of criminalization, discrimination, violence, and exploitation, frequently with little or no financial and institutional support, despite the lack of recognition of their lived experiences, working conditions, and rights. The current study examines the resistance led by the European Sex Workers' Rights Alliance (ESWA) and other civil society organizations against the harmful impacts of the "demand reduction" (or "end demand") approach and the criminalization of sex work under the guise of combating human trafficking in Europe. It presents the activities undertaken by these organizations to defend sex workers' rights, ensure their safety, and oppose discriminatory legal approaches as the final conclusions of the study.

The European Sex Workers' Rights Alliance (ESWA) is a broad network encompassing over 90 organizations and member groups across 26 countries in Europe and Central Asia, run by sex workers themselves. The Alliance's primary objective is to ensure that the voices of all sex workers are heard and that their human,

health, and labor rights are recognized and protected. Based on its membership's experiences and perspectives, ESWA mobilizes advocacy efforts at national, regional, and international levels, striving to build a strong, vibrant, and sustainable network aimed at long-term and systemic change.

Since the second half of 2018, ESWA and several of its member organizations have achieved varying degrees of success in engaging with policies and platforms related to anti-trafficking and victims' rights, intervening in prevailing discourses in this field. Using an auto-ethnographic approach, this article analyzes how ESWA and other civil society actors challenge the exclusion of sex workers' rights from mainstream anti-trafficking frameworks, and resist the detrimental effects of the "demand reduction" approach and sex work criminalization applied in Europe under the banner of combating human trafficking.

This part of the study covers the period leading up to the public consultation process launched by the European Commission at the end of 2021 for drafting amendments to the EU Anti-Trafficking Directive. Additionally, it attempts to explore the ideological influences on EU-level anti-trafficking policies through partial analysis of the preceding period. Notably, discussions on sex work in the context of trafficking are often silenced at the national level.

Over the past two decades, sex workers in Europe have consistently resisted calls for "ending demand" for prostitution. These calls are ideologically and politically grounded in the conflation and conflagration of human trafficking and sex work. However, both academic literature and community-based empirical

evidence demonstrate the conceptual and factual shortcomings and baselessness of this approach.

In 1999, one year prior to the adoption of the Palermo Protocol, the Swedish model was implemented, aiming to reduce “demand” for prostitution and human trafficking by criminalizing the clients of sex workers. This model was subsequently adopted on legal and political grounds in several other countries, including Norway and Iceland (2009), Canada (2014), Northern Ireland (2015), France (2016), and Israel (2018). Currently, this approach remains under discussion in the legislative and public agendas of a number of other states.

In March 2019, the Swedish government, together with France, announced their intention to develop a common approach to combat human trafficking. This initiative envisaged creating a joint strategy against trafficking for sexual exploitation in Europe and globally, with a primary focus on reducing demand for prostitution activities directed at girls and women. The purported “clear link” between trafficking for sexual exploitation and prostitution in the policy frameworks of these states forms the foundation of their normative and strategic approach.

Development aid programs, the policies of international and intergovernmental organizations, and related financial investments have significantly increased the resources and institutional capacities of abolitionist positions targeting the global and European abolition of prostitution. This approach has contributed to the inclusion of punitive models in international policy agendas addressing human trafficking. Although the formation of prostitution-related policies remains within the jurisdiction of individual states, under the

influence of international discourse, states have increasingly interpreted the obligation under Article 9(5) of the Palermo Protocol to “prevent demand that fosters all forms of exploitation of persons, especially women and children” as necessitating the restriction of demand for sexual services.

Abolitionist approaches are not grounded in human rights principles but rather in punitive frameworks. Consequently, these policies serve to expand the powers and capacities of law enforcement and immigration authorities. Particularly in Western Europe, where the majority of sex workers are migrant women, these policies intersect with migration regimes, intensifying control, surveillance, prosecution, and legal sanctions tailored to the profiles of sex workers. As a result, these policies weaken the legal protection of sex workers and significantly reduce their physical and social safety.

The portrayal of criminal penalties and police control over prostitution as the primary solution to violence against women has been characterized by several feminist scholars as “carceral feminism” (restrictive and punitive feminism). Elizabeth Bernstein’s (2007) research provides a detailed description of this approach, critically analyzing contemporary abolitionist feminist activism and anti-trafficking movements in the United States, which present all forms of sex work as human trafficking.

Carceral feminists support punitive approaches such as increased criminalization, police surveillance, and incarceration aimed at preventing violence against women. However, this approach does not align with the core principles of intersectional feminism. Specifically, heightened law enforcement interventions

and expanded state powers disproportionately affect certain groups of women — racialized women, those with lower socio-economic status, individuals with non-normative gender identities and expressions, women with undocumented or precarious migration status, as well as women with disabilities — making them more vulnerable. While these women are already at risk of structural violence and institutional discrimination, the carceral approach effectively exacerbates these risks by intensifying surveillance and criminalization mechanisms against them, thereby undermining their safety.

The concept of “demand reduction” (or “end demand”) is rooted in this carceral ideology and emerged as a political legacy from the negotiations surrounding the Palermo Protocol in 1998–2000. During this period, the United States actively participated in the negotiations, advocating for an abolitionist approach to trafficking under the influence of a coalition of NGOs led by the Coalition Against Trafficking in Women (CATW).

Although the United States proposed the inclusion of a “demand reduction” strategy in the Palermo Protocol, this initiative was rejected. The primary reason was that such an approach could have hindered the formation of consensus among states that legalized or tolerated “voluntary” forms of sex work, potentially deterring those states from signing the Protocol. Nevertheless, in the final stages of the negotiations, the U.S. delegation submitted a document incorporating preventive measures that included demand reduction. This text was adopted with minimal edits without further discussion and was included in the Protocol as a compromise element.

In subsequent years, this issue resurfaced in international human rights policy discourse. Notably, the United Nations Office of the High Commissioner for Human Rights' (OHCHR) "Recommended Principles and Guidelines on Human Rights and Human Trafficking" (2010) recognized demand as one of the structural causes of trafficking and recommended the implementation of preventive measures in this regard. These recommendations marked a significant step towards strengthening abolitionist approaches within international legal discourse and legitimizing punitive policies.

Article 9(5) of the Palermo Protocol obligates states to "discourage demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking." Similar obligations are codified in the Council of Europe Convention on Action against Trafficking in Human Beings (2005) and the European Union Directive on Combating Trafficking in Human Beings (2011/36/EU). However, these instruments do not exclude or specifically address any sectors; rather, they require states to generally discourage demand that fosters trafficking-related exploitation in all sectors and for all purposes.

The manner in which various states regulate and implement these international obligations within their national legislation is based on differing approaches. In countries shaped by the Swedish model, the decriminalization of sex work is observed regardless of whether trafficking is involved. For example, New Zealand, while legally prohibiting the purchase of sexual services, has implemented the following measures: (i) explicitly banning coercion by clients against sex workers; (ii) imposing sanctions against unlawful

activities by intermediaries; and (iii) organizing influence over clients and intermediaries through the establishment of “codes of conduct” for operators within the sector. Additionally, New Zealand has developed specific policies aimed at improving working conditions for sex workers, ensuring their safety, and expanding their rights to negotiate.

To prevent demand that fuels or exacerbates trafficking, international instruments also include provisions encouraging states to criminalize the knowing use of services provided by trafficking victims. However, neither the Council of Europe Convention nor the 2011 EU Anti-Trafficking Directive mandates the criminalization of “knowing use” as a compulsory requirement. As repeatedly emphasized in the monitoring reports of the Council of Europe’s Group of Experts on Action against Trafficking in Human Beings (GRETA), the criminalization of the purchase of sexual services is not required by any provision of the Convention, nor is it necessary for its implementation.

To summarize the dynamics in European policy up to 2021 based on the EU Anti-Trafficking Directive (2011/36/EU) adopted in 2011, certain key points should be noted. Pursuant to Article 20 of the Directive, the European Commission established the position of Anti-Trafficking Coordinator (ATC) within the Directorate-General for Migration and Home Affairs (DG HOME). Ms. Myria Vassiliadou was appointed as the first ATC in March 2011 and served in this capacity until February 2020. As the former Secretary General of the European Women’s Lobby (EWL), Vassiliadou shaped the European Commission’s anti-trafficking policy along a neo-abolitionist approach during her mandate.

In 2013, under the initiative of the EU ATC, the EU Civil Society Platform against Trafficking in Human Beings was established. This platform aimed to enhance the role of civil society organizations in anti-trafficking efforts and policymaking, bringing together approximately 100 civil society members (including some selected in subsequent years). The platform admitted organizations holding abolitionist views such as the Coalition Against Trafficking in Women (CATW), which presents itself as the world's leading abolitionist organization, the European Women's Lobby, and its member the European Network of Migrant Women. However, in contrast to abolitionist positions, civil society organizations advocating for the decriminalization of sex work and the protection of sex workers' rights — including La Strada International (LSI), the European Sex Workers' Rights Alliance (ESWA; known at that time as ICRSE), and Pro-Tukipiste (Finland) — were repeatedly rejected from the platform. Despite fully meeting the selection criteria established by the platform, no clear or official reasons for their exclusion were provided.

Some members of La Strada International (LSI) are included in the European Union Civil Society Platform against Trafficking in Human Beings. However, in 2018, the Platform for International Cooperation on Undocumented Migrants (PICUM) withdrew from the platform due to concerns over representation. The main point of contention between PICUM and the EU Anti-Trafficking Coordinator (ATC) stemmed from their divergent approaches to prostitution and sex work. The ATC and the European Commission

have adopted a punitive, neo-abolitionist²⁵³ stance in their anti-trafficking efforts, advocating for the full criminalisation of sex work. This approach has hindered the development of alternative perspectives and has limited the space for expressing dissenting views.

Thus, within public and political discourse, voices advocating for the complete abolition of the sex industry have gained dominance. This has enabled the European Commission to pursue a one-sided and punitive policy that fails to consider the diverse lived experiences of women and the complex, multi-layered root causes of human trafficking. Yet, it would have been possible to approach the phenomenon of trafficking from a broader, human rights-based, and socio-economic perspective.

Despite the appointment of a new Anti-Trafficking Coordinator (ATC) in July 2021, the precise mandate of the position remains undefined. Nevertheless, the EU Strategy on Combatting Trafficking in Human Beings 2021–2025 continues to prioritise punitive measures and law enforcement approaches. It affords insufficient attention to the human rights dimension of the issue (EU Anti-Trafficking Strategy, 2021).

In February 2021, the European Parliament, in its Resolution on the Implementation of the Anti-Trafficking Directive, called on the Commission to amend the Directive to ensure that “Member States explicitly criminalise the knowing use of all services that are the objects of exploitation provided by victims of trafficking”

²⁵³ This term specifically equates all forms of sex work with human trafficking and characterizes the activity as the exploitation of women, thereby calling for its complete abolition.

(European Parliament Anti-Trafficking Resolution No. 20618, 2021).

In response to this resolution, a number of civil society organisations—such as the European Sex Workers' Rights Alliance (ESWA), the Platform for International Cooperation on Undocumented Migrants (PICUM), and La Strada International—attempted to influence the vote in the European Parliament. These organisations argued that criminalising the knowing use of services involving exploitation is both dangerous and practically unenforceable. They particularly emphasised that, as an alternative, the resolution should adopt the principle that the “user must take reasonable steps to avoid the use of such services” (European Parliament Anti-Trafficking Resolution, 2021, paragraph 68). This approach would impose a positive legal obligation on all citizens to verify the working conditions under which goods or services are produced or provided. However, such a provision may give rise to legal uncertainty. It could potentially expose any individual to criminal liability for purchasing goods, products, or services for everyday use that are produced under highly exploitative and dangerous conditions in the global supply chain.

Despite these legal and practical concerns, the relevant provisions of the resolution were adopted. The European Commission subsequently formalised this approach in its new Anti-Trafficking Strategy.

As part of the evaluation process of the Anti-Trafficking Directive, the European Commission launched an initiative to assess the feasibility of introducing minimum EU-wide standards for

criminalising the use of services provided by trafficking victims for the purpose of exploitation.

Under the leadership of the European Women’s Lobby (EWL), a number of EWL member submissions have identified as a core priority the amendment of the paragraph that criminalises the knowing use of services provided by victims of trafficking. The proposed revision reads as follows: "As a minimum requirement, Member States should actively criminalise the purchase of sexual services from victims of trafficking. This would not only increase the likelihood of prosecution, but would also strengthen public awareness of the invisible forms of exploitation and violence that exist within the broader system of sexual exploitation."

The “End Demand” approach became a priority theme under the Swedish Chairmanship of the OSCE (Organization for Security and Co-operation in Europe) in 2021. Supported by the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings (OSR/CTHB), and politically aligned with the conservative Republican administration of U.S. President Donald Trump, the OSCE issued a recommendation to the European Commission to revise the EU Anti-Trafficking Directive. This recommendation urged Member States to impose criminal liability on individuals who use the services of a trafficking victim, regardless of whether the user knew the victim's status.

The OSCE’s 2021 document titled “Discouraging the Demand that Fosters Trafficking for the Purpose of Sexual Exploitation”, while not offering a critical assessment of strategies across the OSCE region, uncritically endorses and promotes the Swedish neo-abolitionist model — i.e., the criminalisation of the purchase of sex

— as the best strategy to combat demand-driven exploitation, despite lacking empirical evidence. The document reflects the position of Swedish model advocates, while omitting scholarly studies that critically analyse the harmful effects of this model. Moreover, the experts, consultants, and civil society representatives referenced in the document appear to have been selectively chosen, excluding those who support sex workers' rights. For instance, key members of the OSCE Alliance against Trafficking in Persons — including Human Rights Watch, La Strada International, PICUM, and Amnesty International — were deliberately excluded from consultations. These organisations have all acknowledged the harms of the Swedish model and have advocated for the decriminalisation of sex work.

In the context of EU policymaking, public consultations allow civil society and the general public to express their views and experiences. However, during the assessment of the 2011 EU Anti-Trafficking Directive, several government agencies — who typically communicate via other channels — also submitted comments. For example, both the Dutch and Belgian governments expressed firm opposition to the mandatory criminalisation of the "knowing use" of services from trafficking victims. The Belgian federal migration and asylum agency, Myria, presented the following position:

"Myria is particularly opposed to the mandatory criminalisation clause, especially in the context of sexual exploitation. In its view, alternative means of prevention are available. Raising client awareness of trafficking and potential abuse can contribute to a reduction in demand. Police reports indicate that clients are often willing to submit anonymous tips, even though they

fear social stigma. However, when asked to disclose their identities, they become reluctant to report. Introducing sanctions against clients — even when framed with the term 'knowingly' — may negatively affect the willingness of clients to report suspected trafficking, for fear of being identified as a 'user of prostitution'. This could undermine efforts to combat trafficking." This observation is further supported by New Zealand, where sex work is fully decriminalised. The New Zealand Prostitutes' Collective reports that it regularly receives calls from both sex workers and concerned clients who suspect coercion or trafficking. Similarly, in the United Kingdom, discussions on online client forums reveal that clients sometimes warn each other against engaging in specific adult services if they suspect that women involved may be victims of trafficking. The English Collective of Prostitutes has also confirmed that clients occasionally assist women but refrain from contacting the police due to fear of legal repercussions.

The Dutch government has emphasised the importance of maintaining a clear distinction between sex work and trafficking. In the Netherlands — and in several other EU Member States — sex work is recognised and regulated as a legal occupation.

The Dutch government considered that there is a fundamental difference between trafficking for the purpose of sexual exploitation and consensual sex work. Trafficking for sexual exploitation is one of the gravest violations of human rights and must be eradicated through comprehensive efforts. At the same time, individuals who choose sex work must be ensured the right to work in a safe, healthy, and regulated environment. Therefore, we oppose the criminalisation of sex workers or their clients. Criminalisation

drives sex work underground, which significantly increases the risks of violence, exploitation, and abuse. The Dutch position strongly underscores the need for this distinction to be preserved and officially recognised at the EU level.

Across Europe, civil society organisations, research institutes, and human rights advocates have increasingly united to oppose the harmful effects of the "End Demand" model. Organisations such as ESWA view trafficking as part of a broader landscape of migration, labour, and social justice, and call for policy responses that target traffickers, exploitative third parties, and underlying structural causes, rather than sex workers or their clients. Social and academic research consistently shows that trafficking thrives in sectors where: workers are unorganised, labour rights are unenforced, employment status is unrecognised or precarious. The isolation of sex work and restrictive national legislation only increase the vulnerability of sex workers and deprive them of safe working conditions — one of the root causes of exploitation and trafficking. In line with this analysis, ESWA opposes punitive anti-trafficking approaches. Instead, it prioritises the improvement of sex workers' working conditions and the protection of clients, rather than focusing solely on traffickers. Sex workers also actively resist the unintended negative consequences of misinformed policies that conflate trafficking and sex work. In this regard, ESWA demands the active and meaningful inclusion of sex workers in the design and implementation of anti-trafficking and anti-violence policies — at local, national, and international levels.

ESWA is not alone in this position. Amnesty International, in its 2016 policy paper entitled "Respect, Protect and Fulfil the Human

Rights of Sex Workers”, acknowledged that conflating trafficking with sex work may undermine broader strategies — including those aimed at ending sexual exploitation. It warned that such an approach risks further weakening the rights and safety of both sex workers and trafficking victims.

The increasing number of undocumented migrants and the exclusion of such individuals from formal labour markets has led many — especially undocumented migrants, asylum seekers, and refugees — to enter the sex trade. In response to this, the Platform for International Cooperation on Undocumented Migrants (PICUM) published its first policy document in 2019, titled “Protecting the Human Rights and Dignity of Undocumented Migrant Sex Workers”. In this document, PICUM called for the repeal of all criminal and administrative sanctions related to sex workers, clients, and third parties in the context of sex work and sexual exploitation.

ILGA-Europe, a pan-European organisation, recognises sex work as a multi-gendered and multifaceted phenomenon, emphasising that sex workers of all gender identities, sexual orientations, and sex characteristics face serious human rights violations and violence. According to ILGA-Europe, 88% of trans people murdered in Europe are sex workers. Factors such as racism, sexism, homophobia, transphobia, and xenophobia further exacerbate their vulnerability to violence. Despite these realities, many sex workers — particularly in criminalised settings — hesitate to engage with law enforcement or report previous negative experiences with police. As a result, ILGA-Europe advocates for a clear policy supporting sex workers’ rights and calls for the decriminalisation of sex work (ILGA-Europe, 2018).

In line with ILGA-Europe's position, Transgender Europe (TGEU) regards sex work as a trans rights issue. Many trans individuals engage in sex work due to limited economic opportunities, caused by transphobic social environments and structural barriers in education and employment. Trans sex workers face legal repression under both anti-trans and anti-sex work laws, and are unable to escape persecution due to economic hardship. Trans people who are not sex workers are often wrongly perceived as such, and their social inclusion is hindered by whorephobia. TGEU calls for the full decriminalisation of sex work, including freedom in operational aspects such as advertising, selling, buying, and collective organisation (TGEU, 2016).

The European AIDS Treatment Group (EATG), which defends the rights of people living with or at risk of HIV in Europe, also supports the full decriminalisation of sex work. EATG is concerned that the current criminalisation and legal pressures on sex work undermine the effectiveness of health programmes.

Other European NGOs advocating for sex workers' rights and full decriminalisation include La Strada International (2013), the Equinox Initiative for Racial Justice (2021), the European Network Against Racism, Trans United Europe, the International Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Youth and Student Organisation (IGLYO), the International Planned Parenthood Federation – European Network, and Correlation – European Harm Reduction Network. Among the international intergovernmental organisations consistently supporting these calls — particularly those working on health and HIV/AIDS — is UNAIDS. UNAIDS has repeatedly urged states not to conflate sex work with human

trafficking in law, as doing so results in inadequate responses that fail to support either sex workers or trafficking victims. At worst, it leads to increased violence, repression, and the spread of HIV (UNAIDS 2021a, 2020). Although many neo-abolitionist advocates argue that the health harms allegedly associated with prostitution require a carceral response, comparable to that used in cancer control, the World Health Organization (WHO) stands among the international bodies calling for decriminalisation of sex work and for the elimination of unjust application of criminal and regulatory laws against sex workers. WHO acknowledges that criminal laws in the context of sex work are harmful (WHO, 2016). Most importantly, UNAIDS, the UN Population Fund (UNFPA), the UN Development Programme (UNDP), and WHO all unequivocally call for the meaningful inclusion of sex workers in policy development. Their involvement in anti-trafficking policy would allow for a more nuanced understanding of exploitation and facilitate more effective prevention, identification, and referral mechanisms for trafficking victims.

The Council of Europe's 2011 Istanbul Convention on Preventing and Combating Violence Against Women and Domestic Violence is one of the most important international instruments addressing violence against women. It sets minimum standards for prevention, protection of victims, and prosecution of offenders. However, the Convention has not been ratified by all Council of Europe and EU member states. The European Union signed the Istanbul Convention in 2017, and the European Commission has made accession a political priority. The EU Gender Equality Strategy 2020–2025 also makes strong reference to the Convention. If EU

accession remains blocked, the Commission plans to achieve its objectives by classifying gender-based violence as a Eurocrime, thereby introducing alternative legislative measures.

Article 36 of the Istanbul Convention provides a comprehensive definition of sexual assault, including rape based on lack of consent. The concept of consent is especially critical in the context of sex work, as it involves mutually agreed conditions under which sexual services are provided. A violation of those agreed conditions should therefore be treated as sexual assault or rape. In this regard, the Convention serves as a robust legal mechanism to protect sex workers from sexual violence, without conflating sexual exploitation with sexual assault. This issue was addressed at the 19th meeting of GREVIO (Group of Experts on Action against Violence against Women and Domestic Violence) in 2021, where experts analysed the scope of the Convention in relation to women engaged in prostitution. The discussions concluded that the Convention does not recognise prostitution as a form of violence against women, but rather seeks to provide support and protection to women and girls involved in prostitution who may face gender-based violence (Council of Europe, 2021). This interpretation directly challenges the European Women's Lobby (EWL), which — from an explicitly abolitionist and ideological position — promotes the unfounded and misleading claim that prostitution is inherently a form of violence against women.

Under Article 83(1) of the Treaty on the Functioning of the European Union (TFEU), the European Parliament's Committee on Women's Rights and Gender Equality (FEMM Committee), in cooperation with the Committee on Civil Liberties, Justice and

Home Affairs (LIBE Committee), drafted a resolution identifying gender-based violence as a crime category under Article 83(1). During the drafting process, proposals were submitted that would deny sex workers the right to consensual agency. These included amendments asserting that: “Consent cannot be given; therefore, all forms of transactional sex must be classified as sexual exploitation,” and “Member States are called upon to recognise transactional sex as a form of violence against women.” However, such amendments were rejected.

In addition, 12 European NGO platforms and think tanks submitted a joint letter to members of the FEMM and LIBE committees of the European Parliament, making a series of claims regarding the treatment of sex work within the resolution.

Article 36 of the Istanbul Convention explicitly defines sexual violence and rape in terms of lack of consent. However, the proposed amendments suggest that when a financial transaction is involved, the consent of an adult to sexual activity may be invalidated under the general concept of consent. This could generate a situation of legal uncertainty and significantly divert the focus of debates on sexual violence. The resolution submitted to vote on 16 September 2021 contains no harmful provisions that restrict or criminalise sex workers’ right to consent. However, the resolution refers to the term “sexual exploitation” on three separate occasions, outside the context of trafficking and child sexual abuse.

In late 2020, the European Commission launched a public consultation on “Tackling gender-based violence: protecting victims and holding offenders accountable.” A preliminary analysis of the submissions reveals that one of the key issues raised was the

proposal to criminalise prostitution as a form of “sexual exploitation” under the Commission’s new legal instrument on gender-based violence (GBV). Approximately half of the 48 NGO submissions called for the inclusion of “sexual exploitation” within the scope of this legislation to ensure the continuity of efforts to combat violence against women (VAW) and to strengthen EU-wide measures against sexual exploitation.

Submissions by 24 abolitionist NGOs presented very similar arguments, seemingly based on a common template. They claimed that prostitution, categorised as “sexual exploitation,” is in direct conflict with Article 3(2) of the EU Charter of Fundamental Rights, which states: “In the fields of medicine and biology, the following must be respected in particular: [...] the prohibition on making the human body and its parts as such a source of financial gain.” This language originates from Article 21 of the Council of Europe Convention on Human Rights and Biomedicine (ETS No. 164), adopted in 1997. The Explanatory Report of the EU Charter of Fundamental Rights explicitly references this Convention. The Council of Europe has also issued guidance on the implementation of the principle that “the human body and its parts shall not give rise to financial gain.”

However, it is essential to emphasise that these guidelines apply exclusively to the field of biomedicine and have no relevance to the context of sex work, prostitution, or sexual exploitation. There is no legal basis for applying the concept of “sale of body parts” to the domain of sex work. Doing so represents a significantly flawed and epistemologically incoherent argument. Accordingly, the

transplantation of biomedical concepts into the regulation of sex work is unacceptable and should be dismissed.

A second problematic and dangerous argument advanced by some abolitionist actors is the claim that sex work should be defined similarly to child sexual exploitation, on the grounds that it allegedly reinforces harmful gender stereotypes. This approach aligns with the “Brussels’ Call” and the official recommendations of the European Women’s Lobby (EWL), which promote the abolition of prostitution. These recommendations equate women with children, deny sex workers the capacity for autonomous, consensual sexual engagement, and undermine their personhood. Associating women with girls or minors obscures the diversity of women's experiences, infantilises them, and perpetuates stereotypes that portray adult women as lacking agency or awareness, incapable of consenting to or refusing sexual activity. Consequently, such women are seen as subjects to be “found” and “rescued.”

For example, analyses of anti-trafficking awareness materials reveal that the stereotyping and infantilisation of individuals involved in the sex industry — including those trafficked for commercial purposes — have been used to legitimise existing practices and policies under the “end demand” framework. These narratives also contribute to the erasure of intersectionality in the domain of representation. This overtly paternalistic and infantilising policy exposes already marginalised sex workers to further structural social marginalisation and pressure in their daily lives. It also obstructs the advocacy efforts of sex workers and their rights defenders in campaigns against trafficking, violence, and persecution.

Proponents of the “end demand” concept often advocate for criminalising clients and third parties, calling for the complete prohibition of the sex industry without considering how systemic and structural discrimination, particularly in the context of migration, pervades every aspect of women’s lives. The legal rationale for “end demand” laws relies on protectionist arguments that seek to justify the repression and restriction of choice for undocumented, racialised, marginalised, and discriminated populations. This approach undermines the legal protection of individuals' rights to consent, liberty, and bodily autonomy, under the guise of protecting women from harm or exploitation. Yet, rather than addressing gender-based discrimination, these policies reproduce it under the banner of “protection.” Protectionist laws increase, rather than reduce, sex workers' vulnerability to violence, exploitation, and trafficking. “End demand” laws are disproportionately enforced in sex workers’ own environments — their homes, neighborhoods, workplaces, and social spaces. Consequently, it is sex workers who bear the brunt of these enforcement practices. They are subjected to surveillance, police monitoring, and harassment not only during work but in daily life, whereas clients are often less affected by such interventions.

While abolitionist organisations continue to seek legal justifications for the adoption of the “end demand” approach in European Union legislation, evidence from countries where this model has been implemented shows that sex workers are exposed to increased violence, stigma, discrimination, and institutional pressure as a result of this approach. In France, following the enactment of legislation on prostitution in 2016, sex workers’ unions and human

rights organisations — including Médecins du Monde (Doctors of the World), the Red Umbrella Federation, Friends of the Women's Bus, Cabiria, Griselidis, Paloma, AIDES, and Acceptess-T — filed a legal challenge seeking to protect constitutional rights and freedoms.

On 1 February 2019, the French Constitutional Council rejected the complaint. In its decision, the Council held that the protection of human dignity and the prevention of crime and preservation of public order justified the legal provisions and did not violate the balance with individual liberty. The Council noted that the legislation imposed strict measures against all forms of prostitution, including consensual sexual activity between adults in private spaces. It also stated that the vast majority of persons engaged in prostitution were victims of pimping and human trafficking, and that these crimes were enabled by the existence of demand for paid sexual services. A separate complaint alleging a violation of the right to health was also dismissed by the Constitutional Council.

Following this decision, in April 2021, a group of 261 sex workers in France, the majority of whom were migrants, brought a case before the European Court of Human Rights: *M.A. and Others v. France* (Application No. 63664/19). The applicants urged the Court to re-examine the legality of France's prostitution laws. They argued, based on Articles 2 and 3 of the European Convention on Human Rights, that the French law, by criminalising the clients of sexual services, had forced sex workers into underground activity and social isolation. As a result, they were more vulnerable to violence, unsafe practices, theft, assault, and stigma, while also

facing greater risks of infectious disease and reduced access to health services, preventive care, and social integration.

The applicants further invoked Article 8 of the Convention, asserting that criminalising sexual relations between consenting adults in private settings constituted a violation of the right to respect for private life, including the right to personal autonomy and sexual freedom. Although a judgment from the European Court of Human Rights is expected to take several years, the admissibility of the case itself raises serious questions about the compatibility of “end demand” laws with the European Convention on Human Rights.

The issue of sex work or prostitution has long been a source of deep political disagreement. International public health organisations such as UNAIDS, as well as intersectional feminist movements, have called for the full decriminalisation of sex work and for the meaningful inclusion of sex workers and their organisations in policy-making processes. However, actors in the international anti-trafficking sector — especially those promoting the “end demand” approach — have largely remained silent on the rights of sex workers. Campaigns and prohibitions aimed at eradicating prostitution have further deepened the divisions in this field.

This study seeks to highlight how carceral and neo-abolitionist approaches have gained prominence in European policymaking, while sex workers, their representative organisations, and intersectional feminists have been systematically silenced and excluded from the debate. Such strategies often rely on harmful practices: the infantilisation and stereotyping of sex workers, their

conflation with victims of trafficking, and, in some cases, even the equation of women with children.

Although the “end demand” policy claims to protect women from harm and exploitation, it oversimplifies the complex social and economic realities of those providing sexual services and fails to recognise their lived experiences. As a result, it portrays sex workers as helpless victims devoid of agency, contributing to their further marginalisation and stigmatisation. In this context, meaningful participation of affected communities in policymaking becomes both unrealistic and politically obstructed. The paternalistic nature of the approach raises serious human rights concerns. Given the ongoing influence of feminist groups in international policy dialogues on prostitution, it is likely that global interest in the Nordic (Scandinavian) model will persist. Nevertheless, the European Sex Workers’ Rights Alliance (ESWA) continues its efforts to ensure the active participation of sex workers in policy development. ESWA advocates for a more nuanced and inclusive discussion that takes into account the lived realities of cisgender women, migrant women, women of lower socio-economic status, women with diverse gender identities and expressions, trans women, and women with mental health issues or physical disabilities.

Current academic research and a growing body of empirical evidence indicate that the criminalisation of sex work — including the criminal liability of clients and third parties, with limited exceptions for cases involving exploitation — has negative effects

on the safety, health, and fundamental human rights of sex workers²⁵⁴.

ESWA advocates for an empowerment-based approach in combating violence against sex workers and within the broader context of human trafficking. It urges the European Commission and the governments of Member States to develop regional and local policies and protocols that enable the creation of targeted anti-violence programs. These programs should particularly benefit marginalised communities — including sex workers and their organisations — who face heightened risks of violence. Such an approach not only encourages isolated communities to report criminal incidents to the relevant authorities, but also contributes to the restoration of public trust in state institutions.

²⁵⁴ Wijers M. How We Got Here: The Story of Palermo Protocol on Trafficking. OpenDemocracy // Official website of the OpenDemocracy, February 11, 2021 <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/how-we-got-here-story-palermo-protocol-trafficking/>

CHAPTER III. ANALYSIS OF NATIONAL PRACTICES ON COMBATING HUMAN TRAFFICKING IN THE DIGITAL ENVIRONMENT

This chapter primarily focuses on the positive and negative impacts of new technologies in the fight against human trafficking, with particular attention to national legal practices. Analysis of international and national legal documents shows that a regulatory framework governing the interaction between human trafficking and new technologies has yet to be fully developed by most states and international organizations. Many countries' national legislations lack provisions covering all aspects of combating human trafficking. Meanwhile, rapidly evolving technologies in the modern era present both opportunities and challenges in this fight. While technology offers innovative tools for the prevention and detection of human trafficking, it also raises complex ethical issues and enables criminal groups, particularly traffickers, to develop new forms of exploitation.

Traffickers use technology to recruit vulnerable individuals, strengthen control over them, organize exploitation, and evade detection. For example, they advertise and sell children online for sexual exploitation, post fake job offers on social media platforms with the real intent of exploitation, facilitate illegal money flows through cryptocurrency, and carry out online fraud schemes.

On the other hand, state and non-state actors combating human trafficking also utilize technological innovations to take significant steps toward preventing this crime, protecting victims, and holding perpetrators accountable. The 2024 Trafficking in Persons Report

(TIP Report) thoroughly examines the challenges and opportunities created by digital technologies in this context and highlights ways in which the international community fighting human trafficking can make more effective use of these technologies²⁵⁵. Digital technologies are a continuously evolving collection of electronic systems and resources that facilitate learning, communication, entertainment, and other everyday activities. These technologies include physical devices such as computers, smartphones, mobile gadgets, and robotics; software such as mobile applications, geolocation functions, online games, financial databases, web and cloud-based platforms, and artificial intelligence (AI); as well as online services like websites, video streaming services, blogs, and social media. For the purposes of this study, digital technologies are analyzed in the context of how they are used both by human traffickers and by key stakeholders and beneficiaries combating this crime. One intersection between digital technologies and human trafficking is traffickers' use of online platforms to exploit victims. While this phenomenon is not new, the COVID-19 pandemic, which shifted many daily activities online, has made the problem more pressing. Data from some countries indicate that during the pandemic, cases of online commercial sexual exploitation and sex trafficking increased significantly, including a sharp rise in demand for the online sexual abuse of children and related material distribution. Human traffickers have continued to develop more complex exploitation schemes by using digital tools to identify,

²⁵⁵ U.S. Department of State. 2024 Trafficking in Persons Report // ReliefWeb - Official website of the OCHA. June 27, 2024
<https://reliefweb.int/report/world/2024-trafficking-persons-report>

deceive, control, and exploit victims. Some of these schemes involve recruiting victims from across borders and countries, while others enable exploitation without the victims leaving their place of residence.

Recent testimonies from survivors of human trafficking indicate that their initial contact with traffickers was established through online platforms.

While human traffickers continuously expand their use of digital technologies, government agencies and other actors combating this crime must also modernize and strengthen their operations in line with technological innovations.

The use of new technologies to facilitate human trafficking spans all stages of the crime—from initial planning to the continuation of exploitation and the maximization of profits. Traffickers exploit the internet to identify potential victims and exert psychological influence over them. Individuals belonging to high-risk groups—such as those living in conflict zones, victims of natural disasters, people living in poverty, those raised in violent and unstable family environments, and those subjected to institutional and systemic discrimination—are primary targets of traffickers.

The United Nations Office on Drugs and Crime (UNODC) has identified two common online strategies used by traffickers to recruit victims: “hunting” (actively seeking individuals) and “fishing” (mass phishing). These approaches reveal how traffickers apply more targeted or large-scale manipulation techniques in the digital environment²⁵⁶. According to UNODC, online platforms enable

²⁵⁶ United Nations Office on Drugs and Crime – UNODC. Human trafficking FAQs // Official website of the UNODC

human traffickers to employ two main strategies to carry out their exploitation schemes. The first is the “hunting” process, where traffickers actively search for individuals they believe are in vulnerable situations while hiding their identities anonymously.

The second strategy is the “fishing” process, which involves placing manipulative content online and passively attracting potential victims who voluntarily respond to these calls. Both methods leverage digital tools to allow traffickers to execute targeted and systematic exploitation mechanisms.

Criminal groups often use social media platforms, online advertisement portals, websites, dating apps, gaming platforms, and also fake or manipulative versions of these tools to establish initial contact with potential victims. They create fake accounts and profiles to conceal their true identities. These tools serve as effective means for hiding identities and psychologically manipulating targeted individuals.

Once a potential victim is identified and initial contact is established, communication through the internet becomes a powerful tool for traffickers to lure individuals into situations of forced labor or sexual exploitation under false promises—such as education, employment, housing, or romantic relationships. For example, traffickers sometimes create professional-looking online business websites, use real photos, and present themselves as reputable employers to gain the victim's trust and convince them that the opportunity is genuine. This approach is designed to ensure that the victim believes not only they but also their family will benefit financially.

<https://www.unodc.org/unodc/en/human-trafficking/faqs.html>

After building a trusted relationship with the victim, traffickers manipulate and exploit them through force, fraud, or coercion. This involves both physical violence and psychological pressure by threatening to harm the individual's reputation, future employment opportunities, financial stability, or loved ones. Moreover, the internet is not only used for initial contact but also as a tool to reinforce exploitation schemes. In this regard, “sextortion” — blackmail involving the dissemination of sexual images or personal information — emerges as a particularly dangerous tactic. The U.S. Federal Bureau of Investigation (FBI) recognizes sextortion as a serious crime where offenders coerce victims into sexual acts, money payments, or sharing intimate information by threatening to release sexual visual or written material.

Human traffickers often present themselves as romantic partners, encouraging potential victims to share intimate and personal images. The victim trusts that these images are sent to a reliable person, but criminals use this material for manipulation and coercion, forcing the victim into sexual exploitation, forced labor, sending additional images, providing sexual services, or paying money. These images also serve as an additional source of income for traffickers, as they may be sold on illegal online platforms. Furthermore, traffickers use the internet to facilitate forced criminal activities. This involves forcing victims to participate in or support online fraud schemes, commercial sexual exploitation, and other criminal activities.

In online fraud operations, criminals typically attract victims through deceptive job advertisements, confine them in controlled environments, and coerce them into online criminal activities under threats and severe violence. These activities include illegal online gambling, fake cryptocurrency investment schemes, and romance scams. In all these cases, victims of human trafficking are manipulated and exploited with promises of high financial returns. Sometimes, when victims attempt to seek help, traffickers threaten them with prosecution for crimes they allegedly committed; others may not even realize they are victims of trafficking. Overall, traffickers use digital technologies to expand the scale, speed, and geographic reach of their operations. As technology evolves, so do exploitation mechanisms; however, the fundamental factor of exploitation at the core of this crime remains unchanged. This underscores the need for multifaceted and innovative approaches to effectively combat human trafficking.

One of the main challenges that digital technologies create in the fight against human trafficking is that these technologies provide traffickers with global access to victims, while also enabling them to hide their traces and evade law enforcement agencies. Traffickers adapt their criminal schemes by exploiting anonymization software, encryption technologies, and weak regulatory frameworks of platforms. This environment hinders law enforcement agencies and anti-trafficking actors from taking timely, coordinated, and effective measures against technology-facilitated exploitation.

The rapid evolution of digital technologies and their applications complicates the timely detection of human trafficking indicators on any given platform. Therefore, it is vital for law

enforcement agencies to continuously update their technical skills, closely collaborate with technology companies, and enhance their technical capacities. Non-governmental organizations and service providers, although often possessing relevant data, face challenges in effectively sharing this information while preserving confidentiality.

The borderless nature of technology highlights the need for stronger global coordination in combating human trafficking. However, differing legal systems and jurisdictional issues complicate this coordination. Determining which state has investigative and prosecutorial authority and effectively coordinating cross-border investigations often pose significant challenges. Even after jurisdiction is established, the collection of evidence and its integration into legal procedures require lengthy processes, placing additional burdens on law enforcement agencies.

Traffickers also exploit legislative gaps, regulatory deficiencies, and legal uncertainties to operate with impunity. Financial shortages in research and training related to human trafficking in the context of digital technologies lead to a predominantly reactive approach to combating this crime. Particularly in developing or technologically underdeveloped regions, law enforcement faces greater difficulties due to limited access to advanced technologies and lack of relevant skills. Nevertheless, technology-based data mining and other analytical tools exist to combat human trafficking. However, due to weak

technological infrastructures and low levels of digital literacy, many regions cannot fully utilize these capabilities²⁵⁷.

Victims, especially in geographically isolated areas with limited technological means, often find themselves in isolated situations, which severely affects their ability to seek help. Poor internet connectivity or limited mobile network coverage significantly reduces their access to timely information and support from non-governmental organizations working against human trafficking.

Anonymity and Privacy Issues – Encryption systems are a fundamental tool for protecting data in digital interactions, including internet browsing, messaging applications, and financial transactions. These systems convert readable information into encrypted code that can only be decrypted by the recipient's system, preventing third parties from accessing the data and ensuring that only authorized individuals have access to the original information.

Anonymization technologies create a high level of privacy by concealing the connection between an individual's online activities and their real identity. Encryption systems, widely implemented across numerous online platforms, aim to protect users' privacy and security. However, these technologies—including anonymization tools such as Virtual Private Networks (VPNs)—can also provide protection to individuals and groups involved in illegal activities, making their detection and accountability more difficult²⁵⁸. As with any crime, increased anonymity can pose significant challenges for

²⁵⁷ Korkmaz E. E. Digital Identity, Virtual Borders and Social Media: A Panacea for Migration Governance?. UK, Cheltenham: Edward Elgar Publishing, 2021, 160 p., p.89

²⁵⁸ Ziska F. Handbook of research on information and cyber security in the fourth industrial revolution. USA, Hershey: IGI Global, 2018, 647 p., p.89

law enforcement agencies and stakeholders combating human trafficking, whether it involves the creator of a fake social media account or the perpetrator of an online advertising scam.

Human traffickers increasingly exploit and rely on the protections offered by digital tools, as these enhance their ability to remain anonymous throughout the entire criminal process — from recruitment and outreach to managing operations, communications, and payments. Virtual currencies have even enabled a degree of separation between payers and recipients in financial transactions. Traffickers can also conceal IP addresses and encrypt communications such as emails, chat messages, and file transfers. Collectively, these factors impact both the crime itself and the ability of law enforcement to intervene, creating greater physical distance between the offender and the crime.

Data protection, analysis, and sharing are among the essential tools for using digital technologies to prevent, detect, and reduce human trafficking cases. However, practitioners must also consider the potential negative impacts on the safety and well-being of victims and survivors in this process.

Collecting and sharing human trafficking-related data, including personally identifying information of victims, is crucial for law enforcement and victim support organizations. At the same time, accidental public disclosure of this data—such as through data breaches—raises serious privacy concerns for victims and survivors.

Non-governmental organizations and technology companies use data analysis to assist law enforcement investigations, but sometimes insufficient security protocols are applied to protect data and victims' personal information from criminal groups.

Different countries maintain varying standards to ensure data privacy and address national security concerns, which hinder effective international data sharing. Because legal and technical frameworks for data collection, storage, and personal data sharing vary across countries, international cooperation becomes complicated.

Therefore, governments should listen to the recommendations of stakeholders involved in combating human trafficking, including those with lived experience, and improve data security standards and procedures to determine optimal mechanisms for collecting, analyzing, and sharing information about victims and survivors. At the same time, increasing digital literacy and strengthening technological infrastructure are crucial to enhancing effectiveness in this area.

Media, disinformation and misinformation — The proliferation of social media and online forums has led to the spread of false news and misinformation about human trafficking on the internet, resulting in changes in public perceptions of the crime. Even accurate and comprehensive reporting on human trafficking cases and issues can unintentionally minimize the broad spectrum of potential trafficking experiences. Unfortunately, the most sensational and misleading stories attract the most attention, which not only misrepresents the true nature of human trafficking but also diverts focus away from the more widespread forms of trafficking and marginalized groups subjected to different types of exploitation. Such reports can also create limited and stereotypical perceptions in societies regarding how human trafficking is understood, reinforce

existing stereotypes, and negatively impact prevention efforts as well as victims' ability to recognize themselves as such.

The promise of technology in monitoring and combating Human Trafficking — Technology plays a crucial role in investigating and combating human trafficking. Digital technologies, including mobile applications, social media campaigns, and online hubs, can be used to widely share information, resources, and training related to human trafficking. At the same time, these technologies play a significant role in increasing access to online support services for victims, survivors, and vulnerable populations.

Organizations utilize data analytics tools that help identify fake recruitment trends, map complex supply chains leading to forced labor, and detect emerging human trafficking schemes. These mechanisms facilitate the integration and analysis of data from various sources, effectively supporting data sharing to strengthen identification, investigation, and prosecution efforts.

Digital technology and digital literacy in awareness-raising efforts against human trafficking — At the global level, public awareness and prevention efforts are greatly expanded through digital technology. Given the increase in children's online activities, it is important for governments and parents to prioritize educational programs on online safety. They can effectively use various online tools to inform children about potential risks on the internet. Fortunately, through social media and mobile applications, useful educational tools supporting early intervention opportunities for youth, parents, and guardians are already available, helping to prevent human trafficking among young people.

A good example of using technology for public awareness is the “Can You See Me?” online campaign carried out by A21, a global anti-human trafficking organization based in the United States. The main goal of this campaign is to educate the wider public on recognizing the signs of human trafficking and where to report it²⁵⁹. Technology is also widely used to enhance awareness and advocacy efforts in the recruitment and empowerment of workers. Frequently used messaging applications, social media platforms, and specially designed worker recruitment and empowerment platforms provide workers with information about labor rights, including the right to organize, enable access to legal and social services, and facilitate connections with legitimate employers and workplaces. Some technological tools offer responsible employment training for managers, provide safe complaint mechanisms for workers, conduct surveys among workers, and allow them to give feedback on recruitment and work experiences. One promising example in this field is the Polaris organization in the United States. Within the framework of the Nonechka project, Polaris collaborates with its technology partner Ulula, which enables farmworkers in Mexico and currently in the U.S. to share information about risky recruitment and employment processes. The collected data helps Polaris shape prevention strategies and informs workers about how to access local social services concerning their rights, wages, working conditions, emergencies, transitional or long-term services²⁶⁰.

²⁵⁹ Official website of A21 <https://www.a21.org/>

²⁶⁰ Official website of the POLARIS “Nonechka” project <https://polarisproject.org/resources/nonechka/>

The issue of protecting victims of human trafficking – Digital technology tools can play a crucial supportive role during the access and recovery phases for victims of human trafficking. These technologies use various methods and platforms to identify victims and locate them online, as well as enable self-reporting of exploitation. For example, the Canadian NGO Centre for Child Protection (C3P) operates a web browser called “Project Arachnid,” which searches for child sexual abuse material (CSAM). When such material is detected, C3P sends a notification to the provider to remove the content. Additionally, the NGO Thorn develops AI-powered tools that assist law enforcement agencies in detecting CSAM and investigating child sex trafficking.

Digital investigative methods, particularly those employing artificial intelligence, play a significant role in the detection, investigation, and prosecution of human trafficking. At the same time, low-tech communication tools like messaging apps, SMS, and phone channels enable victims to communicate with service providers in real time.

Successful tools for improving services to victims include hotlines for victim resources, virtual peer community spaces, and technologies that facilitate easy access to financial inclusion resources. There are also online platforms that enhance training and technical support for professionals working with victims and survivors, as well as managing the criminal justice system. Many of these mechanisms come in the form of mobile applications and use web and cloud-based solutions for victim services. For instance, the “GraceCity” app, developed by human trafficking lawyers in Sacramento, California, USA, provides victims and survivors with

detailed information about community resources available in their areas. This app covers thousands of first responders and connects users with useful resources such as NGOs, medical professionals, social workers, and therapists operating nearby.

Technologically advanced interventions are critically important for overcoming challenges related to victim identification, outreach, and intervention. These tools enable emergency response by providing accessible, secure, and more efficient real-time communication channels tailored to the individual's situation and unique needs.²⁶¹

The issue of data collection and processing – As previously noted, the collection, analysis, and sharing of data are key components in the use of digital technologies for preventing, detecting, and reducing cases of human trafficking. Various stakeholders in this field—governments, international organizations, civil society groups, private sector representatives, and information technology experts—have developed tools and initiatives to collect and share data in support of investigation and prosecution processes.

For example, while social media and other communication platforms serve as important sources of information for law enforcement agencies, analyzing the vast volumes of data from these sources often requires significant time and effort. However, technologies such as artificial intelligence algorithms, machine learning, and natural language processing enable the processing of this data to uncover patterns related to human trafficking cases and

²⁶¹ Graebner L. Nonprofit Coffee House Fights Sex Trafficking // Official website of the California Health Report. March 6, 2016
<https://www.calhealthreport.org/2016/03/06/nonprofit-coffee-house-fights-sex-trafficking/>

to monitor trends. These developed digital mechanisms enhance the efficiency of traditional data collection methods for investigative and operational purposes and facilitate more timely and analytical decision-making by entities working in this field. These technologies expand the capacity to operate in real-time within the fight against human trafficking.

Nevertheless, existing reports indicate that many non-governmental organizations (NGOs) lack access to these tools. Reasons include a shortage of technical knowledge, resources, and funding, as well as limited experience in applying these technologies. Therefore, there is a need for a deeper understanding of the needs and barriers for NGOs to more effectively use digital tools.

Digital technologies also allow investigators to perform pattern analyses based on both structured and unstructured data from social media and other sources. Through such analyses, human traffickers' online behaviors, and the platforms and profiles they use to target victims can be identified. For example, the Counter-Trafficking Data Collaborative (CTDC), established by the International Organization for Migration, ensures the collection and sharing of human trafficking data on a unified, open, and centralized online platform. This initiative consolidates data from organizations operating in various countries, thereby increasing transparency at the global level and promoting a scientific and evidence-based approach to combating human trafficking.

The goal of CTDC is to remove barriers to data sharing and to provide the anti-human trafficking community with reliable information. CTDC offers anonymized aggregated and individual-

level data that can be used to monitor human trafficking trends worldwide.

The collection and sharing of data in combating human trafficking involves a multifaceted and multidisciplinary approach. Effective cooperation in this area should be encouraged among various stakeholders, including non-governmental organizations, survivor-led groups, individuals with lived experience of trafficking, as well as intelligence and investigative agencies. Data is crucial for identifying cases of human trafficking, prosecuting offenders, and mapping the operations of transnational criminal networks.

Global platforms like the "Traffic Analysis Hub" use artificial intelligence to integrate large-scale databases, enabling the monitoring of human trafficking trends and sharing information with law enforcement agencies. The analysis of big data helps reduce reliance on individual victim data and testimonies, thus enhancing the efficiency of investigations.

However, the extensive collection and analysis of data raise important concerns regarding privacy, data security, and the potential misuse of information. To mitigate these risks, it is essential to uphold ethical data collection principles, protect individuals' privacy rights, and implement appropriate data protection measures.

The role of financial sector entities - The financial sector also plays an important role in combating human trafficking. According to the International Labour Organization, human trafficking generates approximately 236 billion dollars in illegal profits each year²⁶². Both traditional and digital assets (such as cryptocurrency)

²⁶² Roden R. Traffickers taking \$236 billion in illegal profits at victims' expense // Official website of the Hope For Justice. March 21, 2024

in all forms of currency can be used for money laundering. This creates a need for a multidimensional approach that requires legislative measures, effective cooperation among justice and financial sectors, technological innovations, and the application of ethical approaches to detect their criminal misuse. The role of the financial sector is not limited to supporting regulatory frameworks but also relies on implementing advanced and forward-looking practices in corporate responsibility.

Illegal profits derived from human trafficking may come into contact with formal financial systems at any stage of this crime. Therefore, it is essential for financial institutions to actively manage the risks of technology-facilitated human trafficking, and regularly train their staff on financial indicators and methods used by traffickers for money laundering.

Effective coordination in this field should involve not only law enforcement agencies but also technology companies, financial institutions working directly with victims, frontline workers, and other sector specialists. Targeted training programs should be developed to enhance their ability to identify human trafficking-related financial transactions, know when and how to intervene, and detect when a third party is benefiting from someone else's exploitation.

At the global level, the Financial Action Task Force (FATF) is the main standard-setting body establishing international standards for combating money laundering, terrorism financing, and the financing of weapons of mass destruction. Currently, over 200

<https://hopeforjustice.org/news/traffickers-taking-236-billion-in-illegal-profits-at-victims-expense/>

countries have adopted FATF recommendations, committing to identify, assess, understand, and effectively mitigate money laundering and illicit financial risks.

Since 2019, FATF has developed specific guidelines on assessing and mitigating risks related to digital assets and digital asset service providers, offering concrete recommendations to member jurisdictions regarding cryptocurrency regulation. In this context, countries are advised to adapt FATF recommendations to their national characteristics and legal systems.

By analyzing the traces of digital financial transactions conducted by human traffickers, it is possible to uncover broader criminal networks, making the legalization of proceeds from human trafficking more difficult. Therefore, the responsible application of technological innovations and close institutional cooperation among government agencies, financial institutions, law enforcement, civil society representatives, and experts with practical experience play a crucial role in identifying illicit financial activities related to human trafficking and protecting financial systems from human trafficking, money laundering, terrorism financing, and other serious financial crimes.²⁶³

The role of civil society subjects – NGOs play a crucial role as both primary users and proactive actors in the development of technological tools, algorithms, and software to combat human trafficking. They extensively utilize digital technologies to facilitate easier access for survivors of trafficking to resources, online

²⁶³ The Financial Action Task Force (FATF). Guidance for a risk-based approach: virtual assets and virtual asset service providers. France, Paris Cedex, June 2019, 59 p., p.23 <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/RBA-VA-VASPs.pdf>

counseling, and support services. NGOs also have strong partnership and coordination opportunities with technology companies, government agencies, survivors, and community-based organizations to promote and expand the use of mobile applications and other technological interventions against human trafficking. By leveraging existing collaboration platforms, these organizations can advocate for the development of standardized response mechanisms, ensure the confidentiality of survivors' data during the implementation of technological tools against trafficking, and address other ethical and legal concerns related to the use of technology.

Within the framework of the UN Global Compact on Decent Work in Global Supply Chains, the collaboration between NGOs and international organizations has resulted in the creation of the “Interactive Map of Anti-Trafficking Organizations for Businesses” platform. This user-friendly database covers global and local initiatives and organizations through which business entities can partner in the fight against human trafficking²⁶⁴. The mentioned map allows NGOs to identify specific industry initiatives to combat human trafficking using a filtering tool based on industry sector, geographic region, or specific issue. This allows NGOs to more effectively and efficiently conduct their coordination, research, public awareness, and prevention activities.

The role of technology and e-commerce entities - The technology industry presents both opportunities and risks in the fight

²⁶⁴ U.S. Department of State - Office to Monitor and Combat Trafficking in Persons. 2024 Trafficking in Persons Report. June 2024, 91 p., p.20
https://www.state.gov/wp-content/uploads/2025/02/TIP-Report-2024_Introduction_V10_508-accessible_2.13.2025.pdf

against human trafficking. User-friendly and functionally simple applications provide traffickers with convenient platforms to communicate, advertise, and coordinate illegal activities. Many technology companies take measures to mitigate these risks, but continuous efforts are needed to strengthen security systems, effectively moderate content, and closely cooperate with law enforcement to prevent the criminal misuse of technology.

Technology, especially through data analytics and algorithmic tools, can play a crucial role in identifying human trafficking cases, monitoring suspicious and illegal activities, and reporting these to law enforcement agencies. Technology companies should be key actors in combating trafficking by protecting victims and at-risk individuals on their platforms. They invest in advanced language models and machine learning algorithms to create tools that facilitate law enforcement work. These tools can identify, translate, and categorize keywords used by traffickers, exposing transnational networks in investigations conducted in multiple languages. Additionally, other machine learning tools can combine data and transport patterns to track traffickers' behavioral models.

Such technological tools enhance cooperation and help fill gaps in countries lacking sufficient monitoring resources. Developers should focus on addressing specific problems and scenarios related to trafficking when creating anti-trafficking applications.

At the same time, caution is necessary when using artificial intelligence and facial recognition technologies. These technologies are intended to complement, not replace, existing methods. Developers, policymakers, and leaders in the anti-trafficking field

must pay particular attention to ensuring data privacy and protecting individuals' rights during information sharing processes.

Role of national governments - Governments bear the responsibility of regulating the use of technology and implementing anti-trafficking measures, including efforts to prevent the misuse of online resources for human trafficking purposes. To more effectively prevent and combat trafficking, states must guide technology companies through legislative and regulatory frameworks that ensure stronger impacts in the areas of privacy, security, and innovation. However, governmental approaches to the challenges emerging in the digital era have remained fragmented due to the rapid development and wide reach of digital technologies. Inconsistent policies and regulatory regimes complicate the fight against technology-facilitated crime, especially in light of the transnational and multi-jurisdictional nature of such offenses. Some governments have begun to recognize the importance of regulating digital platforms as part of broader national priorities—including national security, economic development, and the protection of human rights—and have started developing relevant policies for the production, implementation, and use of digital technologies. International and domestic cooperation and coordination are crucial to obstruct the continued operations of criminal actors. Nevertheless, state investment in digital technologies for the global fight against human trafficking remains limited. The private sector and civil society, including experienced stakeholders, play a vital role in identifying areas for additional publicly funded research and development to ensure technology evolves positively and user safety is prioritized. According to the OSCE's Technology Against

Trafficking: Analysis of Tech Tools Used in the Fight Against Human Trafficking report, only 9% of the 305 technological tools used to combat human trafficking were developed with public investment²⁶⁵. Consideration should also be given to how best to develop and share existing technological tools in regions of the world that lack such tools.

Law enforcement agencies are tasked with combating human trafficking through the monitoring of online platforms, the investigation of suspicious activities, and the prosecution of perpetrators, all aided by technological tools. To actively investigate trafficking cases, law enforcement may continuously explore new strategies that utilize technological innovations for the collection of evidence. For proactive investigations, agencies can focus on enhancing internal capacities to integrate data analytics and artificial intelligence tools into their workflows. In doing so, they should collaborate and coordinate with NGOs and technology companies during the design, training, and data-sharing stages of tool development, while also ensuring privacy safeguards are in place. Law enforcement agencies have found ways to utilize technology to detect, track, and monitor illicit activities by tracing digital footprints. These footprints may include visited websites, published social media posts, and other forms of online activity, which help build a clearer profile of a trafficker's identity, location, and criminal behavior. Such publicly accessible digital evidence often proves valuable in building human trafficking cases. Examples of how law

²⁶⁵ OSCE - Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings. Leveraging innovation to fight trafficking in human beings: a comprehensive analysis of technology tools. Vienna, May 2020, 78 p., p.27
https://www.osce.org/files/f/documents/9/6/455206_1.pdf

enforcement uses online data to support criminal investigations include the following:

- In September 2023, the Netherlands coordinated a three-day investigation targeting online criminal activities facilitating human trafficking, with the support of EUROPOL. Law enforcement agencies from 26 countries, in collaboration with representatives from the European Labour Authority, the European Union Agency for Law Enforcement Training (CEPOL), INTERPOL, the OSCE, and the International Justice Mission, focused on identifying the use of online platforms and social media to recruit victims of sexual and labour exploitation. The operation led to the identification of 11 suspected traffickers and 45 potential victims²⁶⁶.
- In 2023, Operation Synergia, led by INTERPOL, targeted human trafficking networks linked to cyber fraud hubs. Group-IB, a leading developer of cybersecurity technology, collaborated with INTERPOL and other law enforcement agencies through its Threat Intelligence and High-Tech Crime Investigation units. These teams collected and shared data that led to the identification of over 2,400 IP addresses associated with cybercrime activities. This intelligence ultimately resulted in the takedown of multiple illicit servers²⁶⁷.

²⁶⁶ Targeted: human traffickers luring victims online // Official website of the EUROPOL. October 12, 2023

<https://www.europol.europa.eu/media-press/newsroom/news/targeted-human-traffickers-luring-victims-online>

²⁶⁷ Group-IB contributes to INTERPOL-led “Operation Synergia II” to take down phishing, ransomware, and information stealers alongside 95 countries // Official website of the Group-IB. November 6, 2024

<https://www.group-ib.com/media-center/press-releases/operation-synergia-2/>

According to Interpol, in 2024, more than 60 law enforcement agencies from 50 countries participated in the search and seizure of over 1,300 malicious servers and electronic devices. As a result, 70 percent of identified command-and-control servers linked to cybercrime operations were shut down, while the remaining 30 percent are under ongoing investigation. Law enforcement bodies must be equipped with more robust resources to effectively utilize technology in combating human trafficking and investigating related offenses. This necessitates increased investment in personnel, training, and software infrastructure.

Officers should receive specialized training in monitoring and assessing online platforms, as well as in enhancing their technical competencies. It is equally important to establish dedicated cybercrime units, expand capabilities in data analysis, and strengthen access to tools for decrypting protected digital content. Collaboration protocols with NGOs and private sector partners enable the exchange of information and support the continued development and implementation of victim-centered, trauma-informed technological tools.

When designing technological solutions, it is essential to consider multilateral knowledge-sharing practices to prevent traffickers from exploiting existing legislative and institutional gaps among law enforcement agencies. Governments should also prioritize closing such gaps by focusing on the implementation of the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

Finally, law enforcement agencies that have access to victims' personal data must adhere to established safeguards regarding the collection and storage of such sensitive information.

3.1. Legislation and national experience of the Republic of Azerbaijan

Practice of the Republic of Azerbaijan – human trafficking, being one of the most dangerous forms of transnational crime, has created new legal and institutional problems in the context of the rapid development of digital technologies in modern times. Digital technologies have created a favorable environment for criminals in terms of planning human trafficking, finding victims, organizing exploitation and concealing connections. In this regard, the legislation and institutional measures of the Republic of Azerbaijan on combating human trafficking should respond to the challenges of the digital age and take into account the forms of exploitation carried out through technology.

The national legal framework of the Republic of Azerbaijan in the field of combating human trafficking was formed by the Law “On Combating Human Trafficking” dated May 6, 2005²⁶⁸. This Law defines the concept of human trafficking, its main characteristics and the main principles of combating this crime. In Article 1 of the Law, the term “human trafficking” covers cases such as the purchase, sale, transportation, concealment or transfer of a person for the purpose of exploitation, and special attention is paid to means such as coercion, deception and unlawful pressure.

²⁶⁸ Azərbaycan Respublikasının “İnsan alverinə qarşı mübarizə haqqında” 28 iyun 2005-ci il tarixli, № 958-IIQ nömrəli Qanunu, maddə 1 <https://e-qanun.az/framework/10641>

Although this definition mainly covers classic forms of human trafficking, cases of human trafficking carried out through the use of digital technologies can also be considered within the framework of this norm. However, the lack of separate legal mention of the specific opportunities created by technology leads to a weakening of normative precision.

Article 144-1 of the Criminal Code of the Republic of Azerbaijan establishes specific legal elements of the criminal act of human trafficking. Since 2013, the legislation has specifically taken into account various forms of human trafficking, including the involvement of minors, cases carried out for the purpose of organ trafficking and trafficking in women. However, it is necessary to regulate the normative framework on cases of fraudulent recruitment for labor or sexual exploitation in the digital environment, especially through social networks, in a broader and technologically compliant manner. In this regard, in accordance with the Council of Europe Convention on Trafficking in Human Beings, the recognition of forms of exploitation carried out through technological means and their full integration into the normative legal framework of Azerbaijan should be ensured²⁶⁹.

The existence of institutional mechanisms is of great importance in the effective fight against digital human trafficking. The activities of the National Coordinator for Combating Human Trafficking of the Republic of Azerbaijan and the special police agencies operating under his supervision have accumulated rich practical experience in this area. According to the annual reports of

²⁶⁹ Council of Europe Convention on Action against Trafficking in Human Beings, Council of Europe Treaty Series - No. 197, Warsaw, 2005 <https://rm.coe.int/168008371d>

the Main Department for Combating Human Trafficking of the Ministry of Internal Affairs, in 2024, 124 Telegram, Instagram and TikTok accounts related to the propaganda of human trafficking were identified and closed. In addition, 44 criminal facts committed using information technologies were discovered and criminal cases were initiated, and 156 social media accounts involved in the propaganda of human trafficking were exposed²⁷⁰. Last year, all 91 people who became victims of human trafficking were Azerbaijani citizens. In 2024, three Azerbaijani citizens were arrested in Cyprus and Guatemala on charges of human trafficking, and at the same time, one of the people readmitted to Azerbaijan was found to be a victim of human trafficking in Greece²⁷¹. This statistical information shows that the deception and attraction of victims through social networks and messaging applications reveals the real scale of the digital threat. There are also certain initiatives to increase the legal and technological capabilities to combat digital human trafficking in the Republic of Azerbaijan.

For the first time, the role of information and communication technologies in this form of crime was separately emphasized in the “National Action Plan on Combating Human Trafficking for 2020–2024” and it was recommended to strengthen cooperation in the field of technology, use artificial intelligence and automated tracking

²⁷⁰ Bu il insan alverinin təbliğatına görə 124 teleqram, instaqram və tiktok hesabı bağlanıb // “Newscenter.az” elektron xəbər portalı <https://icma.az/news/bu-il-insan-alverinin-tebligatina-gore-124-teleqram-instagram-ve-tiktok-hesabi-baglanib-740183>

²⁷¹ İnsan alverini təbliğ edən “TikTok” hesabları bağlandı // “Bizim.Media” elektron xəbər portalı <https://bizim.media/az/cemiyet/249657/nsan-alverini-teblig-eden-ldquotiktokrdquo-hesablari-balandi-ndash-rsmnbsp/>

systems²⁷². This document plans to introduce digital monitoring tools and create special technical capabilities for tracking “Darknet” resources. At the same time, the role of civil society and non-governmental organizations in identifying victims in the digital environment and providing them with legal assistance is increasing. Non-governmental organizations provide online psychological and legal support services to victims, and “hotline” platforms have taken a digital form. These practices indicate the formation of a synergy model between state and non-state actors in the prevention of digital crime²⁷³. However, detecting and collecting evidence of human trafficking in the digital environment poses specific technological and procedural challenges.

It is very important for law enforcement agencies to have IT specialists. These specialists provide technical assistance to law enforcement agencies in the process of collecting, verifying and using digital evidence in court. Currently, the legal basis for digital evidence in Azerbaijan is not fully developed and there are certain gaps in this area.

International experience shows that technology alone is not enough in the digital fight against human trafficking, but updating legal regulations, cooperation between institutions and information sharing are also very important. In this regard, Azerbaijan should strengthen its cooperation with international organizations such as

²⁷² Azərbaycan Respublikası Prezidentinin ““Azərbaycan Respublikasında insan alverinə qarşı mübarizəyə dair 2020–2024-cü illər üçün Milli Fəaliyyət Planı”nın təsdiq edilməsi haqqında 22 iyul 2020-ci il tarixli, № 2173 nömrəli Sərəncamı <https://e-qanun.az/framework/45470>

²⁷³ Mustafayeva M. İnsan alveri ilə mübarizədə QHT-lərin rolu və rəqəmsal imkanlar. Beynəlxalq və Hüquqi Araşdırmalar Jurnalı, 2021, №4, s. 94.

Interpol and Europol, and increase the exchange of information on digital crimes. These steps will contribute to the exposure of international criminal networks and the more effective use of digital evidence.

In conclusion, although Azerbaijan has had some successes in the fight against human trafficking, more precise legislation and technological capabilities regarding digital tools and forms of exploitation need to be created. In this regard, the fields of law, technology, human rights, social policy and international cooperation should work together.

It can be concluded that the Republic of Azerbaijan has a regulatory and legal framework against human trafficking, but it lacks components appropriate for the digital environment. The legal framework for combating human trafficking in our country is regulated by the following documents:

- Article 144-1 of the Criminal Code recognizes human trafficking as a crime;
- The Law “On Combating Human Trafficking” of 2005 defines the principles of victim protection, preventive measures and international cooperation;
- National Action Plans (2009–2013, 2014–2018, 2020–2024) establish a strategy for combating it.

However:

- these documents do not address concepts such as human trafficking in the digital environment, exploitation via the Internet, child trafficking on social networks, as well as deep web and darknet (2021 Report of the National Coordinator for

Combating Human Trafficking of the Republic of Azerbaijan, p. 7);

- digital prevention and investigation practices have not been developed in the country, which creates an institutional gap. Specialized agencies in combating human trafficking – mainly the Main Department for Combating Human Trafficking under the Ministry of Internal Affairs – are still using classical methods. Digital investigative tools (e.g. artificial intelligence analysis, IP tracking, platform regulation) are either not applied or are applied to a very limited extent;

- official reports also note that technical resources for detecting online exploitation are insufficient and that the methodology for working with digital evidence in law enforcement agencies is not sufficiently developed²⁷⁴.

In addition, Azerbaijan has ratified the UN Convention on Transnational Organized Crime (2000) and its Additional Protocol on Trafficking in Human Beings (Palermo Protocol). It also acceded to the Council of Europe Convention on Action against Trafficking in Human Beings in 2005. These documents provide for broad concepts that also cover digital forms of exploitation. However, Azerbaijani legislation has not reconciled these concepts with digital technologies in the local context. This indicates that there is a normative gap in the state's international legal obligations and domestic implementation practice. It should be noted that these gaps are not limited to the legal regulation of the interaction between human trafficking and new technologies, but are also related to the

²⁷⁴ Azərbaycan Respublikasının Daxili İşlər Nazirliyi. İnsan alverinə qarşı mübarizə üzrə illik hesabat, 2022, s. 12

methodology for applying international legal norms on combating human trafficking to national law. Such gaps exist not only in the national legislation and practice of the Republic of Azerbaijan, but also in the national legal systems of almost all other states. In the context of Azerbaijan, the issues of high-quality implementation of international legal obligations by state bodies are reflected in detail in the reports of the Council of Europe Group of Experts on Combating Trafficking in Human Beings.

The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Azerbaijan on 1 October 2010. The implementation of the Convention by the member states is regularly monitored by a group of experts (GRETA). GRETA’s first evaluation report was published on 23 May 2014 and the second evaluation report on 23 November 2018²⁷⁵.

The Council of Europe Convention on Action against Trafficking in Human Beings (the “Convention”) entered into force on 1 February 2008. Article 36 of the Convention establishes the responsibility of GRETA (the Group of Experts on Action against Trafficking in Human Beings) to monitor the implementation of the Convention by the Parties and to draw up reports evaluating the measures taken by each Party.

²⁷⁵ Council of Europe Group of Experts on Action Against Trafficking in Human Beings - GRETA. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan - GRETA(2018)17 (Second evaluation round). France, Strasbourg Cedex, 2018, 88 p. <https://rm.coe.int/greta-2018-17-fgr-aze-en/16808f11a5>

In accordance with Article 38(1) of the Convention, GRETA shall carry out the evaluation procedure in rounds. At the beginning of each round, GRETA shall select specific provisions of the Convention on which the evaluation will be based.

The first round of evaluation provided a general overview of the implementation of the Convention by the States Parties. The second round of evaluation assessed the impact of legislative, policy and practical measures to prevent trafficking in human beings, protect the rights of victims of trafficking and prosecute traffickers, paying particular attention to new trends and the work done to reduce the vulnerability of children to trafficking.

GRETA decided that the third round of evaluation would focus on the victim-centred, human rights-based approach to the rehabilitation and redress of victims of trafficking, as well as access to justice and effective remedies. These issues are reflected in Articles 12, 15, 23, 26, 27, 28, 29, 30 and 32 of the Convention.

Access to justice and remedies depends primarily on the following conditions being met and the protection of victims of trafficking: recovery and reflection periods, the provision of material, psychological, medical and legal assistance, the availability of translation and interpretation facilities, the regulation of the victim's stay in the country, the right to seek and enjoy asylum, and respect for the principle of non-refoulement. These preconditions were extensively examined during the first and second evaluation rounds of the Convention. As a result, GRETA requested each State party to provide updates on the implementation of previous recommendations through the country-specific part of the questionnaire.

Following the second evaluation round of the Council of Europe Convention on Action against Trafficking in Human Beings, Azerbaijan has continued to develop its legislative, institutional and policy framework in the field of combating trafficking in human beings. The amendments to the legislation were mainly aimed at ensuring the right of foreign victims of trafficking to stay and work in Azerbaijan, facilitating victims' access to psychological assistance, as well as exempting Azerbaijani victims from the state fee when issuing a certificate confirming their right to return to Azerbaijan. In addition, a new National Action Plan on Combating Trafficking in Human Beings for 2020–2024 was adopted. Also, in April 2022, relevant changes were made to the tasks and decision-making procedures of the Inter-Agency Commission implementing the National Referral Mechanism for Victims of Trafficking in Human Beings²⁷⁶.

Azerbaijan is mainly a country of origin for victims of human trafficking, but also serves to some extent as a country of destination. The number of identified victims during 2018–2022 was 472, of whom 94% were women trafficked for the purpose of sexual exploitation. Only nine children were identified as victims of human trafficking. The vast majority of victims are Azerbaijani citizens who have been exploited abroad, mainly in neighboring countries (Turkey, the Russian Federation, Iran). In addition, four foreign victims (from Tajikistan, Uzbekistan, Nigeria, and the Russian Federation) were identified.

²⁷⁶ Azərbaycan Respublikasının Nazirlər Kabinetinin ““İnsan alveri qurbanları ilə bağlı Milli İstiqamətləndirmə Mexanizmi Qaydaları”nın təsdiq edilməsi barədə” 11 avqust 2009-cu il tarixli, № 123 nömrəli Qərarı <https://e-qanun.az/framework/18248>

The report of the third evaluation round of the Convention extensively analyzed the access of victims of trafficking to justice and effective legal remedies, and carefully assessed the implementation of the substantive and procedural obligations of the Convention in this area. In Azerbaijan, legal representation of victims of trafficking in human beings in criminal proceedings is mainly provided by a lawyer who receives a monthly fee for this purpose on the basis of an agreement concluded between the Ministry of Internal Affairs and the Bar Association. This practice reveals the need to increase the number of lawyers providing legal services to victims of trafficking in human beings in the future. In addition, Azerbaijan should take additional steps towards vocational training programs, awareness-raising among potential employers, promotion of micro-businesses and social enterprises, as well as expansion of public-private partnerships, in order to strengthen the effective integration of victims of trafficking in human beings into the labor market and their economic and social rehabilitation.

To date, no compensation has been awarded to any trafficking victims by criminal or civil courts. This may be linked to victims not being informed about their right to claim compensation, the lack of provision of legal aid to them, as well as the absence of effective financial investigations aimed at identifying and confiscating criminal proceeds. Additionally, legislation requires advance payment of state fees for compensation claims within criminal or civil proceedings without allowing trafficking victims to apply for a waiver. Given the major difficulties faced by victims of human trafficking in obtaining compensation, GRETA recommends that the Azerbaijani government take the necessary measures to ensure that

these individuals can effectively exercise their right to compensation. These measures include ensuring that the collection of evidence regarding harm suffered by victims is an integral part of criminal investigations, establishing a real and accessible state compensation mechanism, promoting compensation opportunities among trafficking victims, and increasing awareness of prosecutors and judges in this field. GRETA positively notes an increase in the number of convictions in trafficking cases and a decrease in suspended sentences. However, it calls on state authorities to strengthen efforts in investigating and prosecuting cases of trafficking for labor exploitation, including enhancing cooperation between labor inspectors and police, as well as ensuring systematic financial investigations aimed at identifying and confiscating criminal assets in trafficking cases. Azerbaijani legislation includes a specific provision that prohibits victims of trafficking from being punished for illegal acts they are forced to participate in. However, there are reports of victims of trafficking being fined for prostitution-related activities and of foreign migrants with signs of trafficking being deported without proper investigation. GRETA considers that the Azerbaijani authorities should continue to strengthen their efforts to raise awareness among police officers, prosecutors and judges of the importance of the principle of immunity from liability for all offences they are forced to commit, including administrative and migration-related offences, and to ensure that this principle is effectively applied in practice. Azerbaijani legislation provides for various protection measures that can be applied to victims of trafficking and witnesses. However, GRETA was informed that trafficking victims are often forced to give testimony in court in the

presence of the accused. In this regard, GRETA calls on the Azerbaijani authorities to make full use of existing protection measures during investigation, trial, and post-trial phases to prevent possible retaliation or intimidation against trafficking victims and witnesses. Research shows significant progress has been made in implementing previous GRETA recommendations in selected areas. However, the progress in preventing and combating trafficking for labor exploitation since the second evaluation remains limited. Therefore, GRETA calls on the Azerbaijani authorities to reinstate workplace inspections by labor inspectors, review their powers to include unregistered companies, and allocate sufficient human and financial resources to allow inspectors to exercise their powers effectively. Furthermore, competent authorities should review the regulatory framework related to migrant workers' employment to reduce their vulnerability to trafficking, exploitation, and abuse, regulate recruitment and temporary employment agencies, and ensure effective oversight. While GRETA welcomes steps taken to improve victim identification, it is concerned about the absence of proactive identification mechanisms in Azerbaijan. Most identified victims are persons exploited abroad. GRETA also notes insufficient efforts to identify trafficking victims among irregular migrants and asylum seekers. Therefore, GRETA calls on the Azerbaijani authorities to further improve victim identification, involve more state and non-state actors in the process, and increase active identification efforts among internal trafficking victims—particularly migrant workers, irregular migrants, and asylum seekers. Additionally, GRETA considers that the Azerbaijani authorities should strengthen efforts to ensure trafficking victims

receive support and assistance for as long as necessary to facilitate their reintegration and recovery. Authorities must ensure that assistance measures, including placement in state shelters, are not conditional on victims' willingness to cooperate with law enforcement agencies.

Although the number of child victims of trafficking in persons is low, GRETA notes that the capacity of social service centers to protect children at risk of trafficking is insufficient, calling on the Azerbaijani authorities to strengthen their efforts in preventing child trafficking, combating it, identifying child victims, and providing them with adequate assistance. At the same time, the restrictive legislation regulating the activities and funding of non-governmental organizations in Azerbaijan may unjustifiably limit their ability to prevent trafficking in persons, identify victims, and provide assistance. Therefore, to effectively achieve the objectives of the Council of Europe Convention, the Azerbaijani government should establish a strategic partnership with civil society institutions, facilitate efficient registration procedures for NGOs working in the field of combating trafficking, provide them with adequate financial resources, including access to foreign donor funds, and support their involvement in the identification of trafficking victims and the provision of assistance. According to GRETA's second periodic report, on November 9, 2018, the Committee of the Parties to the Convention adopted recommendations to the Azerbaijani authorities and requested a report on their implementation within one year. The Azerbaijani government submitted its response report, which was reviewed and made public at the Committee of the Parties' 26th meeting on June 12, 2020. Subsequently, on October 6, 2021,

GRETA sent a questionnaire to the Azerbaijani authorities within the framework of the third evaluation round, with a deadline for responses set for February 4, 2022. The authorities' reply was accepted on February 10, 2022.

Since GRETA's second evaluation report on Azerbaijan, significant progress has been made in the legislative framework for combating trafficking in human beings. The Law "On Psychological Assistance" of 7 December 2018 provides victims of trafficking with the right to receive free psychological assistance²⁷⁷. In addition, amendments to the Migration Code in June 2019 added a number of provisions clarifying the conditions for foreigners and stateless persons who are victims of human trafficking to stay in Azerbaijan, as well as exempting them from the obligation to obtain a work permit²⁷⁸. In March 2019, an amendment was made to Article 1 of the "Law on Youth Policy," which envisages including young people who are victims of human trafficking (up to 28 years old) in the risk group. Later, in May 2020, an amendment to the "Law on State Duty" was adopted, exempting Azerbaijani citizens who are victims of human trafficking from paying state duty for the certificate issued for their return to Azerbaijan if they do not have a valid passport²⁷⁹.

In addition, in order to ensure the uninterrupted and effective operation of the Social Service Agency, the Decree No. 387 of the President of the Republic of Azerbaijan dated December 10, 2018,

²⁷⁷ Azərbaycan Respublikasının "Psixoloji yardım haqqında" 7 dekabr 2018-ci il tarixli, № 1385-VQ nömrəli Qanunu <https://e-qanun.az/framework/41280>

²⁷⁸ Azərbaycan Respublikasının Miqrasiya Məcəlləsi (Azərbaycan Respublikasının 2013-cü il 2 iyul tarixli 713-IVQ nömrəli Qanunu ilə təsdiq edilmişdir) <https://e-qanun.az/framework/46959>

²⁷⁹ Azərbaycan Respublikasının "Dövlət rüsumu haqqında" 4 dekabr 2001-ci il tarixli, № 223-IIQ nömrəli Qanunu <https://e-qanun.az/framework/2860>

provided for the implementation of social rehabilitation of victims of human trafficking by the Sustainable and Operative Social Security Agency.

The institutional framework in the field of combating human trafficking remains largely unchanged. The function of the National Coordinator for Combating Human Trafficking is performed by the First Deputy Minister of Internal Affairs. The Coordinator is supported by a Working Group consisting of representatives of relevant state agencies. Non-governmental organizations participate in the activities of the Working Group with observer status.

The National Coordinator annually submits a report on the measures taken to combat human trafficking to the President of the Republic of Azerbaijan, the Milli Majlis and the Commissioner for Human Rights.

The Inter-agency Commission implementing the National Referral Mechanism (NRM) for victims of human trafficking consists of representatives from the Ministries of Internal Affairs, Justice, Health, Youth and Sports, Labor and Social Protection of the Population, the Ministry of Culture, the Prosecutor General's Office, the State Customs Committee, the State Committee for Family, Women and Children's Issues, the State Security Service, the State Border Service, the State Migration Service and the State Tourism Agency.

The Cabinet of Ministers' Resolution No. 174 dated April 26, 2022, defined the Commission's decision-making procedure in detail and provided for the inclusion of NGOs specializing in combating human trafficking in the Inter-agency Commission. These changes also allow for the involvement of representatives of international

organizations operating in this field in the activities of the Commission.

According to the Regulations on the NRM, the Inter-agency Commission must hold a meeting at least once a year under the leadership of the National Coordinator. However, due to the COVID-19 pandemic, no physical meetings were held in 2020–2021, with only online discussions between some members.

In its opinion on GRETA’s draft report, the Azerbaijani authorities stated that in January 2023, draft rules on the selection of NGOs to be included in the Commission were prepared and submitted to the Cabinet of Ministers for approval. However, since no NGO has been selected yet following the amendment made in April 2022, no meeting of the Inter-Agency Commission has been held.

GRETA welcomes Decision No. 174 of 26 April 2022 and calls on the Azerbaijani authorities to finalise the process of selecting NGOs without delay.

According to the position of the Azerbaijani authorities, there is no need to establish an independent National Rapporteur on human trafficking because the National Coordinator and the bodies operating under their authority supervise the activities of state institutions combating human trafficking. However, as noted in GRETA’s second evaluation report on Azerbaijan, the key characteristics of the National Rapporteur mechanisms envisaged in Article 29(4) of the Council of Europe Convention on Action against Trafficking in Human Beings include the capacity to critically monitor the efforts and effectiveness of all state institutions, including national coordinators, as well as to maintain continuous

exchanges with civil society, the research community, and other relevant stakeholders. The separation of monitoring functions from executive functions allows for an objective assessment of legislation, policies, and measures in the fight against human trafficking, identification of existing gaps, and comprehensive legal and policy recommendations. Repeating its recommendation in the second evaluation report, GRETA considers that Azerbaijani authorities should reconsider the establishment of an independent National Rapporteur or the application of an alternative mechanism as an independent organizational body to ensure effective monitoring of state institutions' anti-trafficking activities and to provide recommendations to relevant persons and institutions. Additionally, based on a request from the Main Department for Combating Human Trafficking of the Ministry of Internal Affairs, in January 2018, the International Centre for Migration Policy Development (ICMPD) analyzed Azerbaijan's third National Action Plan on combating human trafficking and prepared a report²⁸⁰. The report emphasizes that the content of the National Action Plan (NAP) generally complies with relevant international standards; however, proposals were made to improve its structure and to more clearly define strategic goals, objectives, and activities. In particular, it was recommended to develop a National Strategy on Combating Human Trafficking, upon which the NAP was based. Pursuant to Decree No. 2173 of the President of the Republic of Azerbaijan dated July 22,

²⁸⁰ Council of Europe Group of Experts on Action Against Trafficking in Human Beings - GRETA. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan - GRETA(2023)06 (Third evaluation round). France, Strasbourg Cedex, 2023, 57 p., p. 11

2020, the “Action Plan” was developed through consultations with relevant non-governmental organizations and international bodies, describing a total of 69 activities grouped into nine sections for the period 2020-2024. These sections are as follows:

1. Improvement of the legislative framework and institutional mechanisms;
2. Prevention;
3. Criminal prosecution;
4. Social rehabilitation and protection of human trafficking victims;
5. Assistance and protection for child victims of human trafficking;
6. Development of cooperation with other states, NGOs, international organizations, and the private sector;
7. Training;
8. Awareness raising;
9. Coordination of entities involved in the implementation of the NAP, as well as mobilization of support and resources in the fight against human trafficking.

GRETA notes that the quality of implementation of many recommendations needs to be enhanced. For example, although each activity has an assigned implementing body and timeline, there is no specific budget allocated. The implementation of measures outlined in the NAP is to be financed from the state budget funds allocated to each responsible ministry or institution, extrabudgetary funds, grants, and “other sources not prohibited by law.” According to the Azerbaijani authorities, it is unrealistic to specify a concrete budget for combating human trafficking because it is impossible to forecast

the volume of funds required for NAP implementation and the amount of extrabudgetary funding. GRETA believes that Azerbaijani authorities should allocate appropriate funds in the state budget for anti-human trafficking measures and carry out an independent evaluation of the NAP implementation after its term expires, both as a tool to assess the impact of the activities and to plan the next National Action Plan.

Victims of trafficking are often in great fear and confusion when they leave the control of their traffickers. They are helpless in the face of their traffickers because they do not know how to escape from this situation. Article 12 of the International Convention states that victims must be informed about their rights and the services available to them in a language they understand. Furthermore, according to Article 15 of the Convention, victims must receive information about judicial and administrative proceedings from the first contact in a language they understand.

Victims must be informed about the possibilities available to protect and assist them, the risks, the conditions for their stay in the country, the legal remedies, the criminal proceedings and the chances of obtaining compensation from the perpetrators. This information helps victims to assess their situation correctly and make appropriate decisions.

Many victims are isolated and have difficulty claiming their rights because they do not know the language of the country they are trafficked to. Therefore, the provision of translation services facilitates victims' access to rights and is essential for their access to justice. GRETA stresses the importance of accessible, high-quality and independent interpreters.

According to the rules on combating trafficking in human beings in Azerbaijan, any state agency that identifies potential victims must inform them of their rights and the measures taken. This information is also provided to victims during interviews conducted by the General Directorate for Combating Trafficking in Human Beings. Potential victims are provided with a consent form in Azerbaijani, English, Russian and Uzbek, which lists their rights. These rights include safe and free shelter, legal and medical assistance, psychological support, confidentiality, compensation and non-punishment as a victim. An important part of the legal framework in combating trafficking in human beings is the protection of the rights of victims.

Currently, under the law, various protection measures are provided to persons who agree to cooperate with the investigative authorities. These include the possibility of using a pseudonym, requesting closed-door trials, giving testimony via video and using video surveillance. Additional rights have been established, in particular, for foreign and stateless victims of trafficking in human beings. They have, for example, the right to time to reflect and recover, to remain in the country during the investigation period and even to obtain a temporary residence permit. They are also entitled to a safe return to their country of origin. If legal information is not provided in a language they understand, it is explained orally by professional interpreters contracted by the General Directorate for Combating Trafficking in Human Beings. GRETA was informed that interpreters are trained to protect the personal data of victims and to take into account their sensitivity.

For persons who are not living in shelters but are known to be victims of trafficking, the Assistance Centre for Victims of Trafficking in Human Beings provides information on legal and administrative procedures and provides the necessary support to protect their interests. Victims have the right to testify, present evidence, challenge decisions, receive information about decisions of state bodies, participate in court proceedings, demand compensation from the state, request reimbursement of expenses incurred, and appoint a legal representative. In addition, according to the Criminal Procedure Code, persons who do not speak Azerbaijani are provided with interpreter assistance during the investigation and trial stages. Interpretation is financed by the state and this service is provided by in-house court interpreters or professional interpreters engaged on a contractual basis.

Legal aid and free legal aid (Article 15) - The protection of victims of trafficking in human beings does not end with meeting their material needs, but also the protection of their rights is an important issue. In this regard, according to the second paragraph of Article 15 of the Council of Europe Convention on Action against Trafficking in Human Beings, States Parties must ensure that victims of trafficking in human beings have access to legal aid, including free legal aid. Given the complexity of judicial and administrative procedures, victims may be prevented from defending their rights without legal aid.

In addition, Article 6 of the European Convention on Human Rights also defines the main legal framework in this regard. If a person wishes to protect his rights in a civil case, but cannot afford to hire a lawyer, the State may be obliged to provide that person with

free legal aid. These obligations have also been confirmed in the decisions of the European Court of Human Rights.

In Azerbaijan, certain legal mechanisms exist in this direction. According to paragraph 3.1 of the Rules on the National Referral Mechanism, victims of trafficking in human beings shall be informed of their right to legal aid and shall be provided with such assistance.

The right of victims of trafficking in human beings to access justice is directly linked to the provision of their legal protection. According to the second paragraph of Article 15 of the Convention, each State Party shall ensure in its domestic law the right of victims of trafficking in human beings to legal aid and free legal aid. This is particularly necessary in view of the complexity of judicial and administrative procedures, since in many cases victims are unable to defend their rights. Although Article 6 (3)(c) of the European Convention on Human Rights provides for free legal aid in criminal cases, according to the case-law of the European Court of Human Rights, such assistance may also be considered essential in certain civil cases. Thus, courts may decide to provide legal aid in order to ensure access to justice for a person who lacks financial means.

There are also relevant provisions in Azerbaijani legislation in this regard. According to paragraph 3.1 of the Rules of the National Referral Mechanism for Combating Trafficking in Persons, victims of human trafficking must be informed about their rights to receive legal aid and must receive this assistance free of charge. In accordance with Article 20 of the Law “On Lawyers and Advocacy Activities”, legal aid must be provided by the state free of charge to persons without financial means. In practice, the organization of this

assistance is carried out on the basis of an agreement signed in 2015 between the Main Department for Combating Trafficking in Persons and the Bar Association. Within the framework of this mechanism, one lawyer represents victims at the investigation and trial stages for a monthly fee. According to official data, from 2018 to mid-2022, 184 victims of human trafficking were provided with legal aid by that lawyer at the investigation stage, and 246 during court proceedings²⁸¹.

The Azerbaijani government has taken several important legal steps to protect the rights of human trafficking victims and to expand their access to justice. The existing mechanisms in the field of judicial and legal assistance reflect the state's obligations in combating human trafficking. According to Article 20 of the Law "On Advocates and Advocacy Activity," free legal assistance is provided to individuals without financial means. This is extremely important for human trafficking victims to be able to defend their rights. In practice, this legal assistance is provided based on an agreement signed between the Main Department for Combating Human Trafficking and the Azerbaijan Bar Association. For this purpose, a selected lawyer receives a monthly fee and follows up on the cases. Statistics show that from 2018 until mid-2022, 184 victims benefited from this legal assistance during the investigation phase, and 246 during the court phase. Additionally, if a victim does not wish to be represented by the assigned lawyer, they may apply to the

²⁸¹ Council of Europe Group of Experts on Action Against Trafficking in Human Beings - GRETA. Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan - GRETA(2023)06 (Third evaluation round). France, Strasbourg Cedex, 2023, 57 p., p. 15

Bar Association to request the appointment of another lawyer. In this case, no proof of financial status is required from the victim; only a special declaration is signed. Unfortunately, the lawyer is appointed only to represent the victim during the criminal proceedings, and this legal assistance does not cover civil court cases. Another problem is the low number of lawyers specialized in human trafficking cases. According to available data, there are very few lawyers with experience in this field, and currently, there is no specialized training module on human trafficking within the ongoing training programs for lawyers.

Nevertheless, the Azerbaijani government states that topics related to human trafficking have already been included in the mandatory one-month training program for law graduates. In 2022, special advanced training courses were organized in this field through a joint initiative of the Ministry of Internal Affairs, the State Tourism Agency, and the Bar Association. Additionally, free legal aid and advisory services are provided to low-income and vulnerable groups, including human trafficking victims, through the Bar Association and the Justice Academy's legal clinic.

It should be noted that some of the lawyers providing legal advice are representatives of non-governmental organizations and the Center for Assistance to Victims of Human Trafficking. However, their lack of membership in the Bar Association creates a legal obstacle to their direct participation in court proceedings. In such cases, they refer victims to the Bar Association's contracted lawyers.

The mechanisms mentioned show that in the fight against human trafficking, not only the punishment of criminals, but also the

protection of the rights of victims is one of the main directions of state policy. Such activity is important and commendable in terms of protecting human rights.

Psychological assistance (Article 12) - Trafficking and exploitation can have serious psychological and physical consequences for victims, including mental health problems and loss of self-esteem. Victims of trafficking need psychological assistance to help them cope with the trauma they have experienced and to achieve sustainable recovery and social integration. Some victims require long-term therapeutic attention due to the violence they have suffered. Each victim of trafficking should undergo a clinical assessment, which includes an assessment of their specific readiness for therapy, conducted by an experienced clinician.

As mentioned in paragraph 14, the 2018 Law on Psychological Assistance guarantees the right of victims of trafficking to free psychological assistance, which may also be provided during the recovery and reflection period. However, the Azerbaijani authorities report that topics related to human trafficking have now been included in the one-month mandatory training program for prospective lawyers. In 2022, special training courses were organized in this area on the joint initiative of the Ministry of Internal Affairs, the State Tourism Agency and the Bar Association. In addition, free legal assistance and advisory services are provided to low-income and vulnerable groups of the population, including victims of human trafficking, through the legal clinic of the Bar Association and the Academy of Justice. It should be noted that some of the lawyers providing legal advice are representatives of non-governmental organizations and the Center for Assistance to Victims

of Human Trafficking. However, the fact that they are not members of the Bar Association creates a legal obstacle to their direct participation in court proceedings. In such cases, they refer victims to the contracted lawyers of the Bar Association.

The mechanisms mentioned show that not only the punishment of criminals, but also the protection of the rights of victims is one of the main directions of state policy in the fight against trafficking in human beings. These activities are an important and commendable approach in terms of protecting human rights.

According to the information provided by the Azerbaijani government, the Center for Assistance to Victims of Trafficking in Human Beings provided psychological assistance to 47 identified victims in 2018, 36 in 2019, 5 in 2020 and 29 in 2021. The Center also provided psychological assistance to potential or suspected victims of trafficking. The state shelter for victims of trafficking visited by GRETA has a psychologist who meets with all victims upon arrival at the shelter and as necessary. In accordance with Articles 4.13.1 and 4.13.2 of the Regulations “On the Procedure and Conditions for Providing Free Psychological Assistance”, psychologists of the Center for the Detention of Illegal Migrants provide psychological assistance to foreigners and stateless persons at the expense of the state budget. With the permission of the Center's management, psychological assistance may also be provided by a foreign psychologist.

Access to Employment, Vocational Training, and Education (Article 12) – Paragraph 4 of Article 12 of the Convention requires the participating states to provide human trafficking victims legally residing in the country with access to the

labor market, vocational training, and education. One of the key elements of the recovery and successful reintegration of trafficking victims into society is the enhancement of their economic opportunities. This can be achieved through job placement, micro-business initiatives, and social enterprises. In this context, the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) has emphasized the importance of developing partnerships between the public and private sectors to create appropriate employment opportunities for trafficking victims.

Within the framework of improving the legal basis in this direction, Article 64 of the Migration Code of the Republic of Azerbaijan, amended by Law No. 1623-VQD dated June 27, 2019, allows foreigners recognized as human trafficking victims to be employed in the country without a separate application for a work permit.

The Human Trafficking Victims Assistance Center is tasked, within its competence, with ensuring trafficking victims' access to educational opportunities, acquisition of professional qualifications, and enhancement of employment prospects, thereby supporting their social rehabilitation.

According to Article 14 of the Law "On Combating Human Trafficking," these services must be provided to persons who declare themselves victims of trafficking, without the requirement of cooperation with investigations or criminal prosecution. Furthermore, the provided support must be carried out with guaranteed confidentiality, and the victim's personal data must not be transferred to any state body without their written consent.

According to official statistical data, out of 61 trafficking victims referred to non-governmental organizations, 36 were provided shelter and other support services by the “Clean World” Women’s Aid Public Union, 11 by the “Azerbaijan Children’s Union” Public Union, 10 by the “Temas” Regional Development Public Union, and 4 by the “Family World” Legal Aid to Families Public Union. Additionally, out of 98 identified trafficking victims, 92 were referred to the Human Trafficking Victims Assistance Center operating under the Ministry of Labor and Social Protection of the Population. Among them, 47 received psychological assistance, 32 legal assistance, 28 medical assistance, and 13 were referred to the State Employment Service for vocational training courses²⁸².

The education of children living in shelters for victims of human trafficking is provided by local schools upon request from the shelter director. A classroom has been set up in the state shelter for children who cannot attend school, where they can receive education. The Assistance Center also provides in-kind support and assistance for the education of victims' children.

Civil society actors note that victims of trafficking face difficulties in accessing the labor market and vocational training. Unemployed victims are at high risk of re-victimization. In order to be admitted to vocational schools, victims must have completed secondary school. The State Employment Agency organizes vocational training courses, but the number of people who can be

²⁸² GRETA - Avropa Şurasının İnsan Alveri ilə Mübarizə haqqında Konvensiyasının İştirakçı Ölkələr tərəfindən icrasının qiymətləndirilməsi üzrə Sorğu vərəqəsi, 56 s., səh. 45 <https://rm.coe.int/reply-from-azerbaijan-to-the-questionnaire-for-the-evaluation-of-the-i/1680a62bfc>

admitted to these courses is limited and the courses are sometimes held in locations far from shelters.

In the past, some training courses have been organized for victims of trafficking in shelters. In addition, some victims have been directly employed by NGOs; for example, they have been working as hotline operators run by NGOs. Recently, sewing machines have been provided by the NGO “Temas” to help victims living in the GIZ shelter in Ganja to earn an income. Such initiatives have a positive impact on the integration of victims into the labor market and support their social rehabilitation. However, they are not sufficient to protect victims from the risk of re-trafficking.

The “Rules for the Application of Quotas for Citizens in Need of Social Protection and Having Difficulty Finding a Job,” approved by the Cabinet of Ministers’ Resolution No. 213 dated November 22, 2005, apply to some special categories, including persons under the age of 20, parents with disabilities, children with disabilities, and persons studying in prisons²⁸³. According to civil society actors consulted by GRETA, including human trafficking victims in that category and providing them with more accessible and systematic vocational education would significantly reduce the risk of human trafficking.

Compensation (Article 15) - Article 15(3) of the Convention establishes the right of victims to receive compensation. Compensation is both material and covers pecuniary damage (such as medical expenses) and non-pecuniary damage (such as suffering

²⁸³ Azərbaycan Respublikasının Nazirlər Kabinetinin ““Sosial müdafiəyə xüsusi ehtiyacı olan və işə düzəlməkdə çətinlik çəkən şəxslər üçün kvota tətbiq edilməsi Qaydası”nın və “Kvota şamil edilməyən müəssisələrin Siyahısı”nın təsdiq edilməsi haqqında” 22 noyabr 2005-ci il tarixli, № 213 nömrəli Qərarı <https://e-qanun.az/framework/11456>

endured). Although the person liable to pay compensation may be the trafficker, in practice, full compensation is rarely paid due to difficulties in locating the trafficker or because the trafficker declares bankruptcy. Therefore, Article 15(4) requires the Parties to take measures to ensure that victims receive compensation. The means to guarantee compensation are at the discretion of the Parties, which are responsible for creating the legal bases, administrative framework, and operational procedures for compensation schemes. In this regard, Article 15(4) suggests the establishment of a compensation fund or the implementation of measures or programs for social assistance and social integration of victims, which may be financed through assets derived from criminal activities. The European Convention on Compensation of Victims of Violent Crimes is relevant in this context. According to this Convention, where full compensation cannot be obtained from other sources, the State must support compensation to persons who have suffered serious bodily injury or harm to health as a direct result of an intentional violent crime, as well as to the close relatives of persons who have died as a result of such a crime. Victims shall not be subject to criminal liability or punishment.

Compensation serves several purposes: to compensate the harm caused by the perpetrator, to ensure access to justice, to strengthen the rights of victims, and to punish and deter traffickers. Thus, compensation plays an important role in the fight against trafficking in human beings, not only in restoring justice, but also in preventing human rights violations and in recognizing the responsibility of States.

Since victims often leave the country of exploitation at the end of criminal proceedings, problems arise in bringing civil claims and in the payment of compensation. These problems include high legal costs, the lack of free legal aid and victim support services, as well as difficulties in proving the damage suffered. Therefore, participating States should consider introducing procedures that ensure the right of victims to receive compensation from the perpetrator during the course of legal proceedings.

The legislation on compensation for victims of trafficking in human beings in Azerbaijan has not changed since GRETA's initial evaluation. According to the legislation, if the person entitled to claim compensation for damages on behalf of the victim loses or is restricted in his/her capacity to act, the prosecutor shall file this claim. However, a claim for compensation for moral damages may be filed only by the prosecutor upon the victim's own request (Article 181 of the Code of Criminal Procedure).

During criminal proceedings, the investigator, investigative bodies or the court must take appropriate measures to satisfy the claim for compensation for damages that have been or may be made in the future (Article 185 of the Code of Criminal Procedure). The court of first instance must decide on the victim's claim for compensation when passing judgment (Article 187 of the Code of Criminal Procedure).

In cases where a person is deprived of the opportunity to defend his or her rights in person during court proceedings, the court may decide on compensation at its discretion if the documents and evidence in the criminal case allow for this (Article 188 of the Code of Criminal Procedure). However, the authorities have not provided

any examples of prosecutors requesting compensation or courts making such decisions in human trafficking cases. The authorities have also not provided information on victims of trafficking who have requested and received compensation in criminal proceedings.

According to Article 180 of the Code of Criminal Procedure, if a victim fails to file a claim for compensation during criminal proceedings, he or she may apply to civil courts. The authorities informed GRETA that, due to difficulties in enforcing compensation decisions in trafficking cases, victims did not apply to civil courts for compensation. This is due to the lack of assets that traffickers have that can be confiscated. According to GRETA, until 2019, most traffickers were willing to pay compensation to victims through “amicable settlements”. This was considered a mitigating circumstance in the courts and in most cases resulted in suspended sentences. Victims withdrew their complaints and abandoned their compensation claims. The amounts agreed were usually less than 10,000 AZN (approximately 5,800 EUR). However, in recent years, as courts have become less likely to grant suspended sentences based on the withdrawal of a complaint, criminals have reportedly been reluctant to pay compensation to victims. Authorities could not confirm the number of victims who have received compensation through amicable means.

Articles 22, 23 and 27 of the Convention aim to ensure effective investigation and prosecution of trafficking in human beings. Article 27(1) states that the investigation or prosecution of trafficking offences should not depend on complaints from victims. This is intended to prevent victims from being deterred from reporting the offence to the authorities.

According to Article 27(2), if the competent authority to which the complaint is made does not have jurisdiction, the complaint shall be transmitted without delay to the competent authority in the territory where the offence was committed. Furthermore, according to Article 27(3), each Party shall enable NGOs working to combat trafficking in human beings and to protect human rights to provide assistance and support to victims during criminal proceedings (with the consent of the victim).

Article 23 requires Parties to provide “effective, proportionate and dissuasive” penalties, in accordance with the seriousness of the offences. Article 23(3) requires the adoption of appropriate legal instruments for the confiscation of instrumentalities and proceeds of trafficking in persons. Since trafficking in persons is almost always for financial gain, depriving criminals of their criminal assets is an effective means of combating it.

Confiscation of criminal assets is essential to enhance the effectiveness of the punishment and to ensure compensation for the victim. Illicit proceeds of trafficking in persons, identified and confiscated, should be used to compensate victims of trafficking in persons, either directly or through a victims’ compensation fund.

In addition, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for the acts of any natural person who, acting individually or in a leading position within a legal person, commits the offence of trafficking in persons for their benefit. According to this article, liability may be criminal, civil or administrative in nature. The penalties for the crime of trafficking in human beings in Azerbaijan remain as indicated in GRETA’s previous reports, namely that the main crime under Article 144-1 of

the Criminal Code (CC) is punishable by imprisonment for a term of five to 10 years, while in the case of aggravating circumstances, the crime under Article 144-1 of the CC may be punished by imprisonment for a term of eight to 12 years. According to Article 144-1.3 of the CC, the acts referred to in Articles 144-1.1 and 144-1.2 of the CC, if they cause the death of the victim or other serious consequences through negligence, are punishable by imprisonment for a term of 10 to 15 years.

Provision on Non-Punishment (Article 26) - In accordance with Article 26 of the Convention, the Parties shall ensure the possibility of not punishing victims of human trafficking for unlawful activities to the extent that they were compelled to commit such acts. As previously emphasized by GRETA, prosecuting victims of human trafficking contradicts the State's obligation to provide services and assistance to victims and discourages victims from moving forward and cooperating with law enforcement authorities, thereby interfering with the State's duty to investigate and prosecute those responsible for human trafficking. The issue of non-punishment of human trafficking victims in Azerbaijan may lead to varying approaches, depending on the position of the prosecutor handling the case. According to Article 17-7 of the Law "On Combating Human Trafficking," persons who have been victims of human trafficking are exempt from liability for criminal, administrative, and civil offenses committed under coercion or threat during the course of human trafficking.

Protection of victims and witnesses (Articles 28 and 30) - According to Article 28 of the Convention, the Parties shall take necessary measures to effectively protect victims of human

trafficking and witnesses, as well as members of civil society organizations supporting victims during criminal proceedings and, if necessary, their family members, from potential retaliation or threats. The persecution of victims and witnesses almost always aims to cause the loss of evidence against the accused. Effective protection can take various forms (physical protection, relocation, identity alteration, etc.) and depends on the assessment of risks faced by victims and witnesses. Furthermore, paragraph 3 of Article 28 emphasizes that special protective measures should be provided to child victims, taking their best interests into maximum consideration. The duration of protection measures may continue throughout the investigation, trial, or subsequent periods, depending on the level of threats. Due to the frequent international nature of human trafficking and the small size of some countries, paragraph 5 of Article 28 encourages the Parties to conclude agreements and arrangements with other countries to ensure the effective implementation of this article. In addition, Article 30 of the Convention requires the Parties to adapt their judicial procedures to protect the privacy of victims and ensure the safety of children, including measures to guarantee the security of victims. While the measures under Article 28 pertain to extrajudicial protection, the measures indicated in Article 30 relate to procedural protections during judicial processes. To achieve the objectives of Article 30, tools may be used in accordance with the European Convention on Human Rights and the case law of the European Court of Human Rights, such as closed hearings, audiovisual technology, recorded testimonies, and anonymous statements. According to Article 18 of the Law “On Combating Human Trafficking,” the security of victims

shall be ensured during preliminary investigation, court hearings, and afterward until the danger has ceased, in accordance with the Law dated 1998 “On State Protection of Persons Participating in Criminal Proceedings.” The protective measures envisaged by Article 7 of that Law include closed court sessions, psychological protection of witnesses and victims, change of workplace, education and/or residence, informing them about known threats, protecting the confidentiality of their information, and altering their identity and/or appearance. Prosecutorial authorities must inform victims about available protective measures and actions taken for their protection. According to Article 316.1 of the Criminal Procedure Code (CPC), disclosure of confidential information about protective measures applied to a victim during criminal proceedings entails criminal liability. Additionally, on April 24, 2020, a new provision was added to Article 23-1 of the Regulations, providing for the registration of foreigners and stateless persons considered victims of human trafficking at the address of the Republic Prosecutor's Office for the purpose of applying the Law “On Registration at Place of Residence and Location.” According to Article 199.4 of the CPC, evidence disclosing personal or family secrets should be examined in closed court hearings, but Article 24.1 of the Law “On Combating Human Trafficking” leaves the decision on whether to hold closed court sessions in human trafficking cases to the discretion of the criminal court.

Although the Azerbaijani government has made some progress in eliminating human trafficking, it has yet to fully comply with international minimum standards. However, more active and consistent steps have been taken compared to the previous reporting

period, and therefore the country remains in the second tier. Among the measures taken, the most important are the more effective sentencing of convicted traffickers to prison and the strengthening of coordination mechanisms.

The government also continues to provide services to victims through shelters and Victim Assistance Centers operating under the Ministry of Internal Affairs, as well as expanding cooperation with non-governmental organizations and increasing their funding to a certain extent. In this context, memorandums of understanding have been signed with a number of NGOs and funds have been allocated for the implementation of various initiatives.

However, further development is needed in some areas. For example, recognizing psychological pressure as a means of control, applying more flexible approaches in assessing human trafficking cases, and strengthening victim-oriented mechanisms in criminal prosecution seem to be important directions. At the same time, more systematic measures are needed, especially in the area of identification and early detection of victims of internal trafficking.

Increasing the financial sustainability of shelters run by NGOs and more efficient organization of labor inspections could also contribute to strengthening the overall activity in this area.

The government continues to pursue prosecutions and is developing a strategy against human trafficking with the participation of state and civil society organizations. Article 144-1 of the 2005 Law on Combating Human Trafficking and the Criminal Code criminalize sex and labor trafficking and provides for imprisonment of 5 to 10 years for crimes involving adults and 8 to 12 years for crimes against children. These penalties are quite severe

and are in line with those for other serious crimes of sexual trafficking.

Law enforcement agencies investigated nine cases with 12 defendants in 2022, all of which were related to sex trafficking. The number of suspects and cases decreased compared to 2021. The government continues to investigate three sex trafficking cases and one labor trafficking case from previous years. Nine new defendants were convicted of sex trafficking in 2022. At the same time, three people were convicted of sex trafficking and two of labor trafficking in cases left over from previous years. In 2022, courts convicted 10 people of human trafficking; all of them were sentenced for sex trafficking.

Unlike in previous years, judges in 2022 did not issue suspended sentences and sentenced traffickers to stiff prison sentences of eight to 18 years. Previously, alternatives to imprisonment were applied in connection with the 2018 Decree “On the Humanization of Penal Policy”, but in 2020 the government issued additional instructions clarifying that this decree does not apply to human trafficking cases.

The Ministry of Internal Affairs stated that the Main Department for Combating Human Trafficking investigates most cases of human trafficking. The Main Department has established its activities in the field of combating human trafficking in the following areas:

- **Detection and investigation of human trafficking crimes:** Special measures are taken to timely detect human trafficking facts, conduct investigations and bring criminals to justice;

- **Identification and protection of victims:** Appropriate social and psychological assistance is provided to protect the rights of victims of human trafficking and ensure their safety. Victims are rehabilitated jointly with state and non-governmental organizations;

- **Awareness and training:** Trainings on human trafficking for law enforcement officers are conducted, and activities are carried out to inform and educate the public on this issue;

- **International and local cooperation:** Implementation of international standards in the fight against human trafficking and cooperation with international organizations and foreign law enforcement agencies are established;

- **Implementation and promotion of legislation:** Ensuring effective implementation of legislation in the field of combating human trafficking and putting forward necessary legal initiatives.

The “National Action Plan on Combating Human Trafficking” and other strategic documents adopted by the Government of the Republic of Azerbaijan also determine the directions of the department’s activities. Within the framework of these documents, the department implements complex measures on the protection of victims’ rights, crime prevention and other aspects of the fight against human trafficking.

In recent years, preventive measures against human trafficking have been strengthened in Azerbaijan, victim protection systems have been improved, and the professionalism of law enforcement agencies has been increased at the initiative of the department. Also, successful projects have been implemented to increase public awareness of human trafficking by expanding cooperation between the state and non-governmental sectors.

Thus, the Main Department for Combating Human Trafficking in the Republic of Azerbaijan plays an important role as the main coordinating and executive body in the fight against human trafficking and continues its activities in this area both at the national and international levels.

The State Committee for Family, Women and Children's Issues also plays a very important role in the fight against human trafficking at the national level. The Committee mainly carries out preventive, educational and social protection measures in the field of combating human trafficking. Taking into account the risks posed by human trafficking, especially for women and children, the Committee has organized various projects and training programs in order to prevent vulnerable groups of society from facing this threat. Through events held both in the capital and in the regions, activities have been carried out to increase awareness among the population, strengthen early warning capabilities and improve institutional mechanisms.

The Committee organized educational sessions on combating human trafficking for media representatives, teachers, schoolchildren, representatives of refugee and internally displaced families, and also conducted thematic trainings on the protection of children and women's rights and protection from exploitation. The trainings provide practical knowledge about the signs of human trafficking, recognition of victims and protection mechanisms. A documentary film called "Sold Life" was prepared and presented to the public, and educational brochures such as "Trafficking in Women", "Protect Your Children" and other were printed and distributed. In addition, socio-psychological services are provided

through the Child and Family Support Centers and Women's Resource Centers operating under the Committee, and individual work is carried out with families at risk of human trafficking. These centers play an important role in providing legal advice to relevant risk groups, referring them to state services and providing initial psychological support. The Committee also continues to put forward proposals in the field of improving legislation and participate in the implementation of the National Action Plan on Combating Human Trafficking. These measures form the basis of preventive and social protection activities in the fight against trafficking in human beings as a whole.

The government often does not accept psychological pressure as a means of control and requires the presence of a transnational element in human trafficking crimes. This leads to the assessment of internal sex trafficking cases as less serious crimes. In previous years, GRETA and other international organizations have reported that investigations are often reactive and there is no corroborating evidence for victims' statements. Law enforcement authorities, however, note that standard procedures rely solely on a victim's complaint to initiate an investigation, which hinders proactive investigations.

The government did not report any investigations, prosecutions, or court decisions against government officials involved in human trafficking crimes. Police and State Migration Service personnel received training on various topics related to human trafficking. The government has established relations with Pakistan, Russia, Thailand, Turkey, and the United Arab Emirates as part of international cooperation. In October 2021, the European

Court of Human Rights ruled that the government had failed to effectively investigate claims of forced labor by migrant workers in 2009 and ordered the 33 Bosnian victims in the case to pay 5,000 euros (approximately \$4,530) in compensation. The government has yet to pay these compensations.

The government has gradually increased its efforts to protect victims. The number of officially identified victims in 2023 was 91, down from 94 in 2022. Of the 91 identified victims, 89 were trafficked for sex and two for labor; 90 of them were women, one was men, and two were foreign nationals. However, the government was not able to be proactive enough in identifying domestic trafficking victims, particularly Azerbaijani victims. As a result, most of the officially identified victims have been either Azerbaijani victims in destination countries or foreign nationals exploited in Azerbaijan. In 2023, authorities identified only two domestic Azerbaijani victims of trafficking and no foreign nationals, a decrease from 10 in 2022.

The government did not report on children and their parents who “begged to help their parents” in 2022 and 2023. Observers say that police have not adequately investigated the child exploitation, while returning the children to their parents, which has led to re-victimization.

Standard Operating Procedures (SOPs) are in place to identify victims, and authorities use indicators to screen individuals involved in commercial sex work and other vulnerable groups. However, first responders such as law enforcement, immigration and social workers are either unaware of these procedures, do not consistently follow them or do not understand them properly. The GRETA report noted

that vulnerable groups such as women, children, commercial sex workers, asylum seekers and foreign migrant workers are not screened for indicators of trafficking. Child-friendly interview questions, indicators and referral procedures have not been developed by the government.

SOPs require first responders to refer potential victims to an Autonomous Designated Support (ADS) entity within 24 hours for investigation and formal identification. While NGOs and the government provide support services to some potential victims, individuals without formal victim status are not provided with a lump sum benefit by the state and cannot file civil lawsuits against traffickers.

The total funding allocated by the state for protection measures in 2023 increased compared to 2022. The government allocated 210,161 manat (approximately 123,620 USD) to assist victims of human trafficking, this is higher than the 179,464 manat (105,570 USD) allocated in 2022. The amount allocated to the shelter run by the Ministry of Internal Affairs (MIA) was 116,161 manat (68,330 USD); in 2022, this figure was 106,964 manat (62,920 USD). The State Support Agency allocated 94,000 manat (approximately 55,290 USD) to NGOs; in 2022, this amount was intended to finance eight projects. The government has also raised an additional 5,300 manats (approximately \$3,120) to officially identified victims.

The Ministry of Interior provided shelters for victims of trafficking and provided them with housing, financial assistance, legal support, and medical and psychosocial services. The Ministry of Interior-run shelter had a capacity of 50 victims and had separate

areas for women, men, and children, but freedom of movement was restricted and victims were required to apply to leave the shelter.

The director and most of the shelter's staff were part-time NGO workers, whose salaries were paid by the government. The Ministry of Interior-run shelter housed potential victims for up to one month, but longer stays required victims to cooperate with law enforcement.

The shelter supported 61 officially recognized victims and six potential victims (73 officially recognized victims and one potential victim in 2022). The Ministry of Interior-run shelter also provided the only housing for male victims. The government allocated a 700 manat (approximately \$410) relocation allowance to officially recognized victims, and 90 officially recognized victims received this allowance.

VAKs in Baku and Goychay provided legal, psychological, medical and employment assistance to officially recognized and potential victims. VAKs supported 67 officially recognized and 25 potential victims (81 officially recognized and 32 potential victims in 2022).

The government also helped 14 officially recognized victims enroll in vocational courses and supported 10 officially recognized victims in finding employment (25 officially recognized victims enrolled in vocational courses in 2022, and 9 were employed). However, GRETA noted that the number of victims who could be admitted to vocational courses was limited and some courses were organized far from shelters.

In addition, the government referred 61 officially recognized victims to NGO-run shelters for additional support services (up from

81 in 2022). SMS assisted two foreign nationals in obtaining temporary residence permits (both in 2022).

Problems with the protection of victims' rights and the state's response

The government demonstrated systematic shortcomings in punishing and protecting victims of trafficking. Victims of sexual exploitation, especially women, were sometimes subjected to administrative fines in connection with forced prostitution. Foreign migrant workers who were victims of labor exploitation were deported due to inadequate initial screening and identification procedures. Although international organizations have drawn attention to the existence of a number of foreign migrants who exhibit signs of trafficking, the National Coordination for Combating Trafficking in Persons (ATD) has not recognized these individuals as victims, resulting in some cases in their return and further vulnerability. These cases highlight serious institutional gaps in the identification and protection of victims and confirm the failure to fully implement international obligations.

Current shortcomings in the protection and legal guarantees of victims of human trafficking

Victims of trafficking in human beings, who were placed in a shelter under the Ministry of Internal Affairs, were kept under police protection. However, serious institutional and practical gaps were noted in the implementation of protection and support measures for witnesses who acted as victims. Law enforcement officials reported significant difficulties in involving victims in investigations and court proceedings due to their distrust of state authorities and fear of possible reprisals from traffickers. Although some court proceedings

were held in the form of public hearings, there were cases of victims' identities being exposed by media representatives and sensitive details of exploitation were disclosed. This raises serious concerns in terms of protecting the confidentiality, psychological protection and physical safety of victims and may lead to violations of relevant international standards.

Some positive steps have been taken in the area of providing legal aid. State-appointed lawyers provided legal assistance to 105 officially recognized victims of trafficking in 2023, an increase from 99 in 2022. Legal mechanisms are in place to allow victims to provide written and videotaped statements during criminal proceedings. However, in some cases, victims were interviewed in the same location as suspected traffickers, which remains a serious practical gap that undermines their safety and legal protection.

Over the past decade, human traffickers have exploited domestic and foreign victims in Azerbaijan, and human traffickers have exploited victims from Azerbaijan abroad. Human traffickers recruit Azerbaijani men and boys for forced labor within the country and in Qatar, Russia, Turkey, and the UAE. Human traffickers exploit Azerbaijani women and children for sex trafficking within the country and in Bahrain, Iran, Iraq, Malaysia, Pakistan, Qatar, Russia, Turkey, and the UAE.

Proposals and recommendations. As in the national legal systems of other countries of the world, the legislation and national legal practice on combating human trafficking in the Republic of Azerbaijan should be constantly updated and improved. One of the main reasons for this is that human trafficking, its digital aspects and transnational nature are changing and becoming more complex day

by day. Relevant human rights and criminal legislation and practice should include consistent and effective response measures to the constantly complex violations of human trafficking. In this sense, the following proposals can be put forward for the development of the national legislation and legal practice of the Republic of Azerbaijan:

- more in-depth investigation of crimes related to human trafficking, extension of detention periods and strengthening supervision over detention regimes;

- renewal of active internal methods of combating, especially in relation to human trafficking, forced labor and child trafficking;

- strengthening control over persons providing paid sexual services, migrants, and persons engaged in begging;

- increasing the number of shelters managed by NGOs providing services to victims of human trafficking and strengthening state support for these shelters;

- ensuring the confidential participation of victims of trafficking in human beings as witnesses in the investigation of crimes related to human trafficking;

- preventing the punishment of victims of human trafficking;

- lifting the moratorium on planned and unannounced labor inspections and strengthening the capacity of the Labor Inspectorate to identify and refer victims of forced labor;

- increasing control over migrant workers, eliminating cases of fraudulent employment, bringing fraudulent employers to criminal liability, and developing special legislation in this area;

- protecting potential child victims of human trafficking, adopting and implementing special procedures for this;

- instructing judges on compensation in criminal cases and informing all identified victims of their right to receive compensation;

- creating conditions for victims to enter shelters run by the Ministry of Internal Affairs and receive assistance in obtaining all required documents;

- using proceeds and material assets obtained through crime for the social security and rehabilitation of victims of human trafficking;

- to provide psychological assistance to victims of human trafficking to help them overcome the trauma they have experienced, achieve sustainable recovery and social integration;

- to develop state policy directions for providing employment to victims of human trafficking.

The Victim Assistance Fund for Human Trafficking, established under the Ministry of Internal Affairs in 2008, is operational, and material and moral damages to victims can be compensated through this Fund by court decisions (Article 5.1.4 of the Fund's Charter). However, it should be noted that the Fund is primarily financed by donations and does not receive funds from the state budget. From this perspective, in order to ensure the sustainability of support provided to human trafficking victims, the allocation of state financial assistance to the Fund and an increase in its overall budget should be regarded as an important issue. At the same time, confiscation of illegal proceeds obtained by traffickers through criminal activities and their allocation to the Fund's budget may also be a feasible and appropriate approach.

Another problem concerns the victims' ability to receive compensation. Specifically, victims are required to pay a state fee to file compensation claims in criminal and civil court proceedings. Previously, the fee was up to a maximum of 30 AZN; however, after amendments made on September 9, 2021, to the Law on State Fees, victims are now required to pay a certain percentage of the claim's value. Article 9 of the Law on State Fees exempts certain types of claims (for example, alimony claims, uncontested claims, consumer rights violations, and claims brought by prosecutors for compensation of material damage to the state), but does not exempt claims for compensation of material and moral damages filed by persons harmed by crimes. We consider that including human trafficking victims in the list of socially vulnerable categories exempted from state fees would be a more successful decision.

Pursuant to Article 191 of the Criminal Procedure Code (CPC), victims may claim compensation from the state in criminal courts for damages caused by criminal acts. However, this normative provision has never been applied in the Republic of Azerbaijan. No human trafficking victim has received compensation from criminal or civil courts, which may be associated with the lack of information provided to victims regarding their right to claim compensation, the absence of ensured legal assistance, as well as ineffective financial investigations aimed at identifying and confiscating proceeds obtained through criminal means. Furthermore, the law requires victims to pay state fees in advance to file claims for compensation within criminal or civil proceedings without enabling victims to apply for release. This creates significant barriers, especially for victims in vulnerable legal and economic situations, and hinders the

effective realization of their right to receive compensation from offenders. To ensure real and effective access to compensation rights for human trafficking victims, the following measures are proposed:

- Ensuring the collection of evidence of damages caused to the victim, including proceeds derived from the exploitation of the victim, as an integral part of criminal investigations to support compensation claims in court;

- Systematic provision of information in an easily understandable language to human trafficking victims about their right to claim compensation and the procedures to be followed in criminal and civil proceedings;

- Amendments to Article 9 of the Law on State Fees to create a mechanism exempting human trafficking victims from state fees required for compensation claims;

- Ensuring the practical application of Article 191 of the CPC so that state compensation is effective and accessible for human trafficking victims;

- Increasing the amount of the one-time payment from the State Fund for Assistance to Human Trafficking Victims;

- Strengthening awareness-raising on compensation among lawyers, prosecutors, and judges representing human trafficking victims, including the inclusion of this issue in training programs, and encouraging the use of all legal opportunities to secure victims' compensation claims.

Pursuant to Article 144-1 of the Criminal Code, penalties for human trafficking are determined. Additionally, according to Article 99.4, legal entities can be held liable for human trafficking crimes committed on their behalf. However, to date, no judicial practice

regarding the criminal liability of legal entities for human trafficking has been observed. Therefore, it is necessary to develop both theoretical and practical grounds for the liability of legal entities in human trafficking crimes.

3.2. National practice of leading countries

National legal practice of the United States of America – The modern prohibitions against human trafficking in the United States are primarily rooted in the 13th Amendment to the U.S. Constitution, ratified in 1865. This amendment abolished slavery and involuntary servitude. Until the year 2000, the U.S. Department of Justice (DOJ) handled human trafficking cases under several federal laws, but these efforts were mainly related to forced labor and involuntary servitude. Over the past two decades, however, the U.S. Congress has enacted a series of comprehensive legislative acts aimed at strengthening the federal government’s authority and focus on combating human trafficking. Below is a brief summary of the key laws in this area:

- The Trafficking in Persons Victims Protection Act of 2000 (TVPA) provided the U.S. government with new mechanisms and resources to conduct a comprehensive and coordinated campaign to eliminate modern forms of slavery, both domestically and internationally. The TVPA established a “3P” framework for combating human trafficking: protection, prevention, and prosecution. Under the “protection” approach, the TVPA provided protection for victims of human trafficking in the United States in several key ways:

a) by making foreign victims eligible for federally funded or administered health and other benefits and services, and by requiring federal agencies to extend such benefits and services to victims regardless of their immigration status;

b) by providing immigration protections for foreign nationals who are victims of trafficking, including protection from removal through the T visa for victims of trafficking and the U visa for victims of certain crimes;

c) by providing certain nonimmigrant statuses with the opportunity to adjust to permanent resident status. In its “prevention” direction, the TVPA strengthened the U.S. government’s prevention efforts by:

d) by establishing and implementing international initiatives to improve economic opportunities for potential victims as a means of preventing trafficking.

The establishment of the Office to Monitor and Combat Trafficking in Persons within the U.S. Department of State, which is responsible for publishing the annual Trafficking in Persons (TIP) Report. This report describes and evaluates countries’ efforts to combat human trafficking. The TIP Report serves as the primary diplomatic tool used by the U.S. government to engage foreign governments on issues related to human trafficking.

The President directed the creation of a coordinating Interagency Task Force on Trafficking in Persons (PITF) chaired by the Secretary of State, composed of cabinet-level officials, to work to prevent trafficking in persons, protect victims, and measure and evaluate progress in the United States and other countries.

On the “prosecution” side, the TVPA dramatically expanded and strengthened the ability of federal prosecutors to prosecute traffickers for their crimes:

a) adding new criminal provisions to prohibit forced labour, trafficking in women, slavery, involuntary servitude, child sex trafficking, as well as trafficking in persons by force, fraud or coercion;

b) criminalising attempts to engage in these activities;

c) ensuring that traffickers pay compensation to their victims and confiscate their assets;

d) strengthening penalties for existing trafficking offences

The Trafficking in Persons Victims Protection Reauthorization Act of 2003 (TVPRA 2003) improved federal criminal provisions against human trafficking²⁸⁴, The TVPRA 2003 added human trafficking crimes as predicate offenses under the Racketeer Influenced and Corrupt Organizations Act (RICO), creating a civil remedy that allows trafficking victims to sue traffickers in federal district court. It also established the Senior Policy Operating Group (SPOG) within the executive branch to coordinate the activities of federal departments and agencies related to international human trafficking policies, including grants and grant policies. SPOG is composed of senior officials from agencies addressing trafficking and is chaired by the Director of the Office to Monitor and Combat Trafficking in Persons (TIP Office) at the Department of State. Additionally, the TVPRA 2003 mandated the Attorney General to submit an annual report to Congress on the federal government’s

²⁸⁴ H.R.2620 - Trafficking Victims Protection Reauthorization Act of 2003 // Official website of the USA Congress <https://www.congress.gov/bill/108th-congress/house-bill/2620>

efforts to implement the TVPA. The Trafficking Victims Protection Act (TVPA) of 2000 was the first comprehensive federal law addressing human trafficking, establishing a three-pronged approach: prevention, protection, and prosecution. The TVPA has been reauthorized multiple times (2003, 2005, 2008, 2013, 2017, 2018) via the Trafficking Victims Protection Reauthorization Acts (TVPRAs). Under U.S. federal law, “severe forms of trafficking in persons” include both sex trafficking and labor trafficking. Sex trafficking involves recruiting, harboring, transporting, providing, obtaining, patronizing, or soliciting a person for a commercial sex act induced by force, fraud, coercion, or if the person is under 18 years of age. Labor trafficking involves the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through force, fraud, or coercion for involuntary servitude, peonage, debt bondage, or slavery. The TVPA provides precise legal definitions of trafficking-related terms, which have been instrumental in advancing anti-trafficking efforts. For example: forced servitude is a condition where a person is compelled to remain in service under threat of serious harm or physical restraint, debt bondage is a situation where a debtor pledges personal services or those of another under their control as collateral for a debt that has not been reasonably discharged or limited in duration or scope.

The concept of “coercion” includes: (a) threatening any person with serious harm or physical restraint; (b) a scheme, plan, or pattern intended to cause a person to believe that failure to perform an act will result in serious harm or physical restraint; (c) abuse or threatened abuse of legal process. “Commercial sex act” means any sexual act performed in exchange for something of value. Among

other provisions, the 2005 Trafficking Victims Protection Reauthorization Act (TVPRA 2005) extended extraterritorial jurisdiction over human trafficking crimes committed abroad by persons employed by or accompanying the federal government. TVPRA 2005 also established grant programs to improve, expand, and strengthen assistance to trafficking victims for states, tribal governments, local governments, and NGOs. It directed the Department of Health and Human Services to create and implement pilot programs providing special protections and services for minor trafficking victims. Additionally, TVPRA 2005 created grant programs for state and local law enforcement to combat human trafficking and expanded reporting requirements from TVPRA 2003.

- The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008²⁸⁵ (TVPRA 2008), Pub. L. No. 110-457, provides new measures to prevent and combat human trafficking. TVPRA 2008 further enhances existing tools for prosecuting traffickers:

- establishing new crimes that impose severe penalties on those who obstruct or attempt to obstruct the investigation and prosecution of human trafficking crimes;

- allowing prosecution of sex traffickers who are reckless in their use of force, fraud, or coercion against a victim;

TVPRA 2008, which addresses the prevention of human trafficking and the protection of victims of trafficking, mandates the government to provide information about workers' rights to all

²⁸⁵ H.R.7311 - William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 // Official website of the USA Congress

<https://www.congress.gov/bill/110th-congress/house-bill/7311>

individuals applying for work- and education-based visas. TVPRA 2008 expanded the protections available with the T visa and required that all unaccompanied foreign children be screened as potential victims of human trafficking:

- eliminating the requirement that the defendant prove that the sex trafficking victim was a minor in cases where the defendant had reasonable opportunity to observe the minor;

- expanding the crime of forced labor to include abuse of the legal process or abuse of force;

- imposing criminal liability on persons who knowingly and fraudulently recruit workers outside the United States to work within the United States by falsely or fraudulently soliciting them;

- increasing the penalty for conspiracy to commit crimes related to human trafficking;

- punishing those who knowingly derive financial benefit from participating in an enterprise that engages in human trafficking crimes.

The Trafficking in Persons Victims Protection Reauthorization Act of 2013 (TVPRA 2013), Pub. L. No. 113-4, specifically addresses the elimination of trafficking in persons from the supply chain. This legislation requires the Director of the Office of Trafficking in Persons (Office of TIP) of the U.S. Department of State (DOS) to ensure that U.S. citizens do not use items, products, or materials that have been manufactured or used by victims of trafficking. It also requires the Office to work with the U.S. Government and private sector entities to ensure that those entities do not engage in sexual exploitation of victims of trafficking. TVPRA 2013 also:

a) strengthened the minimum standards for eliminating trafficking in persons used by DOS to describe U.S. and foreign governments' efforts to combat trafficking in persons in its annual TIP Report;

b) amended the Racketeer Influenced and Corrupt Organizations Act (RICO) to include employment contract fraud. The following sections were added to the Federal Criminal Code:

1) U.S. citizens or lawful permanent residents who engage in unlawful sexual intercourse with a person under the age of 18 are subject to a fine, imprisonment, or both;

2) Persons who knowingly destroy, conceal, remove, forfeit, or possess certain immigration documents are subject to a fine, imprisonment, or both.

c) The statute of limitations for bringing civil actions for injuries to minors resulting from certain violations of federal criminal law related to sex or forced labor has been extended. Also, reporting requirements for trafficking by the Attorney General have been added. The Sex Trafficking Prevention and Strengthening Families Act of 2014 aims to reduce the incidence of sex trafficking among youth in the foster care system. The specific sex trafficking provision of the Act requires child welfare systems to identify and screen youth who are victims of or at risk of being sexually trafficked, provide appropriate services to them, report missing children to the National Center for Missing and Exploited Children, and develop protocols for locating missing or runaway children. In addition, state child welfare agencies must report cases of sex trafficking to law enforcement and provide information on youth

who are victims of or at risk of being sexually trafficked to the U.S. Department of Health and Human Services.

The Justice for Victims of Trafficking Act of 2015 (JVTA)²⁸⁶ further empowered the Department to combat human trafficking:

- The terms “admires” and “desires” were added to 18 U.S.C. §1591(a). These amendments are intended to make it easier to prosecute clients of sex trafficking victims. Also, 18 U.S.C. added the category of “advertisements” to the methods of committing the crime. This section applies when there is evidence that the defendant knew that the advertised victim was a minor or that force, fraud, or coercion would be used.

- If the defendant had reasonable opportunity to observe the victim, he need not prove that he knew or recklessly disregarded that the victim was under 18 years of age.

- 18 U.S.C. §1594 of the Act provides that any property or funds seized in a human trafficking case may be used to return them to victims. In addition, this section allows for the forfeiture of any property that can be traced to the proceeds of human trafficking. 18 U.S.C. adds the production of child pornography to the definition of “unlawful sexual conduct” used in the Act (under §2423), including the prohibition of transportation and travel related to unlawful sexual activity with children (under §2423(f));

- Requires a mandatory special assessment of \$5,000 for certain offenses, including offenses under chapters 77 and 110;

- Establishes the Office of the Attorney General to develop and implement a National Strategy to Combat Human Trafficking.

²⁸⁶ S.178 - Justice for Victims of Trafficking Act of 2015 // Official website of the USA Congress <https://www.congress.gov/bill/114th-congress/senate-bill/178>

The Justice for Victims of Trafficking Act of 2015 (JVTA) strengthens the United States' response to human trafficking. The law includes several important changes that will improve services for victims. These changes include changes to the criminal liability of those who purchase commercial sex from trafficked persons, the creation of a survivor-led U.S. Advisory Council on Human Trafficking, and new guidelines for implementing the National Strategy to Combat Human Trafficking.

The JVTA also establishes a domestic trafficking victim fund to support victim assistance programs, allocates grants for child trafficking prevention programs, and imposes additional training requirements for first responders. The law also amends the Runaway and Homeless Youth Act (RHYA) to specify that youth who are victims of severe forms of human trafficking are eligible for services under this framework. In addition, amendments to the Child Abuse Prevention and Treatment Act (CAPTA) add human trafficking and Computer-Aided Sexual Exploitation Materials (CSAM) as forms of child exploitation.

The Trafficking in Persons Victims Protection Act of 2017 provided additional funding and mandates to support victims of trafficking and to increase the transparency of the federal government's anti-trafficking efforts. This legislation:

a) requires the Attorney General to provide a protocol for screening victims of trafficking for use in all federal law enforcement operations that combat human trafficking and to identify and disseminate, in consultation with the Department of Health and Human Services, tools and recommended practices for screening victims of trafficking;

b) directs the Department of Justice (DOJ) to report to Congress on the efforts of the National Institute of Justice to develop a methodology for assessing the prevalence of human trafficking in the United States;

c) directs the U.S. Advisory Council to review federal government human trafficking policies and programs and to report its findings annually to Congress;

d) grants the Attorney General new powers under 18 U.S.C. The Attorney General may now issue civil orders for the execution of relevant acts under chapters 77, 110 or 117;

The Trafficking in Persons Victims Protection Act of 2017 contains additional provisions aimed at increasing the federal government's ability to effectively assess foreign governments' compliance with the TVPA's minimum standards and encourages enhanced cooperation between government and the private sector in combating human trafficking.

The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Pub. L. No. 115-425, increased the federal government's focus on forced labor, among other things²⁸⁷, among other provisions, including:

- An amendment to 18 U.S.C. § 1375c, introducing prohibitions and preventative measures against trafficking in domestic labor within diplomatic households;

- Strengthened reporting obligations related to the prohibition of goods produced through forced labor;

²⁸⁷ H.R.2200 - Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 // Official website of the USA Congress <https://www.congress.gov/bill/115th-congress/house-bill/2200/text>

- A mandate for the establishment of a dedicated interagency task force aimed at reducing the demand for trafficked labor; and
- An expansion of the Child Soldiers Prevention Act to include “police and other security forces” under its scope.

In U.S. law, human trafficking is primarily regulated under the Trafficking Victims Protection Act (TVPA), which addresses both sex trafficking and labor trafficking. In the context of digital human trafficking, the TVPA prohibits the use of digital platforms, communication technologies, and online infrastructures for purposes including: fraudulent recruitment of trafficking victims, promotion of trafficking through illicit electronic advertising services, evasion of government oversight via digital methods, dissemination of electronically shared content of a sexually exploitative nature, and laundering of proceeds from trafficking activities through cryptocurrencies.

Section 1591 of the TVPA has been utilized by federal prosecutors in criminal cases involving digital human trafficking, particularly for collecting evidence from platforms such as Instagram, OnlyFans, and other social media services. In addition, at the federal level, two key legislative measures were enacted in 2018 to combat digital human trafficking: the Stop Enabling Sex Traffickers Act (SESTA) and the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA). President Trump signed these laws into effect in April 2018.

These statutes expanded liability for online platforms used by third parties to facilitate sex trafficking, establishing both civil and criminal responsibility for such platforms. SESTA and FOSTA also introduced mandatory new provisions for criminal prosecution of

individuals who communicate with clients for trafficking purposes or who promote prostitution online. Furthermore, the laws affected those workers who collect and share information about violence or who disseminate safety techniques online. Nevertheless, a significant number of legal scholars, activists, and civil society organizations have expressed disagreement with the substance of SESTA and FOSTA, offering sustained critiques of both statutes²⁸⁸. Even according to a number of experts, the aforementioned legislative acts will be used as a means of censorship against freedom of thought and expression in the digital environment, further complicating the situation of victims of human trafficking²⁸⁹.

When President Donald Trump signed the Allow States and Victims to Fight Online Sex Trafficking Act (FOSTA-SESTA) into law in April 2018, sex workers and civil liberties organizations sounded the alarm. This legislation, which incorporated provisions from the “Stop Enabling Sex Traffickers Act,” effectively eliminated the legal immunity previously granted to online platforms under Section 230 of the Communications Decency Act (CDA). It enabled websites hosting content that “promotes or facilitates prostitution” to be held liable for sex trafficking offenses.

The law received widespread support from both Congress and the general public. For example, it was endorsed by a public service announcement (PSA) campaign featuring comedian Amy Schumer,

²⁸⁸ Tung L. “FOSTA-SESTA was supposed to thwart sex trafficking. Instead, it’s sparked a movement” // Official website of WHYY-FM radio channel. July 10, 2020

<https://whyy.org/segments/fosta-sesta-was-supposed-to-thwart-sex-trafficking-instead-its-sparked-a-movement/>

²⁸⁹ Harmon E. How Congress Censored the Internet // Official website of the Electronic Frontier Foundation. March 21, 2018

<https://www.eff.org/deeplinks/2018/03/how-congress-censored-internet>

who claimed that “buying a child for sex is as easy as ordering a pizza.” However, survivors of human trafficking and LGBTQ organizations warned from the outset that FOSTA-SESTA posed serious dangers to consensual sex workers and risked curtailing freedom of expression on the internet. They emphasized that the law failed to address root social causes of child trafficking, such as poverty and youth homelessness, and instead frightened website operators into censoring even unrelated sexual content. Even before the law was enacted, legal authorities had expressed concern that its language would encompass “commercial sex acts between consenting adults,” a category described as involving “minimal federal interest.” Freedom Network USA, the largest national organization of social service providers and advocates combating human trafficking, stated that “further criminalizing consensual commercial sex in the absence of force, fraud, or coercion does nothing to protect victims.” Survivors of sex trafficking often prioritize structural prevention strategies such as access to stable housing, universal basic income, a living wage, and the expungement of criminal records. In light of the censorship risks, the American Civil Liberties Union (ACLU) warned that the statute “poses a real and significant threat to the vibrancy of commercial and political communication on the internet, as well as to political free expression.” Nevertheless, despite these objections, FOSTA-SESTA passed through Congress. Now, several years later, legal scholars, researchers, and reports from the Government Accountability Office (GAO) have confirmed that the law has proven—at best—counterproductive and—at worst—deadly. These

findings validate the initial concerns raised by critics at the time of its passage.

Although precise data on sex trafficking remains scarce, most reports indicate that online sex trafficking is widespread. When law enforcement authorities are unable to present the necessary information in court to apprehend perpetrators or locate victims, such activity merely shifts abroad or becomes more clandestine in nature.

A 2022 study conducted by the Rhode Island chapter of COYOTE, a sex worker advocacy organization, revealed that 64% of survivors of sex trafficking reported an increase in coercion and force following the enactment of the law. This underscores that the statute's real-world effects are entirely at odds with its stated intent.

Attorney Emily Morgan, citing the work of legal scholar A. F. Levin in *The Northwestern University Law Review*, has argued that FOSTA-SESTA functions as a kind of symbolic measure, “failing to provide tangible support to its purported beneficiaries.” To date, only one criminal conviction has been secured under the statute.

Recently, free speech and human rights organizations have filed legal challenges seeking the repeal of FOSTA-SESTA on the basis of the First Amendment. In July 2023, the D.C. Circuit Court of Appeals upheld the law, but simultaneously narrowed its scope. It remains uncertain whether this limitation will lead to the restoration of censored content or redress the prior harms inflicted by the statute.

Regrettably, despite some successes achieved by critics of FOSTA-SESTA, lobbyists and policymakers continue to pursue new mechanisms for censoring online sexual expression. A seemingly improbable ideological alliance among anti-sex work feminists,

religious fundamentalists, and contemporary versions of Anthony Comstock has existed at least since the 1980s. This alliance dates back to the period when radical feminists joined forces with right-wing conservatives to endorse the findings of President Ronald Reagan’s Meese Commission on Pornography. Today, they continue to fuel moral panic by linking adult-oriented commercial services to abuse. In the course of combating alleged commercial sexual exploitation and perceived threats to children, the rights of sex workers and freedom of expression have suffered severe damage²⁹⁰.

Sex workers have meticulously documented the ways in which FOSTA-SESTA has adversely affected their safety. Eighteen months after the legislation was enacted, the sex worker collective Hacking//Hustling conducted a peer-led investigation into its impact. Through a combination of online surveys and in-depth personal interviews with sex workers operating under diverse conditions, the study revealed that FOSTA-SESTA has significantly restricted their ability to work indoors, operate independently, and share harm-reduction resources—such as “bad date” blacklists and free health services—within their communities.

Due to the diminished ability to find and screen clients online, some workers have been compelled to rely on pimps and other exploitative third parties, pushing them toward more hazardous forms of street-based work. The enactment of FOSTA-SESTA and the consequent shutdown of advertising platforms have contributed to increased economic instability and a rise in incidents of client-perpetrated violence. In addition to these serious material harms, the

²⁹⁰ Morgan E. On FOSTA and the Failures of Punitive Speech Restrictions // *Northwestern University Law Review*, 2020, (115), Issue 2, pp. 503-547, p. 524

law has had a widespread chilling effect on online discourse. Fearing severe criminal and civil liability, many websites and applications have begun to enforce overly restrictive policies on erotic content, much of which has no direct connection to sex work.

Immediately following the enactment of FOSTA-SESTA, risk-averse platform operators began removing large volumes of content related to human sexuality. According to organizations that monitor sexual and online censorship, such as the Woodhull Freedom Foundation and the Electronic Frontier Foundation, the legislation has resulted in the removal of age-appropriate sexual health and education resources. Whether a recent decision by the Circuit Court will lead to the restoration of these resources remains uncertain.

Content referencing sexual pleasure, reproductive organs, or body parts using colloquial or slang terminology—as well as advertisements for sex toys, sex educators, and even at least one licensed massage therapist—has been subjected to censorship on social media platforms and email services. Platforms such as Facebook, Tumblr, Reddit, and Instagram have imposed stringent restrictions on the types of text and images that users are permitted to post. In response to the law, Craigslist entirely removed its personal ads section²⁹¹.

The closure of the personal ads section on Craigslist clearly illustrates how FOSTA-SESTA promotes the restriction of content that, while legal, is often entirely ordinary in nature. Previously, this website featured various types of unpaid personal ads under popular

²⁹¹ Goldman E. Catching Up on a FOSTA Case—ML v. Craigslist // Official website of the Technology&Marketing Blog. April 27, 2022
<https://blog.ericgoldman.org/archives/2022/04/catching-up-on-a-fosta-case-ml-v-craigslist.htm>

subcategories such as “miscellaneous romances,” “strictly platonic,” and “women seeking women.” It also hosted advertisements for paid sexual services that were unconnected to brothels—posted either by independent workers or those engaged in managed erotic labor. However, the broad scope of the legislation failed to account for nuanced distinctions between different types of dating and sexual advertisements.

“As the law stands, owning or operating an online platform that permits any content facilitating prostitution constitutes a federal crime,” states attorney Lawrence Walters, who has challenged the statute in the U.S. District Court for the District of Columbia. “When more than five individuals are involved, the matter escalates into a felony, exposing the platform operator to a potential federal prison sentence of up to 25 years.”

As a result, websites such as Craigslist have opted to shut down their entire personal ads sections rather than undertake the laborious task of reviewing hundreds of individual posts daily. Consequently, in today's digital environment, even the attempt to find a romantic connection at a farmers market may be interpreted as an act of digital solicitation²⁹².

Although the FOSTA-SESTA law was introduced as a limited exception to Section 230, the response from websites, social media platforms, and dating apps has had far-reaching effects on virtually all online users. Due to misused language or algorithmic errors, platforms like Instagram have, for instance, arbitrarily associated

²⁹² Hawkins D. Craigslist and Reddit finally get out of the Sex Trade thanks to FOSTA-SESTA // Official website of the National Center on Sexual Exploitation (NCOSE). March 23, 2018.

<https://endsexualexploitation.org/articles/craigslist-reddit-exit-sex-trade-fosta-sesta/>

certain emojis with prostitution. As a result, users may lose access to their accounts or have their profiles suppressed—without notice or explanation. This phenomenon is now widely known as “shadowbanning”, whereby a user's visibility is covertly restricted without an official ban.

Applications such as Tinder and Bumble frequently deactivate suspicious accounts permanently, often without providing any explanation. Mike Stabile, Director of Public Affairs at the Free Speech Coalition, observes: “Whether you know it or not, you are being monitored for potential red flags.” Under such opaque moderation policies, users may find themselves in a “no-fly list” scenario—where understanding why they were flagged is difficult, and no clear path for removal exists.

Users whose profiles contain erotic imagery or language for artistic or educational purposes often struggle to avoid anti-sex algorithms. They are frequently forced to appeal bans or create new accounts. As Stabile notes, in general, “you cannot regulate sex workers’ online presence without also promoting the policing of people’s sexuality”²⁹³.

The ongoing battle over “protecting children” online is, according to legal scholars, part of a process described as carceral creep – a gradual expansion of criminalization to encompass various forms of online speech. Savannah Sly, co-director of the sex worker advocacy group New Moon Network, asserts that the ultimate goal of anti-pornography crusaders is “to eradicate all sexual and erotic

²⁹³ Chamberlain L. FOSTA: A Hostile Law with a Human Cost // *Fordham Law Review*, 2019, (87), pp. 2171-2211, p.2179

media, even material not created for entertainment or artistic purposes.”

The concept of obscenity—classified as a category of “patently offensive” speech that may be restricted by the government—is already widespread in public discourse. The framing of pornography as a “public health crisis” by various experts and politicians has further expanded the definition of obscenity. For example, last year Senator Mike Lee introduced a bill that would classify and ban all online pornography nationwide as obscene. These restrictions compel us to trade our personal privacy for the fantasy that we can fully control what minors see online²⁹⁴.

Both FOSTA-SESTA and age-related legislative proposals are described by lawyer and activist M. Morgan in their legal analysis as “a legacy of attempts by activists and legislators to enact laws under feminist or otherwise protective aims,” which, in practice, end up harming the groups with the least legal protection. In this context, one of the most prominent examples is the anti-pornography ordinances applied—albeit with limited long-term success in the United States during the 1980s—to lesbian and gay booksellers through the Canadian Criminal Code, supported by Andrea Dworkin and Catharine MacKinnon.

M. Morgan argues that such restrictions—“outside community norms but restrained by constitutionally protected speech,” particularly laws like FOSTA-SESTA—carry the risk of turning the Internet into a sterile and unrecognizable environment²⁹⁵.

²⁹⁴ Blunt D., Wolf A. Erased: The impact of FOSTA-SESTA and the removal of Backpage on sex workers. *Anti-Trafficking Review*, 2020, (14), pp. 117–121, p.119

²⁹⁵ Porth K. SESTA/FOSTA: Censoring sex workers from websites sets a dangerous precedent // Official website of the Pivot Legal Society. April 19, 2018.

The national legislation and legal practice of Norway –

Norway primarily serves as a destination country, and to a lesser extent as a transit and source country, for children subjected to trafficking for sexual purposes. The victims of human trafficking identified in Norway predominantly originate from Albania, Bulgaria, Lithuania, Nigeria, Romania, and Syria. Vulnerable children include, among others, those who are missing or those recruited from shelter centers by organized human trafficking groups. Amendments to the Norwegian Penal Code, which came into force in January 2016, increased the maximum penalty for human trafficking offenses from five to six years of imprisonment. At the same time, the police's authority to apply coercive measures was expanded during investigations related to serious human trafficking and cases involving child sexual abuse materials.

In 2015, the Norwegian government identified and provided services to 41 children who were victims of human trafficking. Approximately ten court judgments concerning minors in this area have been issued. County governors have organized training sessions on child abuse and sexual exploitation for kindergartens, schools, child welfare workers, and healthcare professionals. These sessions aim to raise awareness and prevent such crimes.

Norway continues to maintain its status as a destination country for victims of human trafficking. While Norwegian authorities are awaiting the establishment of a more formal and reliable system for data collection, official statistical information

https://www.pivotlegal.org/sesta_fosta_censoring_sex_workers_from_websites_sets_a_dangerous_precedent

regarding the number of suspected human trafficking victims has not been published since 2016.

Data obtained from the Norwegian Labour and Welfare Administration and non-governmental organizations indicate a decrease in the number of newly identified suspected victims. However, sexual exploitation remains the predominant form of detected abuse. At the same time, there are signs of increased labor exploitation in sectors such as construction, fisheries, cleaning, agriculture, waste collection, hospitality, and the restaurant industry.

Existing data from the Norwegian Labour and Welfare Administration (NAV) and non-governmental organizations providing assistance to victims indicate a decrease in the total number of newly identified suspected human trafficking victims. The figures reported were 98 in 2016, 74 in 2017, 62 in 2018, 79 in 2019, and 792 in 2019. The number of Nigerian victims of human trafficking has declined, while the number of female victims from Eastern Europe (Bulgaria, Romania) and South America has increased. In 2020, three suspected victims of human trafficking for the purpose of organ removal were identified. The number of human trafficking victims reported to the Child Welfare Council was low. The majority of these victims originated from Eastern European countries. Most were girls exploited in prostitution, while some were exploited in begging. No cases involving child victims were recorded in 2020.

It is important to note that the number of victims identified and assisted in any given year is not definitive due to the lack of continuity in the National Referral Mechanism (NRM). The main reason for this is that non-governmental organizations assisting

victims provide information to the National Coordination Unit on Human Trafficking Victims (KOM) only on a voluntary basis.

Sexual exploitation remains the predominant form of detected abuse. However, there are indications of an increase in human trafficking related to labor exploitation. This trend particularly affects individuals employed in sectors such as construction, fisheries, cleaning, agriculture, waste collection, hospitality, and the restaurant industry. Some civil society organizations report that, amid the COVID-19 pandemic, authorities prioritized the rapid deportation of foreign nationals engaged in prostitution. This approach has limited the ability to identify victims of human trafficking (THB).

In November 2020, an amendment was made to Article 257 of the Norwegian Penal Code (PC), which regulates human trafficking. The amendment added the word “forced” before “labor or services, including begging” in the list of exploitation types. Additionally, Article 196 of the PC was amended to include the aggravated form of human trafficking, encompassing child trafficking (Article 258 of the PC), among the serious crimes subject to prevention obligations.

Amendments were made to Section 8-4, Paragraph 2 of the Immigration Regulations. As a result of this amendment, the right to a residence permit, referred to as the “witness residence permit,” has been expanded to individuals who provide testimony in court or to police authorities regarding the fact that another person is a victim of human trafficking. This paragraph provides an indicative, but not exhaustive, list of factors to be considered when deciding whether to grant a residence permit. The list includes the individual’s severe social, health, or humanitarian situation, as well as any threats,

repression, or violence faced by the individual or their family as a consequence of their testimony.

In March 2020, regulations were adopted incorporating into legislation the practice of assisted voluntary return of foreign nationals, including victims of human trafficking. This program is funded by the Norwegian Government and implemented by the International Organization for Migration. One of the key changes in this new legislation is that decisions on applications for assisted voluntary return are now made by the Norwegian Directorate of Immigration (UDI), rather than by the United Nations High Commissioner for Refugees (UNHCR).

On 14 June 2021, the Norwegian Parliament adopted the “Transparency Act,” which applies to enterprises engaged in the production and sale of goods and services²⁹⁶. The law imposes an obligation on large enterprises operating in Norway to conduct necessary due diligence within their own operations, supply chains, and other related business areas. This due diligence aims to identify, prevent, and mitigate any adverse impacts on fundamental human rights and decent working conditions. The law is based on the 2019 report by the Norwegian Ethical Information Committee and has not yet come fully into force. Meanwhile, public consultations regarding proposed amendments to the Legal Aid Act, which include certain changes related to victims of human trafficking, were discontinued on 23 November 2020.

²⁹⁶ Norwegian parliament adopts the Transparency Act // Official website of the European Coalition for Corporate Justice.

<https://corporatejustice.org/news/norway-adopts-transparency-act/>

A draft Compensation Act for Victims of Violent Crimes was submitted to the Norwegian Parliament on 17 September 2021 and was under consideration by the Justice Committee until 8 March 2022. The primary objective of this Act is to facilitate state compensation for victims of human trafficking violence and other violent crimes, including human trafficking victims, from the years 2018 and 2019.

According to an amendment to the Criminal Procedure Act (CPA), which will enter into force in the summer of 2022, more serious crimes that victims of human trafficking may be forced to commit will be covered by the possibility to waive punishment for the perpetrator²⁹⁷. Currently, amendments to the Criminal Procedure Act (CPA) concerning confidentiality rules are being prepared. These amendments aim to facilitate information exchange between state agencies during the identification of human trafficking victims and the provision of assistance to them. In this regard, an amendment to the Public Administration Act was adopted in June 2021. This amendment empowers the government to establish regulations permitting agencies bound by confidentiality obligations to share necessary information with other officials, including entities outside the Public Administration Act framework, such as the police, tax authorities, and healthcare providers, for the performance of their duties.

²⁹⁷ Human trafficking in Norway: progress on legislative reforms, but should avoid rapid deportations of foreigners without screening them // Official website of the Council of Europe. Newsroom. June 8, 2022
<https://www.coe.int/en/web/portal/-/human-trafficking-in-norway-progress-on-legislative-reforms-but-should-avoid-rapid-deportations-of-foreigners-without-screening-them>

The Inter-Ministerial Working Group Against Human Trafficking has been active since 2003, and the National Coordination Unit (KOM) is located within the Police Directorate. These bodies continue to perform their functions in combating human trafficking. They facilitate knowledge and information exchange between competent authorities and non-governmental organizations, strengthen capacity, and provide support to stakeholders. KOM publishes comprehensive annual reports three times a year, which include updated statistical data, newsletters, and summaries of court decisions.

Since 2016, the National Criminal Investigation Service (KRIPOS) has assumed coordination of the Police Directorate's Expert Group on Human Trafficking. The primary responsibilities of this Expert Group include enhancing police understanding and knowledge of human trafficking, organizing experience-sharing between police officers and prosecutors, developing methods to combat human trafficking, and ensuring the submission of international reports.

To combat labor-related crimes, seven inter-agency centers (A-Krim centers) have been established, comprising representatives from the police, Norwegian Tax Administration, Labour and Welfare Administration (including NAV), Norwegian Labour Inspection Authority (NLA), and Norwegian Customs Service. These centers investigate labor violations and cooperate closely with specialized human trafficking units focused on identifying cases of labor exploitation.

At the end of 2019, the National Guidance Unit on Child Trafficking Cases was established within the Directorate for

Children, Youth and Family Affairs (Bufdir). Although this unit does not handle individual cases, it provides guidance and support to child welfare services, victims, and other entities involved in human trafficking cases. The unit works on improving procedures for identifying children as victims of trafficking and on training child welfare services. The Institute of Social Research is conducting a three-year evaluation of this unit, which will also review decisions related to the temporary placement of unaccompanied children at risk of trafficking in secure facilities and police involvement.

In 2018, the Oslo Human Trafficking Support Office (HTSO) was officially established. This followed a pilot program initiated in 2014 and aligns with the Oslo City Council's action plan against human trafficking. HTSO serves as the initial contact point for identifying and assisting human trafficking victims in Oslo municipality. The project has signed cooperation agreements with four NGOs and various municipal and state public services (including healthcare providers) and collaborates closely with them on trafficking cases. HTSO provides housing for victims and cooperates with lawyers to offer legal assistance. It also facilitates reflection periods for victims that exceed the legally prescribed duration. Currently, HTSO employs three social workers and one coordinator.

Norway still lacks a National Referral Mechanism (NRM). Between 2017 and 2018, the Ministry of Justice implemented a project involving NGOs to improve victim assistance, led by a group of advisers. The project produced several recommendations, including reforming the recovery and reflection period, establishing a specialized expert group comprising representatives of relevant

authorities to make decisions on victim assistance, and creating a more formal network of civil society organizations. This process continued in 2020, when a working group led by the National Police Directorate was tasked with developing proposals for the NRM.

Although the Norwegian government has not fully met the minimum international standards for combating human trafficking, it has made significant efforts in this area. Compared to previous periods, the government has made progress in identifying and assisting trafficking victims. As a result, Norway has maintained its second-place ranking. The Coordination Unit for Victims of Human Trafficking (KOM) has developed national guidelines for victim identification and referral in cooperation with other stakeholders. The government has expanded international cooperation to combat child online sexual exploitation by appointing a liaison officer in the Philippines and has conducted seminars assessing the prevalence of labor trafficking among foreign workers. Additionally, funding for public awareness campaigns has increased. Nevertheless, the Norwegian government has failed to meet minimum standards in several key areas. Prosecutions and convictions related to human trafficking have declined; no traffickers were convicted in 2022. Although police investigated 27 trafficking cases in 2022, prosecutions and convictions significantly decreased compared to 2021 and earlier years. Authorities have faced difficulties in gathering evidence related to human trafficking, particularly in labor trafficking investigations. Furthermore, treating human trafficking crimes as ordinary offenses has limited victims' access to assistance and exposed them to the risk of re-victimization. The government has continued to prioritize deportation of certain foreign nationals

and, at times, has punished trafficking victims for unlawful acts they committed, thereby undermining their rights to protection.

Articles 257 and 258 of the Penal Code prescribe imprisonment from six to ten years for sexual and labor trafficking offenses, categorizing these crimes as serious felonies. In 2022, the police reduced the number of human trafficking cases from 32 to 27, including 17 sexual trafficking cases, 8 labor trafficking cases, and 2 cases of unspecified forms. However, there has been a significant decline in prosecutions and convictions, indicating ongoing challenges in combating human trafficking in Norway.

The Norwegian government has not reported any investigations, prosecutions, or convictions of public officials involved in human trafficking offenses. Nonetheless, it continues to cooperate nationally and locally with other European governments to investigate and prosecute alleged traffickers. In 2023, a liaison officer was deployed to the Philippines to strengthen efforts against the online sexual exploitation of children. Under the auspices of the Nordic Council of Ministers, representatives from all five Nordic countries formed a regional working group on combating human trafficking. This group discusses trends, challenges, and best practices across the countries. As part of this initiative, a network of Nordic police officers was established to support international law enforcement efforts. This network conducts training on cross-border investigations, information sharing, and human trafficking case management. Nevertheless, staff turnover, resource reallocation, and knowledge gaps have limited progress in combating human trafficking. Norway maintains anti-trafficking units in 12 police districts, with the number of investigators varying according to the

size of the district. These units collaborate with organized crime units and share consistent investigative methods and technical support nationwide. However, transferring personnel from trafficking units to other sectors has, in some districts, resulted in decreased focus and expertise on trafficking and related laws. Observers have expressed concern that these changes may lead to reduced investigations, prosecutions, and fewer identified victims. Experts particularly criticize the absence of a human trafficking contact point in the Øst Police District, one of the country's largest regions. They highlight weaknesses in investigations and judicial practice due to a lack of will and expertise among police forces to investigate trafficking cases. These deficiencies complicate effective anti-trafficking efforts. According to police, trafficking cases require extensive resources and time, and collecting evidence is challenging. Limited capacity negatively affects the ability to conduct effective anti-trafficking work. Police chiefs have redirected funds allocated for anti-trafficking units to higher-priority investigations, prosecutions, and court processes within other police units. Government officials and NGOs report that forced labor remains a serious concern. Most suspected cases of forced labor result in social dumping allegations—that is, workers receiving wages significantly below legal standards, working long hours, and enduring inadequate living conditions. The primary obstacles are the high burden of proof and insufficient awareness among officials regarding forced labor.

As in previous years, investigators and prosecutors continue charging traffickers with other offenses, such as drug trafficking and usury, which impedes victims' access to trafficking-specific rights, including legal assistance. By law, when authorities investigate and

prosecute trafficking crimes as other offenses, victims are ineligible for assistance designated for human trafficking victims. Officials also report that traffickers increasingly use technology, such as anonymizing servers, to conceal their crimes in online exploitation cases. This significantly complicates evidence collection and prosecution, thereby creating substantial challenges in the fight against human trafficking.

Experts attribute the primary reasons for charging traffickers with offenses other than human trafficking to insufficient evidence collection and the lack of adequate experience and knowledge among competent authorities. They consider that more systematic and ongoing training would be beneficial in enhancing the competence of investigators and prosecutors.

The National Criminal Investigation Service, operating within the Norwegian Police Directorate, maintains a national expert group mainly composed of investigators and prosecutors to increase knowledge and understanding of human trafficking. This group facilitates experience-sharing between police officers and prosecutors, promotes the development of investigative methods and anti-trafficking strategies, and strengthens cooperation with relevant stakeholders.

The Coordination Unit for Victims of Human Trafficking (KOM) has conducted several seminars and trainings for various stakeholders operating at national and municipal levels—such as healthcare providers, civil society, and academia—on topics including victim identification, assistance coordination, and understanding regional trends.

In 2023, KOM published its annual report, noting an increase in identified victims from 57 in 2022 to 120 in 2023. However, the report did not provide detailed categorization of the victims.

The establishment of the National Referral Mechanism (NRM) has been delayed for the past seven years. Experts believe that the absence of an NRM has created difficulties in victim identification and data collection, resulting in fragmented structures and unclear roles and responsibilities. KOM and the Ministry of Justice are working on creating the NRM, but no consensus has yet been reached among various stakeholders. NGOs report differing agendas among stakeholders, with some actors fearing loss of influence due to the active roles the NRM would assign them. Nevertheless, in recent years, KOM and the Ministry of Justice continue advancing the process. In 2023, KOM, together with other stakeholders, prepared national guidelines for victim identification and referral to assistance. These guidelines are available online for competent authorities such as police, labor inspectors, child protection services, and civil society organizations. However, experts have noted that some officials remain unaware of these guidelines and urge the government to conduct training to ensure their implementation.

The government provides assistance to human trafficking victims through municipal crisis centers and government-funded NGOs. According to KOM's 2023 annual report, 216 potential trafficking victims received assistance that year, comprising 158 women, 55 men, and 3 members of the LGBTQI+ community. All identified victims were provided with housing, and specific information regarding potential victims was also reported.

The vast majority of potential victims were foreign nationals exploited in sexual trafficking, with only six Norwegian nationals identified. Additionally, authorities identified 13 victims of child trafficking²⁹⁸. The Norwegian government provides extensive services to human trafficking victims through government-funded NGOs. These services include legal assistance for both foreign and domestic victims, medical and psychological support, stipends for food, shelters for victims of domestic violence, and specialized shelters for male trafficking victims in Oslo.

In 2023, the government allocated NOK 37.5 million (approximately USD 3.69 million) for victim assistance, along with an additional NOK 5 million (USD 491,840) designated for NGOs and hotline services. The Oslo Labour and Welfare Administration also received funding from the city budget to provide services to trafficking victims, although the specific amount was not disclosed.

NGOs implement assistance programs for individuals involved in commercial sex and offer training and work experience programs for trafficking victims. Under Oslo’s Department of Labour and Social Affairs, adult victims—including foreign nationals—are provided with legal aid, healthcare, shelter, and other essential support during a six-month “reflection period.”

The Norwegian Directorate of Immigration (UDI) grants formal reflection periods to trafficking victims who participate or do not participate in criminal proceedings, allowing them to obtain residence permits in Norway. In 2023, ten victims were granted a

²⁹⁸ U.S. Department of State - Office to Monitor and Combat Trafficking in Persons. 2023 Trafficking in Persons Report: Norway. <https://www.state.gov/reports/2023-trafficking-in-persons-report/norway/>

reflection period, and ten received temporary residence permits valid for 12 months. Residence permits were also granted to six potential victims on the basis of protective status.

However, observers express concern that the police tend to focus more on verifying potential victims' residence permits or immigration documentation rather than on investigating human trafficking indicators. Limited screening of trafficking victims during deportation procedures, the deportation of potential witnesses, and prioritizing deportation quotas have been criticized by authorities.

The law enables trafficking victims from European Economic Area (EEA) countries to receive full financial reintegration support in their countries of origin. Nevertheless, NGOs express concerns that victims from non-EEA countries, especially those whose asylum claims have been rejected, do not receive financial support and remain at risk of re-trafficking.

In 2023, UDI, in cooperation with international organizations, implemented a return and reintegration project to ensure the safe return of potential trafficking victims. As part of this initiative, three victims were safely repatriated.

Under the Child Protection Act, Child Welfare Services (CWS) are obligated to place potential child trafficking victims in institutions for temporary protection and care for a period ranging from six weeks up to six months, when the children are assessed to be at risk.

In 2023, CWS, under the supervision of the national leadership division for human trafficking within the Directorate for Children, Youth and Family Affairs, directly assisted 16 child trafficking

victims regardless of their nationality. The division has worked on improving procedures for identifying child victims, strengthening coordination among government agencies, and enhancing the training and competencies of professionals in the field.

Additionally, in 2023, the division organized several seminars dedicated to child trafficking for child protection service staff and other relevant stakeholders²⁹⁹. The Child Welfare Services (CWS) in Norway provide support to child trafficking victims throughout criminal proceedings via 11 multidisciplinary Barnehus centers operating nationwide. These centers offer a child-sensitive and coordinated approach designed to prevent retraumatization. They deliver essential services such as conducting interviews with children and providing medical examinations. At the same time, NGOs have expressed concerns that existing statistics in Norway do not fully reflect the actual number of child trafficking victims. To ensure the accurate identification and effective investigation of trafficking cases involving children, the government has continued to strengthen cooperation procedures among the police, immigration authorities, and CWS.

Officials have noted that a lack of trafficking-related information within child protection services complicates the identification of child victims. To address this issue, the government has incorporated trafficking-related information into new guidelines

²⁹⁹ Brattabo I.V., Bjorkness R., Astrom A.N.Reasons for reported suspicion of child maltreatment and responses from the child welfare - a cross-sectional study of Norwegian public dental health personnel // March 2018, BMC Oral Health 18(1):29, pp. 35-37

aimed at enhancing awareness and coordination among relevant agencies³⁰⁰.

The Norwegian government maintains 16 support and guidance centers across the country to assist human trafficking victims participating in criminal proceedings. These centers provide victims with legal advice, assistance in applying for financial compensation, and guidance regarding legal procedures. By law, trafficking victims—regardless of their income or immigration status—are entitled to three hours of free legal aid and the right to claim financial compensation from traffickers. However, experts have expressed concerns that:

- Competent authorities do not consistently and effectively apply non-punishment provisions that exempt trafficking victims from liability for crimes committed under coercion. Instead, in some cases, victims have been charged, prosecuted, and even deported for unlawful acts.

- Although Article 62a of the Criminal Procedure Act grants prosecutors the discretion to reduce or waive sentences for more serious crimes, some prosecutors have refrained from using this provision due to disbelief in the victims' coercion claims.

Experts further note that:

- Authorities often fail to investigate indications of trafficking during their inquiries, hindering the application of non-punishment provisions.

³⁰⁰ Bjelland H. F. Identifying human trafficking in Norway: A register-based study of cases, outcomes and police practices // *European Journal of Criminology*, 2016, 14(5), pp.1-21, p.14

- Suspected persons are not treated as potential victims and are required to prove their victimization.

- Due to a lack of training, some police officers fail to identify potential victims in time, leading to their deprivation of necessary protection and their treatment as offenders instead.

In 2023, a collaboration between an NGO, a lawyer, and the Norwegian Correctional Service identified one potential victim who was penalized for a crime directly resulting from trafficking, highlighting a serious need for systemic improvement.

The government increased preventive efforts against trafficking in 2023. The Ministry of Justice coordinated anti-trafficking measures and led an inter-ministerial working group comprising representatives from seven ministries. This group facilitated information exchange, developed relevant action plans, and, in collaboration with the Coordination Office (KOM) and other stakeholders, ensured implementation of the National Action Plan (NAP). Nonetheless, NGOs have expressed concern over the government's lack of leadership and commitment in this area, noting that KOM employs only two senior advisors and that the Ministry of Justice lacks any specialized trafficking personnel. NGOs have also emphasized the need to update the National Action Plan—which was last adopted in 2016—to reflect the current situation, emerging trends such as increased online exploitation, and the distribution of responsibilities among various actors.

Funding for NGO awareness campaigns was increased from 1 million NOK (approximately USD 98,370) in 2022 to 1.4 million NOK (approximately USD 137,710) in 2023. Government-funded

NGOs operate a 24-hour hotline for potential trafficking victims; in 2023, 64 victims contacted this hotline.

To reduce demand for commercial sexual exploitation, the government has financed two projects that provide counseling services to clients of sexual services and investigate and fine those who use such services.

In the realm of international cooperation, the Norwegian Agency for Development Cooperation (NORAD) had, by 2023, committed 190 million NOK (approximately USD 18.7 million) in financial agreements for the “End Modern Slavery” Development Program aimed at preventing trafficking in partner countries, working alongside multilateral organizations and civil society. NORAD also pledged to allocate 190 million NOK for a three-year project (2020–2023) combating child labor and forced labor in Sub-Saharan Africa.

Norway has continued its participation in the Baltic Sea States’ Task Force Against Trafficking, a platform that strengthens regional policy, facilitates the sharing of national experiences at the international level, and exchanges best practices. The government is also a member of the donor coordination working group under the “Alliance 8.7” initiative, which supports international efforts to eliminate forced labor, trafficking, and the worst forms of child labor.

According to government officials and NGOs, forced labor remains a serious concern in Norway. The government has continued efforts to raise awareness among employers about the country’s legislation and regulatory requirements and has encouraged the

public to avoid purchasing unusually cheap and potentially illegal services.

Norwegian law prohibits recruitment agencies from charging job seekers any fees and grants the Labor Inspectorate authority to oversee enforcement of this legislation. Additionally, laws require medium and large companies operating in Norway to conduct due diligence regarding human rights and working conditions in their supply chains and to report any violations of human rights or decent work standards.

The government has established an advisory center providing guidance and resources to companies to promote corporate social responsibility. Furthermore, suppliers participating in government-awarded contracts are required to comply with internationally recognized human rights standards as a condition.

The government has implemented an action plan aimed at preventing exploitation of foreign workers, including human trafficking, as well as combating “social dumping” in the transportation sector. Additionally, a crime prevention strategy addressing illegal activities in workplaces and labor markets, including human trafficking, has been continued. This strategy promotes cooperation among authorities, labor inspectorates, NGOs, and business entities.

Targeted inspections have been regularly conducted in sectors with frequent violations, such as construction sites and car wash stations. Officials report that these inspections have uncovered forced labor cases in previous years.

Within the framework of cooperation with specialized anti-trafficking police units, the government has activated seven inter-

agency centers against labor crimes. These centers include representatives from the police, the Labor and Welfare Administration, and the Norwegian Labor Inspection Authority, aimed at identifying and investigating labor trafficking cases.

Moreover, the government maintains the Vardo International Vessel Monitoring Center, which supports secure intergovernmental cooperation in combating fisheries crimes by using a digital platform for sharing information and analyses of illegal vessels. Developed by Norway and supported by analysts from the Norwegian Directorate of Fisheries, the center produces reports on fishing vessels' movements and potential illegal fishing activities.

An independent social science research fund, financed by the Norwegian government, has conducted a five-year project focused on shaping national policy and combating exploitation of foreign workers, including human trafficking, “social dumping,” and labor crimes. In cooperation with international organizations, the fund conducted research assessing the prevalence of suspected labor trafficking victims among foreign workers in Norway and organized seminars on KOM’s findings.

Following Russia’s large-scale military intervention in Ukraine, the Norwegian government has undertaken awareness-raising activities to reduce human trafficking risks among refugees. Information materials covering trafficking risks were prepared and distributed in English, Russian, and Ukrainian. The government also cooperated with an intergovernmental organization to hold seminars for NGOs, law enforcement, and other relevant bodies focusing on trafficking risks among Ukrainian refugees.

The Norwegian Directorate of Immigration (UDI) provided information packages to Ukrainian refugees in multiple languages. The Ministry of Justice and an inter-ministerial working group assigned responsibilities to the Directorate of Children, Youth and Family Affairs (Bufetat), UDI, local authorities, and municipalities to increase awareness of potential trafficking risks.

Law enforcement agencies have closely monitored potential trafficking cases involving former offenders engaged in transporting Ukrainian refugees to Norway for commercial sexual exploitation. The government has granted temporary protection status to approximately 57,000 refugees from Ukraine.

Recent data indicate that traffickers in Norway exploit both local and foreign nationals. Less frequently, Norwegian citizens become victims of trafficking abroad. Vulnerable groups include children, migrants, and persons belonging to the LGBT+ community. Victims in Norway predominantly originate from African, European, and South American countries. Most victims are women around the age of 30, some with intellectual disabilities, and they are primarily subjected to sexual exploitation.

There are reports that an increasing number of women from Thailand are coming to Norway to join their Norwegian spouses. However, once in Norway, these individuals are subjected to labor exploitation or commercial sexual exploitation by human traffickers.³⁰¹ Traffickers use widespread threats and emotional manipulation to coerce victims into exploitation through physical

³⁰¹ U.S. Department of State - Office to Monitor and Combat Trafficking in Persons. 2023 Trafficking in Persons Report: Norway. <https://www.state.gov/reports/2023-trafficking-in-persons-report/norway/>

and psychological violence. Members of criminal networks, especially those with international connections, recruit victims by placing false advertisements on the internet, social media platforms and various messaging applications and subject them to commercial sexual exploitation.

The government has also documented cases of girls being forced into early and forced marriages. These cases are often linked to sexual exploitation and forced labor, and are considered a form of human trafficking³⁰². Human traffickers exploit women and girls in massage parlors for sexual exploitation, while men and women are exploited in labor trafficking, particularly in domestic work, as well as in restaurants, grocery stores, and auto repair shops. Other high-risk sectors include agriculture, construction, hospitality, textiles, transportation, and the extraction industry. Traffickers confiscate identity documents, withhold wages, and use debt bondage to control and exploit victims. Children are coerced by traffickers into forced criminal activities and other forms of forced labor, including illegal work in car wash stations and private households. In recent years, authorities and civil society representatives have reported an increase in labor trafficking cases. Typically, victims of labor trafficking are foreign workers whose traffickers are either their employers or other workers acting as intermediaries. Reports indicate that forced labor is a significant problem in the fishing sector. Many fishermen are foreign workers highly vulnerable to exploitation, including trafficking, especially those working on

³⁰² Arnegaard T., Davis T. Mapping of modern slavery and recommendations for the Norwegian Government's development programme to combat modern slavery // Official website of the Norwegian Ministry of Foreign Affairs
https://www.regjeringen.no/en/dokumenter/modern_slavery/id2670039/

fishing vessels operating far from the shore. Labor trafficking in this sector is often linked with other criminal activities such as illegal fishing and environmental crimes. Thousands of refugees fleeing Russia's large-scale invasion of Ukraine and arriving in Norway may be particularly vulnerable to human trafficking. Reports indicate that traffickers operating in criminal networks exploit Ukrainian refugees through social media before they leave Ukraine, coercing them into situations of exploitation and offering transport or asylum in exchange for commercial sexual activities in Norway and other European countries³⁰³.

Experience and national legislation in combating human trafficking in the Kingdom of the Netherlands – The Netherlands is primarily a destination country for human trafficking victims, but it is increasingly becoming a country of origin as well. Between 2018 and 2022, the total number of suspected human trafficking victims was 4,732, of whom approximately 60% were women. About half of the suspected victims were subjected to sexual exploitation, 25% to labor exploitation, and 10% to trafficking for forced criminal activities. Approximately 20% of the suspected victims were Dutch nationals. The top five countries of origin among foreign victims were Nigeria, Poland, Romania, Bulgaria, and Hungary³⁰⁴.

The decrease in the number of recorded victims between 2019 and 2021 can be linked to the reduction in travel and detection

³⁰³ Siegfried K. Ukraine crisis creates new trafficking risks // Official website of the UN Refugee Agency. April 13, 2022.

<https://www.unhcr.org/news/stories/ukraine-crisis-creates-new-trafficking-risks>

³⁰⁴ General information: situation on trafficking in human beings. Netherlands // Official website of the European Commission

https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/netherlands_en

limitations caused by the COVID-19 pandemic. During this period, migrant workers, including undocumented workers, were forced to live in poor living and working conditions; especially during the COVID-19 pandemic, this situation led to an increase in the number of suspected human trafficking (THB) victims subjected to labor exploitation. Most victims lost not only their jobs but also their housing and residence permits due to COVID-19 measures, leading them to seek help from assistance agencies.

Other pandemic-related changes include a decrease in the number of human trafficking victims for cross-border sexual exploitation and forced criminality. In 2020, there was also a significant drop in reports concerning child victims. The Dutch government has highlighted the particular vulnerability to human trafficking of children and young adults residing in youth care institutions, as well as those with mental or physical disabilities or substance addictions. Many of them are recruited online and exploited by so-called "lover boys."

According to authorities and specialized NGOs, the actual scale of human trafficking in the Netherlands is higher than the official figures for presumed victims suggest. The Research and Documentation Centre (WODC) of the Ministry of Justice and Security estimates that the annual number of human trafficking victims is around 5,000, with an approximately equal distribution between female and male victims, as well as between sexual and other forms of exploitation. However, this estimate likely underrepresents cases of child trafficking and forced labor, particularly among Dutch nationals. In a report on forced criminality in 13 municipalities, the NGO CKM concluded that between 2020

and 2021, there may have been up to 2,500 potential victims of human trafficking for forced criminal activity, although only 68 presumed victims were officially registered.

In the Netherlands, the number of asylum seekers reached 47,991 in 2022, an increase from 36,620 in 2021. However, there are no statistical data on the number of trafficking victims among asylum seekers. Between February 24 and October 2022, following the outbreak of the war in Ukraine, the Netherlands recorded the arrival of over 80,000 individuals from Ukraine, mostly women and children. Authorities created a dedicated website with information about human trafficking risks for refugees from Ukraine.

The Directorate-General for Ukrainian Displaced Persons (DG OEK) was established in April 2022 within the Ministry of Justice and Security (JenV), tasked with coordinating, supporting, and planning the reception policy for displaced persons from Ukraine. During the GRETA evaluation visit in October 2022, it was reported that by that time, 35,000 Ukrainians had found employment in the Netherlands. In 2022, Comensha registered 51 presumed Ukrainian victims of human trafficking: 2 were subjected to sexual exploitation and 49 to labor exploitation. Authorities noted that three investigations into possible trafficking cases (two by the police and one by the Netherlands Labour Authority – NLA) had been launched, but no evidence of trafficking had been found during these investigations³⁰⁵.

³⁰⁵ Council of Europe Group of Experts on Action Against Trafficking in Human Beings - GRETA. Third Evaluation Round Report on access to justice and effective remedies for victims of trafficking in human beings. France, Strasbourg Cedex, 2024, 64 p., p. 11 <https://rm.coe.int/greta-evaluation-report-on-the-netherlands-third-evaluation-round-focu/1680ad38f2>

Since 2018, several legislative changes have been made in the legal framework regarding anti-trafficking efforts. In August 2019, an amendment was introduced to Section B8/3.1 of the Aliens Circular, granting authorities the right to transfer third-country nationals seeking asylum in the Netherlands who claim to be victims of human trafficking from another EU Member State back to the first country of entry into the EU. Under this amendment, these individuals are not granted a B8/3 residence permit if no foreign investment is involved. As a result, such foreign nationals are de facto denied the reflection and recovery period (see: Paragraph 208).

On 1 January 2022, Article 273g was added to the Criminal Code, criminalizing the use of sexual services by a person who knew or had reasonable suspicion that the individual providing the services was a victim of trafficking.

Dutch authorities are currently preparing amendments to Article 273f of the Criminal Code to improve the prosecution of trafficking cases and to provide a more precise legal definition of the criminal offenses. Additionally, the Public Prosecution Service (OM) has adopted and/or updated three key policy documents: the Criminal Procedural Guidelines on Human Trafficking, the Sentencing Guidelines, and the Directive on Combatting Human Trafficking. These documents set out the responsibilities of the prosecution, the main directions of anti-trafficking efforts, and provisions for dismissing cases based on the principle of non-punishment.

At the institutional level, the Human Trafficking Task Force was re-established in July 2020 for a fifth three-year term under the leadership of the Public Prosecution Service, comprising

representatives of relevant state and municipal authorities, as well as NGOs. The Task Force focuses on promoting the implementation of incentives outlined in section 2 of the national action plan for an integrated approach to combat human trafficking. Furthermore, the Ministry of Justice and Security (JenV) and the Ministry of Health, Welfare and Sport (VWS) established an Expert Group to follow up on previous measures targeting the group known as “lover boys” (“loverboys” or tienerpooiers). However, this Expert Group was dissolved in early 2022, and it was decided to integrate the lessons learned into regional cooperation programs.

Municipalities play a key role in the fight against human trafficking in the Netherlands. As noted in GRETA's second report, since 2015, amendments to the Social Support Act and the Youth Act have placed the responsibility for supporting trafficking victims on municipalities. In 2018, the Intergovernmental Programme was launched to enhance cooperation between central, provincial, and municipal governments. As of 2022, every municipality in the Netherlands is required to have a human trafficking policy. Nevertheless, in comments on the draft report, Dutch authorities stated that a survey conducted among 181 municipalities revealed that only 66% had developed human trafficking-specific policies.

The Association of Netherlands Municipalities (VNG) tasked the Centre for Crime Prevention and Safety (CCV) with developing a digital toolkit to assist municipalities in strengthening their anti-trafficking approaches. This toolkit, named “Compass” (Kompas), serves as a policy tool and guide and has been particularly useful for

municipalities that previously had no trafficking policy in place³⁰⁶. Meetings of regional human trafficking coordinators are held four times a year. Additionally, the Ministry of Justice and Security (JenV), together with the police, the Expertise Centre on Human Trafficking and Human Smuggling (EMM), the Centre for Crime Prevention and Safety (CCV), the Association of Netherlands Municipalities (VNG), and CoMensha, has initiated discussions regarding whether the “Domain and Information-Based Working Method” (DIGW) detects indicators of human trafficking. Municipalities are also supported by the Regional Information and Expertise Centres (RIEC) and the National Information and Expertise Centre (LIEC).

In November 2018, the Dutch authorities adopted an integrated program entitled “Together Against Human Trafficking,” which essentially functions as the national action plan against trafficking. This program was developed by JenV in cooperation with numerous public and non-governmental organizations. Its objectives are to prevent individuals from becoming victims, to ensure rapid identification and assistance to victims, and to combat traffickers through various criminal and administrative measures.

The program is structured along five lines of action:

1. Improving the core approach to combating trafficking by enhancing victim and perpetrator identification and victim support services;

³⁰⁶ Empowering cities and regions to combat human trafficking for labour exploitation // Council of Europe Congress of local and regional authorities, March 26, 202531 p., p.28 <https://rm.coe.int/empowering-to-combat-human-trafficking-en-co-rapporteurs-cecilia-dalma/1680b4d340>

2. Strengthening the approach to combating labor exploitation;

3. Preventing victimization, including in countries of origin and transit, and preventing crime through agreements with the business community;

4. Reinforcing the municipal approach to combating trafficking;

5. Promoting knowledge and information exchange among professionals within and outside the Netherlands.

In November 2021, JenV published a detailed evaluation of the status of all planned actions under the program (completed, ongoing, delayed, etc.). NGOs that met with GRETA stated that the program lacked measurable targets, which hindered its evaluability. Dutch authorities acknowledged that the design of the program did not allow for independent evaluation. When it was launched in 2018, the program had no dedicated budget, and actions were financed from various sources and implemented in accordance with relevant policy evaluations. Authorities noted that, for this reason, an overall assessment of the program is not possible. However, summaries of individual actions are shared with Parliament annually, and the new national action plan is expected to place greater emphasis on monitoring and evaluation.

In December 2021, the new Dutch coalition government agreed to continue the 2018 integrated program and planned to draft a new program in 2022 in consultation with stakeholders from both governmental and civil society sectors, including survivors of trafficking. To this end, four roundtable meetings were held:

- The first roundtable addressed current issues and challenges;

- The second examined the root causes of these problems;
- The third proposed possible interventions and operational objectives;
- The final roundtable reviewed the proposed measures and identified stakeholders to be involved.

Currently, Dutch authorities are integrating the outcomes of these roundtables into the new national action plan.

Since 2018, the Dutch government has taken several steps to increase the budget for anti-trafficking efforts. Each year, the police and other law enforcement agencies received €2 million for research and development in the field of human trafficking. These funds were used to establish Field Labs (MFL) and to expand EMM. Since 2018, the Dutch National Police (NLA) has received an additional €50 million annually for anti-trafficking measures. In 2020, an additional €10 million was allocated to the police budget for combatting trafficking. In 2021, the government announced plans to allocate €2 million per year starting in 2023 to support activities under a new anti-trafficking program.

At present, the Dutch government fully meets the minimum standards for the elimination of human trafficking. Efforts include the prosecution of more traffickers, finalization and implementation of a new National Action Plan (NAP), and amendments to ensure a 30-day reflection period for potential victims subject to the Dublin Regulation.

The Labour Inspectorate has established a special unit of 30 inspectors to investigate labor exploitation, including trafficking. The government has taken measures to prevent the criminal exploitation of children by conducting assessments in schools and

establishing a national hotline and online information portal for victims of criminal exploitation and vulnerable youth. The government has formally requested assistance from survivors in developing new anti-trafficking initiatives.

While the government meets the minimum standards, courts have prosecuted fewer traffickers, and over 50% of the imposed sentences have been partially suspended. For the third consecutive year, the government has identified fewer victims. Unaccompanied children continue to disappear from Dutch asylum centers, and due to a shortage of space in reception facilities, hundreds of such children have been placed in emergency shelters or other alternative housing, increasing their vulnerability to trafficking. Additionally, observers report an insufficient number of shelters for trafficking victims and that the fragmented structure of care services hinders protective efforts. The government provides only limited and time-bound support services to undocumented foreign victims who choose not to participate in criminal proceedings.

Dutch authorities continue efforts to combat trafficking through law enforcement. Article 273f of the Criminal Code criminalizes both sexual and labor trafficking, prescribing penalties of up to 12 years' imprisonment or fines of up to €87,000 (approximately USD 96,130) for trafficking offenses involving adult victims, and up to 15 years' imprisonment or fines up to €309,000 for more severe cases³⁰⁷. These penalties are considered sufficiently severe and are comparable to those prescribed for other serious

³⁰⁷ Dutch policy on trafficking in human beings // Official website of the EUCPN (European Crime Prevention Network)

<https://eucpn.org/document/dutch-policy-on-trafficking-in-human-beings>

crimes such as rape, in the context of sexual trafficking. Article 273g criminalizes knowingly soliciting a victim of sexual trafficking; an offender who solicits an adult victim of sexual trafficking may be punished with up to four years of imprisonment or a fine, while someone who solicits a child victim of sexual trafficking may face up to six years of imprisonment or a fine.

The government has prepared draft amendments to the criminal code to expand criminal liability for profits derived from trafficking crimes and other forms of labor exploitation. However, the government's advisory council has expressed concerns, particularly that introducing a provision criminalizing the exploitation of work under "severe disadvantage" may create ambiguity and confusion with existing administrative provisions. These amendments are not expected to enter into force by the end of the reporting period.

The government frequently prosecutes child sexual exploitation crimes under Article 248b of the Criminal Code, which carries lower penalties. The BES Criminal Code, however, criminalizes sex and labor trafficking under Article 286f, which prescribes prison sentences ranging from six to fifteen years.

In 2022, the police initiated 213 trafficking-related investigations, nearly the same as the 214 investigations in 2021. The government prosecuted 238 traffickers in 2022, an increase compared to 218 prosecutions in 2021. Of the 57 individuals convicted of trafficking crimes, 56 were sentenced to prison and one to community service. Among those imprisoned, 13 received less than one year, 36 received one to three years, four received three to five years, and three received more than five years.

The courts suspended 55% of sentences (30 partially and one fully), which weakens the deterrent effect, fails to adequately reflect the nature of the crime, and undermines broader anti-trafficking efforts. The government did not report any investigations, prosecutions, or convictions of government officials complicit in trafficking crimes.

On the BES islands, law enforcement efforts to combat trafficking remained weak, and trafficking concerns were underreported and underacknowledged. In particular, the Dutch Caribbean Police Force operating in the BES islands did not report any trafficking-related investigations, prosecutions, or convictions for the second consecutive year, compared to one case in Bonaire in 2021.

Regional police units, including financial investigators, have formed specialized teams with trafficking-trained detectives and experts; the national police also deploys trafficking specialists. Specialized prosecutors and judges handle trafficking cases. However, observers noted that the information exchange between regional police units and the Dutch Expertise Centre on Trafficking in Human Beings and Migrant Smuggling remains insufficient to address the complexity of trafficking investigations.

In 2023, several regional police units cooperated on 17 trafficking investigations. To improve coordination, the government established a structure that supports coordination of trafficking investigations between regional police units, national police, and prosecutors. Law enforcement training on trafficking continues and is implemented institutionally as part of a standard professional curriculum across agencies. All new police officers received

trafficking training as part of basic instruction, while officers specializing in anti-trafficking received additional training. The government also conducted identification training for frontline professionals in direct contact with potential victims. Judges, prosecutors, and defense attorneys received specialized training on trafficking law enforcement and trauma-informed care for victims.

Observers report that authorities on the BES islands have limited expertise and have not thoroughly investigated trafficking cases. Authorities in Bonaire maintain a database for future trafficking investigations. In Sint Maarten, anti-trafficking training for border guards is being funded, and Royal Netherlands Marechaussee officers are increasing cooperation with the Sint Maarten police's trafficking unit. Between 2021 and 2028, the Netherlands plans to allocate €16 million (approximately \$17.7 million) for border security measures in Aruba, Curaçao, and Sint Maarten. Dutch authorities have provided training to customs and coast guard officials and deployed law enforcement officers to BES, Sint Maarten, and other islands. However, observers note that many law enforcement agencies do not sufficiently utilize the deployment system.

The government continues to lead the EUROPOL-coordinated European Multidisciplinary Platform Against Criminal Threats (EMPACT) program on trafficking crimes. In May 2023, Dutch authorities participated in a EUROPOL-led operation with 44 countries, which identified 1,426 potential trafficking victims and initiated 244 investigations. In June 2023, in coordination with EUROPOL, the Dutch authorities led a joint operation with 30 countries aimed at identifying labor exploitation, resulting in 21

arrests, identification of 261 victims, and initiation of 86 new investigations. In September 2023, the Dutch authorities conducted a three-day operation with EUROPOL's support, targeting online platforms and social media used to recruit trafficking victims.

To sustain cooperation in law enforcement, the government maintains the 2016 Memorandum of Understanding with Aruba, Curaçao, Sint Maarten, and the United States.

The government continued its victim protection efforts. In 2022—the most recent year with available official data—the government-funded national victim registration center and assistance coordinator registered 814 potential victims of trafficking, showing a multiyear decline from 845 in 2021, 984 in 2020, and 1,334 in 2019. Contributing factors included the assessment of investigation prospects, the absence of a requirement for civil society to report potential victims to the registration center, and the dual role of the anti-trafficking police in investigating both trafficking and irregular migration.

Out of the 814 potential victims, traffickers exploited 393 in sex trafficking and 454 in labor trafficking, including 105 in forced criminal activity and one in forced begging; some victims experienced multiple forms of trafficking. The government presented data by type of trafficking, not by individual victim, which led to some double counting in the statistics. Most victims were foreign nationals (605) and women (500); 70 victims were children. As compared to the identification of two victims in Bonaire in 2021, the BES island authorities did not identify any victims for the second consecutive year.

The police used a combined intelligence and investigative model to identify potential victims in police reports unrelated to human trafficking; this model includes indicators for screening trafficking among underserved communities. The government continued to fund a website with identification and referral information for first responders and other professionals who may encounter potential victims. Aruba, Curaçao, and Sint Maarten relied heavily on the Netherlands to fund their local anti-trafficking efforts. Observers assessed this level of funding as insufficient.

The government required first responders, including law enforcement, to refer potential victims to a government-designated and funded NGO for registration and coordination of protection services; other organizations and private individuals could also refer victims to the NGO, but they were not obligated to do so.

Upon registration, the NGO referred victims to shelters if they wished and advised them on available services. Of the 814 identified potential victims, 208 (26 percent) were verified and referred to the NGO. Observers noted that the EU General Data Protection Regulation (GDPR), which requires non-law enforcement organizations to obtain a victim's consent before formal registration unless there is a "legitimate interest," continued to discourage the registration of some victims. Nevertheless, experts agreed that it was not the GDPR itself but rather its strict interpretation by many non-law enforcement organizations—due to fear of non-compliance with EU privacy rules—that led to victims' fear of being stigmatized as trafficking victims and their withdrawal from the victim process. Observers reported that the government did not provide stakeholders with practical guidance on GDPR or how to inform potential victims.

Unregistered victims could access services from NGOs that were not government-funded. The government reported training asylum reception and immigration officers on indicators of trafficking and how to report potential cases. However, an international body reported that the government’s efforts to identify trafficking victims among asylum seekers were ineffective and that some asylum seekers identified as trafficking victims did not receive trafficking-specific protection services. Local governments funded an extensive network of care facilities for Dutch victims and foreign victims with legal residence status; local shelters provided housing for trafficking victims and victims of other crimes. Dutch victims and foreign victims with valid residence permits or status were entitled to a full range of social services, including medical and psychosocial care, housing, and educational assistance. In 2023, the government allocated €2 million (\$2.2 million) to local governments for specialized care for approximately 36 high-needs victims, compared to €1.92 million (\$2.1 million) in 2022.

The government offered a three-month reflection period to victims without legal residency status in one of three specialized shelters managed by anti-trafficking NGOs, during which victims could decide whether to file charges against traffickers; victims were not allowed to work during this period.

As of May 2023, potential victims subject to the “Dublin” regulation (which stipulates that an asylum claim must be assessed by the Dublin country—EU countries, Iceland, Switzerland, Liechtenstein, and Norway) could be deported within 30 days if they did not apply for asylum in the Netherlands. Previously, authorities had denied reflection periods to such individuals if law enforcement

did not consider the victim's presence in the Netherlands necessary for investigating or prosecuting the case.

After the reflection period, victims who agreed to cooperate with the police could remain in shelters and became eligible for temporary residence status that allowed them to work. Observers noted that the granting of a reflection period was at the discretion of authorities and that there was no mechanism for appealing the decision.

The government funded three specialized shelters managed by NGOs for trafficking victims with approximately 40 spaces; it allocated €1.3 million (\$1.4 million) in 2023, compared to €1.2 million (\$1.3 million) in 2022. Both NGO-managed and local shelters provided medical and psychosocial care, education, language and skills training, and legal assistance; some also offered self-defense classes, and most were accessible to persons with disabilities.

Observers reported that there were insufficient shelter spaces for victims, resulting in some staying at police stations or hotels. NGOs also noted that the level of services depended on municipal budget priorities, and observers reported long waiting periods for psychosocial services.

Observers also reported that victim care provision was fragmented and uncoordinated and called on the government to create a coordination mechanism for care delivery. They also stated that authorities sometimes penalized victims for unlawful acts committed as a direct result of their trafficking. Civil society noted that many trafficking victims exploited in criminal activities feared

retaliation or prosecution and therefore were unwilling to participate in investigations.

The government placed child victims in shelters specifically for children, foster care homes, or returned them home if deemed safe. During legal proceedings, including hearings at designated facilities and in closed courtrooms, child victims were accommodated in a child-friendly manner. However, children remained vulnerable in the protection system; according to civil society, care workers were insufficiently trained to identify child victims, and the level of specialized services provided to children varied significantly between municipalities.

Unaccompanied children continued to go missing from Dutch asylum centers; in May 2023, media reports indicated that at least 360 children had gone missing from asylum centers since January 2022. In August 2023, media reported that the government had placed more than 800 unaccompanied asylum-seeking children in hotels, adult shelters, or emergency shelters for adults due to a lack of space in child-appropriate facilities.

Although the government stated it had made efforts to address this problem through the previous EMPACT project, including cooperation with law enforcement, an international organization expressed concern about the ineffectiveness of authorities' efforts to prevent children from going missing. Observers also expressed concern that unaccompanied missing children were especially vulnerable to trafficking. In addition, they noted that unaccompanied

children were frequently transferred between caregivers, complicating the delivery of assistance³⁰⁸.

The government instructed prosecutors to prioritize victims' privacy, safety, and health; this included limiting the number of interviews and conducting them without delay. Authorities ensured the avoidance of visual contact between the victim and the suspect, and allowed victims not to testify in open court proceedings. Victims could request physical separation from the suspect during court proceedings; however, observers reported that prolonged judicial proceedings continued to retraumatize victims.

Although victims had the right to free legal assistance during criminal proceedings, the government did not provide such assistance during initial interviews with law enforcement; observers noted that these interviews could have significant legal consequences and influence the victim's decision regarding the reflection period. Furthermore, the compensation provided to legal representatives during criminal proceedings was not proportional to the complexity and duration of cases, which led to a decline in the number of lawyers willing to represent victims.

The law allowed for the seizure of a perpetrator's assets before a final verdict and enabled directly injured parties to join the criminal proceedings and claim damages. Judges frequently awarded compensation to victims; if the perpetrator failed to comply with the court's decision within eight months, the government paid the compensation amount and assumed responsibility for recovering it

³⁰⁸ General information: situation on trafficking in human beings. Netherlands // Official website of the European Commission.

https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/eu-countries/netherlands_en

from the offender. In 2023, courts awarded significant restitution in several cases; for example, in one case, a victim of labor trafficking was awarded €246,013 (\$271,840) in compensation.

Victims could claim compensation through the Violent Offenses Compensation Fund regardless of their legal residence status. They could also file civil lawsuits; however, observers reported that due to high costs, the lack of free legal aid for civil claims, and the absence of a mechanism for recovering compensation from traffickers, victims rarely pursued civil remedies. Victims on the BES islands could also apply to the Violent Offenses Compensation Fund, but the government did not provide information on whether any applications were submitted or compensation granted in the BES territories.

Victims without legal residence status who were willing to press charges and who were nationals of non-EU countries were eligible for a temporary residence permit (B-8 permit) valid for a maximum of five years. The B-8 permit allowed non-EU victims to seek employment. If authorities decided to prosecute a trafficking suspect, the victim could become eligible for permanent legal residency under the B-8 framework. Between April and December 2023, the government reported that 160 foreign victims applied for permanent B-8 status, of which 110 permits were granted. The B-8 residence permit was contingent upon the victim's cooperation with law enforcement. If, after the three-month reflection period, the victim chose not to assist the investigation, the government revoked the permit and all associated state-funded support services.

Moreover, authorities did not grant B-8 permits to potential victims subject to the "Dublin" regulation after they reported their

cases to the police. Instead, prosecutors had to notify immigration authorities that the victim's presence in the Netherlands was essential for investigation and prosecution. Some NGOs noted that if law enforcement could not quickly secure sufficient preliminary evidence for a successful prosecution, they often closed cases prematurely, potentially excluding victims from receiving further assistance. In August 2023, a government report recommended decoupling the B-8 permit process from the requirement of a police report or an ongoing criminal investigation.

If a victim's case was closed without a conviction or if the victim declined to assist the investigation, they could still apply for asylum or request residence on humanitarian grounds. The government did not report the number of potential trafficking victims who applied for asylum. Authorities worked with civil society organizations to repatriate foreign victims who were not granted residence permits; however, the government did not disclose how many victims were returned to their home countries.

The government increased its efforts to prevent human trafficking. Officially, the Human Trafficking Task Force, chaired by the Minister of Justice and Security (JenV), and in practice led by the Chief National Prosecutor, coordinated long-term anti-trafficking policies involving national and local government agencies, the private sector, and NGOs. The Anti-Trafficking Coordination Group oversaw the implementation and coordination of anti-trafficking efforts; the task force convened twice. In October 2023, the government published the 2023–2027 National Action Plan (NAP); observers noted the absence of measurable indicators and benchmarks in the NAP.

During the development of the NAP, the government consulted trafficking survivors and included a specific objective to involve victims in the formulation of anti-trafficking policies. In December 2023, Parliament requested the government to strengthen the NAP and allocate additional funding for its implementation; the government committed to allocating €2 million (\$2.21 million) annually and an additional €500,000 (\$552,486) for the NAP.

The National Coordinator for the Caribbean Netherlands collaborated monthly—virtually and in person—with the national coordinators for combating human trafficking from Aruba, Curaçao, and Sint Maarten. This included the revision of the Memorandum of Understanding reflecting anti-trafficking efforts across the Kingdom of the Netherlands, and in September 2023, the governments adopted the updated Memorandum of Understanding. The government funded a research project led by an NGO dedicated to combating the criminal exploitation of children. In 2023, the NGO published a report in schools on the prevention of criminal exploitation and created a national helpline and online information portal for victims of criminal exploitation and vulnerable youth. The National Rapporteur, responsible for monitoring policy implementation, collecting statistics, reporting, and advising the government, published a report covering traffickers and the criminal justice system between 2017 and 2021. The mandate of the National Rapporteur does not extend to the BES islands, and therefore, research in these territories was not possible.

The government carried out various awareness campaigns in cooperation with both independent and local governments as well as NGOs. Additionally, Dutch government funding supported human

trafficking awareness campaigns by the governments of Aruba and Curaçao. The government also provided assistance and training abroad and financed multiple anti-trafficking programs. In the Middle East and Africa, the government continued to fund an international organization for a three-year campaign, launched in 2021 with a budget of €55.15 million (\$60.94 million), focusing on the protection and assistance of vulnerable migrants and the fight against trafficking in persons and migrant smuggling. The government approved a second phase of the project for 2024–2027. Furthermore, the government continued to finance two international organizations with €10.5 million (\$11.6 million) for a four-year capacity-building project aimed at investigating and prosecuting traffickers in West Africa, a project which began in 2020.

While observers noted the government's increasing attention to labor exploitation, experts claimed that the lack of clarity regarding legal distinctions between labor trafficking and poor labor practices hindered effective anti-trafficking enforcement. There was no licensing system for recruitment agencies or temporary employment agencies, nor were they prohibited from charging recruitment fees to workers. In 2023, the government introduced legislation to establish a mandatory certification system for recruitment agencies. The Criminal Investigations Division of the Netherlands Labour Authority (NLA) established a new department in 2023 exclusively tasked with investigating labor exploitation, including labor trafficking, and assigned 30 full-time staff to the unit. That year, the NLA developed a virtual training module to help inspectors identify signs of labor exploitation, including labor trafficking and "serious disadvantage." The government did not

report whether the data-sharing mechanisms used by the NLA and police had resulted in law enforcement action concerning labor trafficking cases. The government required businesses to comply with the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights, mandating a risk-based due diligence approach to identify adverse human rights impacts, including forced labor, in supply chains. The government did not make efforts to reduce demand for commercial sex acts. The government continued to implement its national plan against the sexual exploitation of children abroad and, under agreements with foreign governments, screened potential offenders at airports.

The government supported NGO-implemented projects aimed at combating the sexual exploitation and abuse of non-territorial children, including a new awareness campaign encouraging travelers to report suspicious activity, and financed a reporting center managed by an NGO to encourage travelers and airline crews to report suspected sexual abuse and exploitation of children.

The government continued to provide training to immigration, hotel, aviation, customs, and labor inspection personnel on methods to identify victims and perpetrators of extraterritorial child sexual abuse and exploitation. The government also maintained cooperation with foreign governments, EUROPOL, INTERPOL, and the United Nations to investigate and disrupt financial flows related to human trafficking. The Ministry of Foreign Affairs continued its efforts to inform local domestic workers employed by foreign diplomats—without their employers' involvement—about avenues for reporting abuse. An NGO, funded by the government, operated a hotline during regular business hours to provide assistance to victims of

labor trafficking. In 2023, 425 individuals who showed signs of trafficking contacted the hotline and were included in national statistics, compared to 388 in 2022.

In September 2023, the government suspended temporary protection for third-country nationals from Ukraine who held temporary residence in Ukraine. In February 2024, media reported that more than 99 percent of reception centers for Ukrainian refugees were at full capacity, indicating a heightened risk of human trafficking for these refugees. Observers noted the lack of available reception space, especially at the country's consistently overcrowded central reception center, which forced some asylum seekers to sleep outside or remain for extended periods in emergency shelters. This instability could increase their vulnerability to trafficking.

As it was in previous years, traffickers exploit both domestic and foreign victims in the Netherlands. In 2022, the majority of identified victims were Dutch nationals (26 percent). Since 2020, most victims have been of European origin, whereas in previous years, they were predominantly from Africa. Labor traffickers exploit adults from Eastern Europe, Africa, South and East Asia, and Latin America in sectors such as food service, retail, inland shipping, leisure river cruises, agriculture, horticulture, hospitality, domestic work, and forced criminal activity. The number of victims from Africa, particularly from Nigeria and Uganda, has increased significantly. Tens of thousands of refugees fleeing Russia's full-scale invasion of Ukraine, mostly women and children, live in the Netherlands and remain vulnerable to exploitation, including trafficking. As of January 2024, approximately 140,000 Ukrainians resided in the Netherlands, with more than 50 percent of them

employed. In 2022, 51 potential victims of human trafficking among Ukrainian refugees were identified, compared to seven in 2021. Refugees and asylum seekers—including unaccompanied minors and children in government-run reception centers—are vulnerable to labor and sexual exploitation. A significant number of unaccompanied children have gone missing and are subjected to exploitation. Traffickers increasingly exploit children and youth in criminal activities, including drug trafficking. Criminal groups force Roma children to engage in pickpocketing and shoplifting. Dutch nationals exploit children in sexual exploitation and abuse abroad. Most traffickers are male, many are Dutch, and a large proportion are under the age of 30.

Australia's national legislation and legal practice of Australia – Australia is recognized as a destination country for victims of human trafficking, particularly individuals from Thailand, Malaysia, the Philippines, and Korea. The primary Commonwealth laws addressing human trafficking crimes in Australia are the Crimes Act 1914 and the Criminal Code Act 1995³⁰⁹. A range of offences are included under this framework, involving the use of force to move people within Australia or abroad for the purpose of exploitation. This differs from smuggling, which generally involves the movement of individuals across borders for purposes other than exploitation. It is difficult to determine the actual prevalence of human trafficking in Australia. This is due to the covert nature of the crime and the likelihood of significant underreporting. Human

³⁰⁹ Makela M. Human Trafficking Offences Under Australian Law // Official website of the GTC Lawyers.

<https://www.gotocourt.com.au/criminal-law/human-trafficking-offences-under-australian-law/>

trafficking in Australia encompasses various criminal acts, including the movement of people either domestically or across international borders for exploitation. It also includes crimes in which individuals already within Australia are subjected to exploitative practices such as slavery, forced labour, or forced marriage. Human trafficking offences are distinct from people smuggling, which usually involves transporting individuals across borders, often in exchange for payment. In smuggling cases, the perpetrator does not typically intend to exploit the individual being transported. The true extent of human trafficking in Australia remains difficult to assess due to the hidden nature of the crime and the high probability of underreporting. Australia is a known destination country for trafficking victims, particularly from Thailand, Malaysia, the Philippines, and Korea.

Australian law defines slavery as the exercise of ownership powers over another person, whether through debt bondage, contract, or otherwise. Offences resembling slavery include slavery itself, forced labour, deceptive recruitment, and forced marriage. To date, the majority of victims identified by Australian authorities, as well as those involved in prosecuted cases, have been women working in the sex industry. However, increasing numbers of victims are also being identified in agriculture, construction, and hospitality sectors, among others involving labour exploitation. Forced marriage occurs when a person enters into marriage without full and free consent, either due to coercion, duress, or incapacity. Causing someone to enter into a forced marriage, or entering into such a marriage, constitutes a serious criminal offence. If the victim is under the age of 18, or in other specified circumstances, these

offences can carry a maximum sentence of 7 to 9 years' imprisonment. Offences in this area are set out under Sections 270 and 271 of the Commonwealth Criminal Code, and include the following criminal acts: slavery, slavery-like conditions, forced marriage, forced labour, deceptive recruitment, trafficking in persons, debt bondage, organ trafficking, and offences relating to non-citizens working in Australia without valid visas.

In 2013, major reforms were introduced through the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013. That same year, the Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures Act brought significant procedural changes. Another key legislative reform occurred in 2018 with the passage of the Modern Slavery Act, following consultation with the Commonwealth Director of Public Prosecutions (CDPP) through the labour exploitation working group.

Australia's primary legal framework for the criminalisation of human trafficking and slavery is contained in Sections 270 and 271 of the Commonwealth Criminal Code Act 1995. Section 270 criminalises slavery and slavery-like conditions, including forced labour and deceptive recruitment. This provision carries universal jurisdiction, meaning it applies regardless of where the offence occurred or the nationality of the offender or victim. Forced marriage is also recognised under Section 270 as a slavery-like practice. It occurs when one or both parties do not give full and free consent to the marriage, due to coercion, threat, age, or intellectual incapacity. Offences under Section 270 may be prosecuted regardless of whether the conduct occurred inside or outside Australia, provided the

offender is an Australian citizen, resident, or corporation. These offences do not require that the victim be brought into or removed from Australia. Section 271, on the other hand, reflects Australia's international obligations under the United Nations Convention against Transnational Organized Crime, particularly with respect to trafficking in persons, especially women and children. It includes offences related to trafficking in persons, organ trafficking, child trafficking, debt bondage, and the harbouring or concealment of victims.

Penalties for these offences range from 4 years' imprisonment for debt bondage, up to 25 years for slavery or child trafficking.

Australian legislation also provides safeguards for vulnerable witnesses in criminal proceedings involving slavery and trafficking. The Crimes Act 1914 (Cth) allows trafficked persons to give evidence via closed-circuit television, video link, or recorded video. It also permits support persons to accompany them while testifying and ensures there is no visual contact with the accused or members of the public.

The Act further prohibits the publication of material that may identify a victim of human trafficking, and gives victims the opportunity to make a victim impact statement in court.

The Australian Government is undertaking a targeted review of the offences under Sections 270 and 271 of the Criminal Code, with a focus on human trafficking, slavery, and slavery-like practices. This initiative aims to ensure that Australia's justice system is capable of effectively investigating and prosecuting these crimes. As part of this review, the government will conduct public consultations. This review will contribute to the implementation of

Australia’s National Action Plan to Combat Modern Slavery 2020–2025.

In 2013, the Australian Parliament passed two key legislative amendments aimed at strengthening the legal framework on human trafficking and slavery: the Crimes Legislation Amendment (Slavery, Slavery-like Conditions and People Trafficking) Act 2013 (“Slavery Act”); and The Crimes Legislation Amendment (Law Enforcement Integrity, Vulnerable Witness Protection and Other Measures) Act 2013 (“Vulnerable Witnesses Act”). Both Acts were developed following extensive public consultation³¹⁰. Following the 2010 discussion papers on a Criminal Justice Response to Servitude and Trafficking in Persons—covering prosecution, compensation, and protection of vulnerable witnesses (206KB PDF), as well as the Forced and Servile Marriage Discussion Paper (174KB PDF)—the legislation specifically sought to incorporate stakeholder feedback. Due to the complexity of the required amendments, the response to the 2010 discussion papers was carried out in two stages. The first stage focused on investigation and prosecution through the Slavery Act, while the second emphasized support and rehabilitation for victims via the Vulnerable Witnesses Act. On 27 February 2013, the Australian Parliament passed the Slavery Act, which amended Sections 270 and 271 of the Criminal Code to ensure the broadest possible range of exploitative conduct would be criminalised. Among other things, the Act introduced new offences into the Criminal Code, including forced marriage, harbouring of victims, standalone forced labour, and organ trafficking. It also expanded

³¹⁰ Australian Government. Attorney-General Department. Human trafficking <https://www.ag.gov.au/crime/people-smuggling-and-human-trafficking/human-trafficking>

existing offences relating to sexual servitude and deceptive recruiting for sexual services, so that they would apply to exploitative practices across all industries—not just the sex industry.

On 27 June 2013, the Australian Parliament enacted the Vulnerable Witnesses Act, which amended the Crimes Act to provide protections for vulnerable witnesses, including victims of human trafficking and slavery, when testifying in Commonwealth criminal proceedings. Following the enactment of the Vulnerable Witnesses Act, victims of trafficking were permitted to give evidence via closed-circuit television, video-link, or video recording. They could also have support persons present during testimony and be shielded from contact with the defendant or members of the general public. The Act also amended the Crimes Act to criminalise the publication of material identifying a victim of human trafficking. Additionally, it allowed victims to submit victim impact statements to the court, reflecting the harm they had suffered. The amendments introduced through the Slavery Act and the Vulnerable Witnesses Act ensured that Australia's law enforcement agencies were well-equipped to investigate and prosecute offences relating to human trafficking and slavery. They also guaranteed that victims would receive appropriate support and protection when engaging with the criminal justice system.

On 23 February 2015, the Australian Parliament passed the Criminal Code Amendment (Psychoactive Substances and Other Measures) Act 2015, which amended Section 270 of the Criminal Code to clarify that slavery-related offences are subject to universal jurisdiction. On 27 November 2015, the Parliament enacted the Criminal Code Amendment (Powers, Offences and Other Measures)

Act 2015. Among other provisions, this legislation strengthened Australia's legal response to forced marriage by amending the Criminal Code. The Act increased penalties for forced marriage from four to seven years for basic offences, and from seven to nine years for aggravated offences. These increases reflected the serious nature of forced marriage as a slavery-like practice, a form of gender-based violence, and a violation of human rights. Furthermore, the Act broadened the definition of forced marriage to include circumstances where an individual is unable to provide full and free consent due to reasons such as age or cognitive incapacity to understand the nature and effect of the marriage ceremony. Under the revised definition, any person under the age of 16 is presumed incapable of understanding the nature and effect of a marriage ceremony.

Human trafficking, slavery, and slavery-like practices constitute a global problem. While the full scale of the issue is difficult to measure, the International Organization for Migration (IOM) estimates that up to 800,000 people may be trafficked across international borders each year. At any given time, approximately 2.5 million people are in situations of forced labour, including sexual exploitation. Numerous countries are affected by trafficking, whether as countries of origin, transit, or destination.

Australia is committed to addressing this issue at the domestic, regional, and international levels.

Australia has ratified the United Nations Convention against Transnational Organized Crime (UNTOC) and its supplementing Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol). Australia actively cooperates with countries in its region and beyond to combat

human trafficking. Government representatives participate in international forums such as the UN Commission on Crime Prevention and Criminal Justice, the Universal Periodic Review process of the UN Human Rights Council, the UN Committee on the Elimination of Discrimination against Women (CEDAW), and the UNTOC Conference of the Parties to enhance prevention and response efforts. Australia also works bilaterally and multilaterally with other nations in its anti-trafficking efforts. For example, Australia and Indonesia co-chair the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime. Australia's development assistance program supports several anti-trafficking initiatives in the Asia region, including the Australia–Asia Program to Combat Trafficking in Persons.

The National Action Plan to Combat Human Trafficking and Slavery 2015–19 serves as Australia's strategic framework for responding to trafficking and slavery. It was developed in collaboration with government and non-government partners and was launched on 2 December 2014 by the Minister for Justice, the Hon. Michael Keenan MP. To strengthen Australia's current framework for combating human trafficking and modern slavery, the government is now developing the next five-year National Action Plan to Combat Modern Slavery.

In 2014, the Minister for Justice, the Hon. Michael Keenan MP, announced the establishment of the Supply Chains Working Group to explore ways to address serious forms of labor exploitation

in the supply chains of goods and services³¹¹/ The working group included experts from government, business, industry, civil society, trade unions, and academia. The group finalized its work program in December 2015 and submitted its report to the Government in early 2016. Following the report, the Government announced that it would strengthen its response to human trafficking and slavery. These measures included: creating a set of awareness materials for businesses; considering the feasibility of a model for large businesses in Australia; requiring transparent disclosures of business practices; developing a non-regulatory, voluntary code of conduct for high-risk industries; and supporting enterprises working to address exploitation within supply chains.

In 2008–2009, the Australian National Audit Office (ANAO) conducted an audit of the Government’s management of the Action Plan to Prevent Human Trafficking. ANAO's report recommended that the Interdepartmental Committee (IDC) improve methods for monitoring progress and measuring the outcomes of efforts. As a result, the Australian Government developed a whole-of-government operational framework to assess the scale of human trafficking, slavery, and slavery-like practices. Australia maintains a comprehensive and whole-of-government approach to combating human trafficking, slavery, and related practices. The Government works with other countries and international organizations to prevent trafficking, prosecute offenders, and protect and support victims.

³¹¹ O'Brien B., Boersma M. Human Rights in the Supply Chain of Australian Businesses: Opportunities for Legislative Reform // Official website of The Australia Institute. September 1, 2016
<https://australiainstitute.org.au/report/human-rights-in-the-supply-chain-of-australian-businesses-opportunities-for-legislative-reform/>

Australia's anti-trafficking strategy was launched in 2003. Since then, the Government has allocated over 150 million Australian dollars to support domestic, regional, and international initiatives. Key measures include: the establishment of specialist units within the Australian Federal Police (AFP); the adoption of the Australian Policing Strategy to Combat Human Trafficking; the enactment of legislation that criminalizes human trafficking, slavery, and slavery-like practices, including forced labor and forced marriage; the provision of individualized victim support programs; visa arrangements allowing suspected victims and witnesses to remain in Australia; and the deployment of immigration liaison officers in Thailand, China, and the Philippines to assist in trafficking prevention and address root causes.

The Director of Commonwealth Public Prosecutions engages in various anti-trafficking activities, including: funding and training; promoting regional cooperation through the Bali Process in the Asia-Pacific region; conducting official training on trafficking prevention; and supporting national and regional research through the Australian Institute of Criminology.

These initiatives support the four main pillars of Australia's anti-trafficking strategy: prevention, detection and investigation, prosecution and compliance, victim support and protection. Measures cover every stage of the trafficking process—from recruitment to reintegration—and emphasize prevention, prosecution, and victim support equally.

Australia's anti-trafficking response has provided support to victims of sexual exploitation and other forms of abuse. Anti-trafficking efforts are coordinated by the Interdepartmental

Committee on Human Trafficking and Slavery, which comprises 13 agencies and operates under departmental leadership.

Because human trafficking, slavery, and similar practices are complex crimes, the Government's efforts represent only part of the solution. The Australian Government has formed strong partnerships with the non-profit sector and closely collaborates with a number of non-governmental organizations (NGOs). NGOs play a critical role in identifying and supporting victims of trafficking in Australia.

The Annual National Roundtable on Human Trafficking and Slavery was established in June 2008 as a consultation mechanism between the Government and NGOs. Since 2011, the roundtable has been supported by meetings at the senior operational level.

The Australian government currently meets the minimum standards for the elimination of human trafficking. The government continued to make serious and sustained efforts during the reporting period; as a result, Australia remains among the leading countries in the fight against human trafficking. These efforts included: identifying more trafficking victims; investigating a senior public official for alleged involvement in trafficking; increasing funding for victim support services to extend the duration and scope of care. The Government also allocated funding to: combat the exploitation of migrant workers; and appoint Australia's first Federal Anti-Slavery Commissioner.

Nonetheless, the Government did not adequately screen vulnerable groups—such as domestic workers, international students, and migrant laborers—for trafficking indicators. There was a lack of appropriate and accessible housing for trafficking victims.

Moreover, the number of law enforcement prosecutions remained disproportionately low relative to the scale of the crime.

The Government continued to rely on a fragmented law enforcement approach. Sections 270 and 271 of the Commonwealth Criminal Code, when read together, criminalize both sex and labor trafficking. However, in contradiction to international law, the definition of “trafficking” under Section 271 requires proof of the movement of the victim. In contrast, Section 270 criminalizes offenses such as “slavery,” “servitude,” and “forced labor,” and may be used to prosecute trafficking cases that do not involve movement. Under Section 271, offenses involving adult victims carry a maximum penalty of 12 years’ imprisonment, while offenses involving child victims carry up to 25 years. These penalties are considered severe and are consistent with other serious sexual trafficking crimes. Section 270 imposes penalties of: Up to 25 years for slavery; Up to 15 years for servitude; and Up to 9 years for forced labor. These are also regarded as significant sanctions.

The Government invoked Section 272.14, which criminalizes the act of procuring a child for sexual activity outside Australia. This provision carries a maximum sentence of 15 years’ imprisonment, and was used to prosecute child sex trafficking offenses. The Government completed its review of Sections 270 and 271 and published the results.

In 2023, the Government referred 191 suspected trafficking cases for possible investigation: 58 related to sex trafficking; 79 to labor trafficking; 54 to unspecified forms of exploitation. This figure was comparable to 193 cases reported the previous year. Authorities initiated 123 investigations: 31 for sex trafficking; 59 for labor

trafficking; 33 for unspecified exploitation. An additional 33 investigations from previous years remained active: 17 for sex trafficking; 14 for labor trafficking; 2 for unspecified exploitation. This marked the first year in which the Government published data on investigations. Authorities prosecuted 14 individuals for trafficking-related crimes, compared to 16 prosecutions in the previous year. Among the 29 individuals prosecuted: 19 were charged in connection with commercial child sexual exploitation and abuse abroad. In 2022, courts convicted: Two individuals for commercial child sexual abuse; One individual for labor trafficking. However, some investigations, prosecutions, and convictions may not have met the international legal definition of human trafficking. Courts sentenced two convicted child sex tourists to prison terms ranging from 2 years and 11 months and 1 day to 14 years. In January 2024, one labor trafficker received a 3-year and 6-month prison sentence. Courts acquitted five defendants of trafficking offenses. Appeals courts upheld four trafficking-related convictions during the reporting period.

In some cases, authorities pursued labor, immigration, or employment violations instead of trafficking charges. This approach risked imposing only fines or other inadequate civil penalties on suspected traffickers.

The Government investigated a high-ranking public official accused of facilitating child sex trafficking. However, the official was not removed from their position, and the investigation remained ongoing at the end of the reporting period. The Government did not report any other investigations, prosecutions, or convictions of public officials complicit in trafficking offenses.

Authorities arrested and deported an individual who had previously been convicted of sex trafficking offenses in the United Kingdom and was allegedly operating as a trafficker in Australia. The individual was deported before facing charges for crimes committed in Australia.

The Australian Federal Police (AFP) Human Exploitation Command³¹² served as the lead national agency for investigating human trafficking cases. The government cooperated with foreign agencies in the investigation of human trafficking and supported the capacity-building of its international law enforcement counterparts to combat human trafficking crimes.

It conducted a variety of training programs for police officers, labor inspectors, immigration officials, prosecutors, public servants, healthcare professionals, and community workers. These trainings covered a range of topics related to human trafficking, including investigation techniques, trauma-informed approaches, anti-trafficking policies and legislation, victim identification and referral procedures, and the provision of support services to victims. Additionally, the government trained public officials on how to identify, assess, and mitigate modern slavery risks in procurement processes. Prosecutors primarily relied on victim-witness testimonies in the prosecution of human trafficking crimes. However, the government did not provide specialized anti-trafficking training for justice system personnel. Both government representatives and civil society organizations expressed concern

³¹² The Australian Federal Police (AFP). Human Exploitation Command <https://www.afp.gov.au/crimes/human-trafficking-and-people-smuggling/human-trafficking-and-slavery>

that law enforcement officials often fail to recognize cases of human trafficking. Observers noted that there was a lack of understanding among law enforcement personnel regarding the nature of psychological coercion. Survivors reported that when they sought assistance, they were not provided with support. Authorities often assumed that, since the victims were adults and not physically restrained, they were capable of leaving the situation of exploitation on their own. One survivor stated that after seeking help, the AFP declined to pursue the case, forcing her to remain in a trafficking situation for an additional two years. Other survivors reported being treated as criminals rather than victims when they approached law enforcement for help.

The government increased its efforts in the identification and protection of victims. While the competent authorities had identified 13 victims in the previous year, this figure rose to 59 during the reporting period. A list containing indicators of human trafficking, along with a referral protocol, was implemented to facilitate victim identification and referral to appropriate services. Authorities identified the majority of victims through reports from community members, healthcare institutions, law enforcement bodies, and non-governmental organizations (NGOs). Observers noted that the government often associates human trafficking with migration and does not demonstrate sufficient proactivity in screening for trafficking indicators among agricultural workers, hospitality sector employees, and maritime migrants. According to civil society representatives, some law enforcement officials claim that women who have migrated to Australia to work in commercial sex establishments are not at risk of exploitation. However, under

international law, initial consent is not legally relevant in the context of human trafficking.

Despite persistent reports of sexual exploitation, forced labor, and other trafficking indicators involving foreign workers under the Working Holiday Visa Program and the Pacific Australia Labour Mobility (PALM) scheme, authorities did not report actively screening PALM participants for trafficking indicators. The government stated that it conducts active screening for trafficking indicators during the visa processing phase for individuals arriving under the Working Holiday Visa scheme. Nevertheless, a representative of the Australian Border Force (ABF) indicated that the ABF does not actively engage in identifying such indicators. The government also interviewed seasonal workers who had left their employers and stated that if trafficking indicators were discovered during these interviews, the information would be referred to the police.

Observers reported that some victims were reluctant to cooperate with law enforcement due to fear of deportation and language barriers. Civil society representatives emphasized that many victims, unaware of their rights and visa conditions, face difficulties initiating legal proceedings even when subjected to exploitation.

Authorities referred officially recognized victims of human trafficking to the government-funded **Support Program for Victims of Human Trafficking**, which is implemented by NGOs. While 13 victims were referred to the program in the previous year, this number rose to 59 during the reporting period. According to an NGO, victims who do not self-identify as trafficking victims are not

referred for services under the support program. Many survivors stated that they did not realize they were victims of trafficking and therefore could not present themselves to law enforcement as such.

The government also provided assistance to 17 potential victims of trafficking abroad, compared to 20 cases of support provided to an unspecified number of potential victims in the previous year. These cases involved forced marriage, abduction, genital mutilation, and individuals subjected to forced marriage. For the 2023–2024 and 2026–2027 fiscal years, the government allocated 24.3 million Australian dollars (approximately 16.5 million USD) to the support program. This marked a significant increase from the 3.35 million Australian dollars (2.28 million USD) allocated during the 2022–2023 fiscal year.

The government intended to use this funding to: merge the assessment and intensive support stream with the extended intensive support stream into a single stream; extend the minimum support period from 45 to 90 days; provide support for victims' children; and conduct follow-up checks after survivors exit the support program. Additionally, for the first time since 2004, the government allocated funds to evaluate the support program and to develop and pilot an alternative referral pathway proposed by NGOs. This new pathway would not require contact with the Australian Federal Police (AFP). However, by the end of the reporting period, no such alternative pathway had been established. Only the police retained the authority to refer victims to the support program. Experts stated that this requirement hindered access to support services for certain victims. Civil society and survivors noted that once victims were identified,

they often did not receive sufficient support, and the need for a police referral significantly complicated access to services.

The support program may provide survivors with legal assistance, training and education, psychological and medical care, as well as emotional and general support through referrals to other civil society organizations. The program contained five tailored support streams based on the specific needs of victims:

6. Intensive Support Stream – Provided up to 90 days of assistance, regardless of whether the victim participated in an investigation or prosecution.

7. Temporary Trial Support Stream – Assisted victims in providing evidence for prosecution.

8. Justice Support Stream – Offered support until the conclusion of an investigation or prosecution.

9. Forced Marriage Support Stream – Provided up to 200 days of support for individuals subjected to or at risk of forced marriage. Participation in an investigation was not required.

10. Transition Support Stream – Offered recommendations and up to 20 days of life-skills support to survivors exiting the program.

The government offered follow-up checks for survivors who exited the support program at three, six, and twelve-month intervals.

Civil society and survivors expressed concern over the lack of appropriate and accessible housing for individuals rescued from human trafficking. The government had not established a dedicated shelter specifically for trafficking victims. Survivors required stable income and secure visas to remain in Australia on a long-term basis. According to NGOs, obtaining such visas was extremely difficult.

One NGO implemented three accommodation options—one for youth and two for general victims. However, long waiting lists limited access for some survivors. The NGO noted that curfews and restricted visitation hours in shelters could retraumatize victims. For survivors who exited the program, only limited services were available, and many struggled to access continued support. Some reported prolonged delays in receiving assistance and became homeless due to inadequate housing options. One survivor stated that she had engaged in commercial sex work to financially support other survivors and avoid homelessness.

NGOs reported that support services for some victims were contingent upon cooperation with law enforcement, and those services ceased once investigations concluded. If an adult victim was unable or unwilling to participate in investigations or prosecutions, the government relied on NGOs to refer the individual to alternative NGO-provided services after the expiration of a 90-day intensive support period. The government offered victims the option to provide video-recorded testimony; however, no information was reported regarding the number of victims who used this mechanism. The government was able to provide witness protection to victims of trafficking. Eligible victims could also be granted permanent visas. In 2023, the government issued 17 stay visas to foreign victims of human trafficking. In 2022, fewer than five “referred stay” visas were issued. In some of these cases, elements of forced marriage were more prominent than human trafficking.

In 2015, a court awarded AUD 136,000 (USD 92,391) in compensation to a victim exploited by an individual who had served as a foreign diplomat in Australia, pursuant to the Fair Work Act. In

2021, funds seized from traffickers were used to provide compensation to an organ trafficking victim. However, the government had not obtained a single court-ordered restitution judgment against a trafficker and had not established a national compensation scheme for victims of crime. Victims were limited to seeking compensation through civil litigation only.

The government continued its efforts to prevent human trafficking. The Modern Slavery and Human Trafficking Unit within the Attorney-General's Department (AGD) led the domestic anti-trafficking response. The AGD also chaired the Interdepartmental Committee on Human Trafficking and Slavery, which coordinated the government's policy framework and oversaw the implementation of the National Action Plan to Combat Modern Slavery 2020–2025 (NAP). An operational subcommittee of the IDC, the Interdepartmental Operational Working Group, focused on operational matters and the exchange of information related to trafficking.

As part of the government-funded and NGO-managed “Lived Experience Engagement Program,” a pilot “Survivor Advisory Council” composed of individuals rescued from labor exploitation provided policy recommendations. These included strategies for survivor engagement and empowerment, public awareness campaigns, and anti-trafficking training initiatives.

The government held the National Roundtable on Human Trafficking and Slavery twice. These events brought together government agencies and civil society representatives. Both officials and civil society actors emphasized the need to enhance

communication and collaboration between federal and state authorities and civil society on trafficking issues.

The government allocated AUD 8 million (USD 5.4 million) over four years to establish a Federal Anti-Slavery Commissioner. However, the position remained vacant at the end of the reporting period. The government also allocated AUD 50 million (USD 33.97 million) to the Australian Border Force (ABF) to prevent the exploitation of migrant workers.

The government conducted awareness campaigns targeting both public officials and the general public and provided funding to nine NGOs to implement prevention programs in Australia.

Many migrant workers lacked awareness of their workplace rights. Observers in Pacific Island countries reported that, while workers accepted job offers prior to arriving in Australia, most did not fully understand the job offers or working conditions. The government stated that pre-departure orientation training was conducted in countries of origin and in local languages. However, international organizations delivering these trainings in countries such as Vanuatu reported that the content did not include information on human trafficking.

As part of its anti-trafficking efforts, the government funded research by three academic institutions, one NGO, one religious organization, and two healthcare networks. Topics of study included the needs of victims' dependents, the effectiveness of emergency room screenings, and barriers to accessing support services. The government also funded one academic institution to evaluate the progress of the NAP.

The government ensured the continuation of bilateral memoranda of understanding on the protection of migrant workers with the governments of Tonga, Papua New Guinea, and Timor-Leste. Additionally, Australia included provisions on combating modern slavery in public and private sector supply chains in its Free Trade Agreement with the United Kingdom.

Modern Slavery Act 2018: This Act requires companies and entities with annual revenues of AUD 100 million (approximately USD 67.93 million) or more to publish an annual “Modern Slavery Statement.” These statements must detail the steps taken to address modern slavery in their operations and supply chains³¹³. The government published its fourth Modern Slavery Statement in accordance with the Act and updated the publicly accessible online register containing all submitted statements. To support understanding and implementation of the Act’s requirements, the government conducted 140 outreach sessions with businesses. However, observers noted that the Act does not impose any financial or criminal penalties on companies for non-compliance. Most companies submitting statements reportedly failed to fully meet the mandatory reporting obligations concerning risks of forced labor in their supply chains. An analysis of 92 company statements published during the second reporting period under the Modern Slavery Act revealed that only one-third of the companies had taken action to address the risks of modern slavery in their supply chains, according to a non-governmental organization (NGO). Several NGOs called on the government to strengthen the Act’s enforcement mechanisms and to require companies to take concrete steps to prevent forced

³¹³ Modern Slavery Act 2018 <https://www.legislation.gov.au/C2018A00153/latest/text>

labor. In response to these concerns, the government completed a review—initiated during the previous reporting period—to assess the Act’s effectiveness. Based on the findings, it established the Modern Slavery Expert Advisory Group, composed of private sector representatives, civil society, and academic experts, to advise the Attorney-General’s Department (AGD) on issues related to the Modern Slavery Act. The Fair Work Ombudsman (FWO) prioritized preventing potential labor exploitation, including human trafficking, particularly among migrant workers in the agriculture and horticulture sectors. The FWO also conducted awareness campaigns targeting local workers and international students. In some cases, the FWO imposed administrative penalties on employers for workplace violations, including indicators of human trafficking. Civil society representatives reported a lack of trust in the FWO among migrant workers. Some migrant workers who reported exploitation allegedly received no follow-up on their complaints. Both civil society and government representatives expressed concern that the FWO was not actively identifying human trafficking offenses and that its insufficient training on indicators of forced labor might result in missed cases of trafficking. To address workplace exploitation, the government encouraged visa holders who had violated visa conditions due to exploitation to seek assistance from the FWO under the Assurance Protocol. This protocol would allow them to request protection from visa cancellation by the Department of Home Affairs (DHA). However, the government clarified that referral to the DHA would not occur if the visa holder declined to assist in an investigation concerning the workplace violations. Observers indicated that this procedure failed to provide adequate

protection for some individuals who may have been victims of human trafficking. Temporary visa holders reportedly hesitated to use this mechanism due to fears of visa cancellation and deportation. Civil society representatives stated that service providers advised their clients not to rely on the Assurance Protocol. The government initiated a review of the Assurance Protocol, and this process remained ongoing at the end of the reporting period. Officials stated that they follow a standard procedure to screen individuals for indicators of human trafficking prior to deportation.

During the 2010s, a non-governmental organization (NGO) noted that the government failed to effectively enforce labor laws in rural areas of Australia, thereby increasing the risk of forced labor. Domestic workers in Australia—particularly those in Western Australia or those working without formal contracts—remained vulnerable to exploitation due to the lack of clear protective oversight mechanisms. In February 2019, in response to recommendations made by the Migrant Workers’ Taskforce, the government reported taking steps toward establishing a National Labour Hire Registration Scheme. This scheme would require recruitment agencies operating in high-risk industries to register with the government and mandate employers to engage only with registered agencies. Similar registration schemes were implemented by authorities in Queensland and South Australia in 2018, in Victoria in 2019, and in the Australian Capital Territory in 2021. The 88-day work requirement for obtaining a second or third-year visa under the Working Holiday Visa program remained a key driver of exploitation among visa holders. The government did not act on the recommendation of the Temporary Migration Select Committee of

Parliament, issued in September 2021, to eliminate this 88-day requirement. In June 2021, under the Australia–United Kingdom Free Trade Agreement, the government removed the 88-day condition only for British nationals; the requirement remained in place for all other nationalities.

Regardless of migration status, the government amended the Fair Work Act to protect the rights of migrant workers. In December 2023, it announced a new Migration Strategy aimed at enhancing protection mechanisms for temporary workers, increasing penalties for unscrupulous employers, and strengthening compliance checks for sponsored workers. However, this strategy had not been implemented by the end of the reporting period. Under the Pacific Australia Labour Mobility (PALM) scheme, workers' employment and immigration status remained tied to a single employer. Observers noted that this dependency heightened migrant workers' vulnerability to forced labor. They also reported that an inadequately regulated migration agent system and intermediaries operating in this space facilitated the abuse of immigration procedures by traffickers and the exploitation of victims. During the previous reporting period, some state police forces expressed concern regarding this issue but noted that they lacked the authority to address immigration matters at the national level. In June 2023, the government finalized new guidance requiring PALM employers to take specific steps to identify cases of human trafficking. For the 2023–2024 fiscal year, the government allocated 27.3 million Australian dollars (18.5 million U.S. dollars) to the Fair Work Ombudsman (FWO) to expand oversight of the PALM program and ensure that foreign workers are paid properly and that their rights are

protected over the next four years³¹⁴. The government expanded a specialized law enforcement unit, led by the Australian Border Force, to investigate corrupt migration agents, identify vulnerabilities within the immigration system, and detect and support victims of human trafficking holding temporary visas within the commercial sex industry. During the previous reporting period, the government completed a review of the visa framework to identify existing weaknesses. In response to the findings of this review, the government developed an action plan to implement 24 out of the 34 recommendations outlined in the report. Civil society expressed concern that authorities approach sex trafficking through a labour-focused lens. As a result, cases risk being treated solely as labour exploitation matters, without properly recognizing the victims, initiating criminal prosecutions, or imposing appropriate penalties.

The government operated a national police hotline to report various crimes, including human trafficking. However, it did not disclose the number of investigations initiated or the number of victims identified as a result of calls to the hotline. Notably, the government did not maintain a dedicated human trafficking hotline. The government provided funding for an NGO-managed online reporting platform designed to detect labour exploitation and disseminate information about available support services. Through this platform, the government reported the identification of four human trafficking victims. The government also operated the Fair Work Ombudsman (FWO) hotline and trained its operators to identify indicators of human trafficking. In 2023, the FWO referred

³¹⁴ The Pacific Australia Labour Mobility (PALM) <https://www.palmscheme.gov.au/about>

an unspecified number of cases involving potential human trafficking indicators in the agricultural sector to the police.

The government collaborated with foreign governments through dialogue, information exchange, awareness-raising campaigns, training programs, funding for research and technical assistance in combating human trafficking. It conducted annual welfare checks on foreign domestic workers employed by diplomats in Australia. Australia maintained policy and legal frameworks aimed at preventing, detecting, disrupting, investigating, and prosecuting child sexual exploitation and abuse, both domestically and abroad. To reduce Australian nationals' involvement in the foreign commercial sexual exploitation of children, the government published materials for passport applicants highlighting the extraterritorial application of Australian child sex trafficking laws. In the reporting period, the government cancelled 54 passports and denied 12 passport applications submitted by registered child sex offenders. This marked the fifth consecutive year in which the government exercised this legal authority. In contrast, during the previous year, 59 passports were cancelled and none were denied. In addition, authorities issued 257 notifications to foreign counterparts concerning Australian or foreign nationals traveling in relation to child sexual offences. However, the government made no discernible effort to reduce demand for commercial sex acts in Australia.

As reported over the past five years, traffickers exploit both domestic and foreign victims within Australia, and Australian victims are also trafficked abroad. Traffickers exploit Australian citizens – including Aboriginal Australians—foreign women, and a limited number of children, primarily adolescent Australian and

foreign girls, for sex trafficking within the country, including in commercial sex establishments. Certain women from Asia, and to a lesser extent from Eastern Europe and Africa, migrate to Australia—legally or illegally—to work across various sectors, including the commercial sex industry. Upon arrival, traffickers compel some of these women to engage in or remain in commercial sex, both in legal and illegal establishments, including massage parlours, motels, and private residences. Traffickers hold some foreign women and, at times, girls in conditions of captivity. These victims are subjected to physical and sexual abuse, intimidation, manipulation with illicit drugs, and coerced to repay unexpected or inflated debts. While in commercial sex establishments, traffickers attempt to evade law enforcement by allowing victims to carry their passports and by frequently relocating them to prevent contact with civil society organisations or other victims. Traffickers isolate foreign women and girls from Australian women in commercial sex venues to prevent information-sharing about legal rights, workplace rules, and standards. Foreign women and girls are generally unaware of legal provisions governing commercial sex in Australia, which increases their vulnerability to sex trafficking. Civil society reports that illegal commercial sex establishments are four to five times more prevalent than legal ones, thereby significantly increasing vulnerability to sex trafficking within the sector. Some women in forced marriages are subjected to trafficking, including domestic servitude by their husbands or families. Workers in the fashion manufacturing sector encounter indicators of labour trafficking. Additionally, persons with disabilities face heightened vulnerability to human trafficking.

Unscrupulous employers and labour recruitment agencies are known to subject certain men and women from Asia and several Pacific Island nations to forced labour in sectors such as agriculture, horticulture, cleaning, construction, hospitality and tourism, as well as domestic service. An investigation conducted by the Fair Work Ombudsman (FWO) in the previous year revealed that some fraudulent foreign contracting companies were exploiting farm workers under conditions indicative of forced labour. In the agriculture and horticulture sectors, cases of forced labour and other forms of exploitation have been documented, wherein victims—often foreign migrant workers from Asia—are threatened if they attempt to leave their jobs or seek help. Human traffickers may target temporary migrants, including those on working holiday visas, participants in the Pacific Australia Labour Mobility (PALM) scheme, and international students—especially when these individuals are located in remote areas with limited access to support. Some identified victims are foreign nationals on student visas who have paid significant tuition and placement fees. Unscrupulous employers may exploit these students’ fear of deportation for immigration violations, coercing them into working in excess of visa conditions and thereby increasing their vulnerability to human trafficking. Migrant workers who lack awareness of Australian labour laws, access to healthcare, and legal protections afforded to domestic workers may also be excluded from available support due to precarious employment or visa status, as well as language barriers—factors that further exacerbate their risk of exploitation. Employers may legally discriminate against certain temporary visa holders, limiting the number of available

employment opportunities and increasing workers' susceptibility to exploitative labour conditions.

It has also been alleged that some foreign diplomats in Australia have subjected domestic workers to forced labour. Changes made in 2019 to the rights framework governing diplomats in Australia may have slightly reduced the overall number of foreign domestic workers in the country. Nevertheless, cases of forced labour in domestic service often go undetected or unacknowledged by official bodies, and therefore may not be reflected in official statistics. Reports indicate that some migration agents lure migrant workers to Australia on the basis of fraudulent visa applications, including for work in the commercial sex industry. This significantly increases their vulnerability to human trafficking. Additional reports reveal that over ten Australian education providers have knowingly assisted South Korean women in entering Australia on fraudulent student visas for the purpose of working in the commercial sex industry, thereby increasing their risk of becoming victims of sex trafficking. Men are also trafficked into forced labour in the fishing and maritime sectors. Some fishing vessels transiting through or docking at Australian ports have reportedly used physical violence to compel men into labour. Victims of domestic servitude in Australia often work in extremely isolated environments, without any monitoring or regulation³¹⁵. Asylum seekers who are detained for attempting to reach Australia by sea or while awaiting a decision on their asylum application may be particularly vulnerable to forced

³¹⁵ AFP warns domestic and overseas workers of forced labour indicators amid rising reports // Official website of the Australian Federal Police. March 17, 2024 <https://www.afp.gov.au/news-centre/media-release/afp-warns-domestic-and-overseas-workers-forced-labour-indicators-amid>

labour or sexual trafficking. This vulnerability often arises due to factors such as displacement, economic instability, or lack of access to essential resources and community support networks. Reports indicate an increased risk of child sexual exploitation, with some children potentially becoming victims of child sex trafficking. These developments have been linked to the economic impact of the COVID-19 pandemic. Furthermore, since the onset of the pandemic, reports have shown a rise in online sexual exploitation of children by Australian nationals. In many cases, child victims are located in the Philippines. A small number of Australian residents may also facilitate or participate in commercial sexual exploitation and child abuse abroad, including in countries such as Thailand.

CONCLUSION

The phenomenon of human trafficking is not a new concept for national legal systems, nor for transnational or international legal frameworks. The enhancement, expansion, and strengthening of efforts to combat human trafficking have always been a central focus of international organizations and their member states. Although dozens of binding and non-binding international legal instruments and national legislative norms have been adopted in this area, the fight against human trafficking has never yielded completely positive results at any point in history. Several factors—including armed conflicts in various regions, the trafficking and sale of narcotic and psychotropic substances, and political instability—have consistently hindered the complete eradication of human trafficking. It must be acknowledged that the problem of combating human trafficking is not approached with the same level of seriousness or consistency in all regions or states. In fact, there are still some countries whose national legal systems do not explicitly prohibit human trafficking through special legislative acts; instead, the matter is addressed only within general criminal law provisions. Naturally, practical problems in combating human trafficking are often accompanied by theoretical and conceptual legal challenges. For instance, the legal essence of the term "human trafficking" is still not understood globally in a unified manner. Due to differing national traditions, religious beliefs, political ideologies, and other factors, some societies do not consider certain human rights violations related to human trafficking as human trafficking per se. Moreover, the core and secondary elements of human trafficking offenses, as

well as an exhaustive list of such violations, have yet to be fully developed.

In recent years, the negative use of digital technologies, information tools, cyberspace, and online communication platforms in the sphere of human trafficking has further exacerbated both practical and theoretical challenges. In this context, the following key proposals may be put forward to ensure a more effective and higher-quality digital response to human trafficking:

a) There is an urgent need to harmonize national and international efforts, research and investigations, and legal measures to prevent, combat, and eliminate technology-facilitated human trafficking. At present, not all international organizations and states demonstrate the same level of activity in combating human trafficking. Moreover, the approaches of international organizations in this area are far from uniform. Global and unified standards for combating human trafficking have not yet been established. Digitization and the rise of electronic platforms have only deepened the problem of human trafficking in the information society.

b) Unified approaches must be developed regarding the constituent elements of human trafficking offenses, including their digital and electronic dimensions, applicable sanctions, and penalties. To achieve this, human trafficking in the information society must be considered not only as a crime but also as a violation of human rights. Responsibility and sanctions should be applied to states, non-state actors, owners and users of digital platforms, and commercial legal entities alike.

c) Methodologies must be developed for the investigation, examination, and tracking of evidence related to human trafficking

offenses in digital environments. In the development of such methodologies, collaboration is needed among state and non-state institutions, legal experts, and individuals with technological and informational expertise. The most recent technological advancements should be utilized to properly identify the link between technology and human trafficking. Strategies based on fundamental legal principles, human rights, gender equality, and child protection must be adopted. Cooperation should be encouraged among law enforcement agencies, civil society organizations, and the broader public in combating human trafficking in cyberspace. Furthermore, both actual and digital efforts to combat human trafficking must be presented as one of the core responsibilities of the global citizen.

d) Digital and information technologies should be extensively used to ensure necessary protection for victims of human trafficking, particularly those in vulnerable situations, by applying the principle of non-punishment of trafficking victims. In coordination with national law enforcement agencies, digital resources should be established to strengthen protection systems against human trafficking, including specialized services for children. Awareness-raising measures should also be implemented. In doing so, special attention must be given to the reintegration of trafficking victims into society and public life, to their psychological recovery, and to encouraging the active involvement of youth and children in the rehabilitation process.

e) Under the supervision of state institutions, codes of conduct and mandatory digital security standards should be developed for digital platform owners and internet users in the fight against human

trafficking. In accordance with international human rights law, changes may be made to national legislation, or new normative legal acts may be adopted to prevent technology-facilitated human trafficking.

f) Partnership formats should be established to identify and coordinate anti-trafficking measures within the framework of technological capabilities. This should be done in cooperation with the private sector, academic institutions, and civil society actors. Commercial entities operating in the information technology sector must be actively involved in this process. In line with international law, international cooperation should be enhanced to organize and improve the fight against human trafficking, with a wider application of technology and innovative tools. At the same time, the information and digital rights of trafficking victims must be defined.

Efforts at both national and international levels must be increased, particularly in the areas of information literacy and digital literacy. Naturally, no matter how often electronic and digital tools, methods, and mechanisms for combating human trafficking are updated, traffickers and criminal actors will inevitably “discover” new and previously unused methods and pathways. Regrettably, human trafficking is increasingly becoming an inseparable part of human society. This trend is both tragic and dangerous. We must acknowledge that the search for new tools and concepts to protect future generations from this menace is an ongoing and urgent necessity.

Protective measures against human trafficking in the digital world

Digitalization is a transformative process that encompasses all areas of human life, including education, employment, social interaction, and economic activity. While this transformation creates new opportunities, it also gives rise to new forms of risk—particularly the use of digital tools in the commission of human trafficking. Therefore, it is essential to implement protective measures to prevent human trafficking facilitated through digital means.

1. Adherence to safety rules on social media. Users should prioritize privacy settings: Personal accounts on platforms such as Facebook, Instagram, and TikTok should be set to "friends only."

- Do not accept friend or follow requests from unknown individuals.
- Exercise caution with messages offering “model casting,” “influencer opportunities,” or “jobs abroad”—these are often fronts used by traffickers.

2. Caution toward fake digital job platforms. Exercise prudence when interacting with websites or platforms that offer employment opportunities but fail to meet the following criteria:

- An official domain (e.g., .gov, .org, .az);
- Valid contact information and a physical address;
- A registered tax identification number.

It should not be forgotten that offers such as “work on Telegram,” “remote work,” “chat operator,” or “cam girl” are frequently exploitative and often linked to trafficking.

3. Awareness of deepfake and fake content. Deepfake technology can be used to manipulate a victim’s image and voice, producing falsified pornographic material for the purpose of

blackmail. Never share photos or videos with unknown individuals. Be cautious when using webcams—recordings may later be used for extortion.

4. Caution on online dating platforms. Exercise extreme care on platforms such as Badoo, Tinder, and Omegle, where traffickers and fraudsters are often active. Do not meet in person with unknown individuals without verifying their identity and intent. Offers such as “sponsored travel” or “confidential job opportunities” may be disguised attempts at exploitation.

5. Protection from phishing and data theft. Phishing emails, messages, and malicious links may be used to steal banking credentials, passwords, or personal information. Always verify URLs: Fake websites may resemble official domains (e.g., “govaz.cc” instead of “gov.az”). Never enter personal data or passwords on unknown platforms.

6. Digital behavior education for youth and adolescents. Young people should be taught digital safety rules and discouraged from communicating with strangers on gaming platforms such as Roblox, Fortnite, or Discord. Parents should supervise attempts by online gaming acquaintances to manipulate children under the guise of “job offers,” “meeting invitations,” or “secret projects.” Individuals posing as “digital mentors” or “opportunity providers” may be part of trafficking networks.

7. Dangers of location tracking and sharing. Do not allow apps to access and share your location. Avoid posting live locations, check-ins, or travel plans, as this increases the risk of real-world stalking. Not everyone needs to know your whereabouts.

8. Awareness and support resources - Citizens should regularly participate in digital literacy training through schools, universities, and community organizations. In case of suspicious activity, contact:

- 152 – Anonymous Human Trafficking Helpline;
- The Main Department for Combating Human Trafficking under the Ministry of Internal Affairs;
- The State Committee for Family, Women and Children Affairs.

Duties of the law enforcement organs in combating digital human trafficking:

1. Strengthening cybercrime units. Specialized cybercrime units should be equipped with technical tools and staffed by trained, multilingual personnel with expertise in digital technologies. Artificial intelligence and automated tools must be used proactively to monitor human trafficking activities on social networks and darknet platforms.

2. Establishing expertise in phishing, Deepfake, and online exploitation. Experts must be trained in analyzing modern digital evidence related to deepfake-based blackmail. Cyber-scanners and early warning systems should be developed to combat fake websites, phishing methods, and bot networks.

3. Expanding online monitoring and detection mechanisms. Mechanisms should be created to monitor and remove trafficking-related content such as fake job offers, model searches, or sponsored travel on platforms like Telegram, TikTok, Instagram, and Snapchat. Undercover or anonymous operatives must be deployed to carry out proactive detection on high-risk platforms.

4. Active participation in awareness campaigns. Police officers must adopt a proactive role by giving public lectures, trainings, and seminars on digital risks in schools, universities, and public venues. Participation in awareness campaigns such as “Together Against Online Threats” or “Who’s Watching You?” can provide both information and a sense of security to the public.

5. Effective use of digital evidence in victim identification and protection. Social media activity, messages, and signs of online exploitation should be recognized as admissible electronic evidence in legal proceedings. Legal frameworks for collecting digital traces—such as IP addresses, metadata, and blockchain-based evidence—should be strengthened. Investigators must undergo regular training in digital evidence management.

6. Expanding international digital cooperation channels. Digital systems should be established to enable real-time information exchange and joint operations with international organizations such as Interpol, Europol, and UNODC. Within legal cooperation frameworks, social media companies must facilitate the prompt identification and removal of trafficking-related profiles, groups, and channels.

7. Integration of reporting channels into the digital environment

- The 152 hotline and other support services must be made more accessible via chatbots, mobile apps, and online reporting forms, allowing victims to provide information anonymously.

- “One-click reporting” mechanisms should be introduced, including simplified safety buttons adapted for mobile devices.

The implementation of these recommendations will enable law enforcement bodies to develop a more flexible, proactive, and technology-based approach to combat the evolving and digitalized forms of human trafficking. This will not only enhance victim protection but also raise the overall level of digital security within society.

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