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Cover photo: Minors at the TAS centre in Bossaso are all Ethiopian unaccompanied children. They were tricked by smugglers to come to Somalia hoping to get to the Gulf but have been abandoned on the road after their money was taken away. IOM, UNICEF and local partner TAS provide shelter and assistance to them while they await family reunification. © IOM 2020/Muse Mohammed

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10 HUMAN TRAFFICKING IN MIGRATION PATHWAYS: TRENDS, CHALLENGES AND NEW FORMS OF COOPERATION¹

Introduction

Trafficking of migrants has made horrific headlines in recent years, with migrants sold at slave markets, tortured for ransom and exploited across a range of industries. Organized crime groups traffic migrants in virtually every country today.

The global scope of this crime reflects broader challenges. Victims are often from disadvantaged socioeconomic backgrounds and/or lower-income countries and are usually trafficked to richer countries where traffickers obtain the highest financial returns on their exploitation. Human trafficking is therefore explicitly recognized as a development challenge in the 2030 Agenda for Sustainable Development, which refers to the eradication of forced labour, modern slavery and human trafficking in its Target 8.7.² Sustainable development and counter-trafficking are interrelated; eradicating trafficking requires poverty eradication (goal 1), gender equality (goal 5), increased opportunities for decent work (goal 8) and access to justice (goal 16). The interlinkages between human trafficking and development are complex, as trafficking finds its roots to a certain extent in inequality and constitutes, by the same token, an obstacle to the development and well-being of societies in terms of the denial of people's human dignity.³

Human trafficking challenges migration governance at global, regional and national levels, as trafficking risks for migrants are greater when migration is unsafe, disorderly and/or irregular. Irregular migration can be unsafe, with lower access to protection and support networks and greater risks of trafficking.⁴ To “prevent, combat and eradicate trafficking in persons in the context of international migration” is thus central to the Global Compact for Safe, Orderly and Regular Migration as set out in Objective 10, in addition to other Global Compact objectives that are relevant to counter-trafficking.⁵ Target 10.7 of the Sustainable Development Goals, which seeks to achieve safe, orderly, regular and responsible migration, also recognizes that realizing the benefits and full potential of migration while addressing human trafficking risks requires well-managed and well-governed approaches to migration and human mobility.

Although there are no systematic and complete data on the proportion of migrants who are trafficked, existing evidence suggests that trafficked migrants represent a small share of the 281 million international migrants in 2020,⁶ but the practice has serious consequences for its victims, their families and communities in origin and destination countries. Human trafficking has negative economic and social impacts, long-term mental and physical health

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2 See <https://sdgs.un.org/goals/goal8>.

3 Kotiswaran, 2019; Danailova-Trainor and Laczko, 2010.

4 Triandafyllidou and McAuliffe, 2018.

5 UNGA, 2018.

6 UN DESA, 2020.

repercussions, and human rights implications. Trafficking is highly gendered; women and girls are more susceptible to trafficking for the purpose of sexual exploitation, forced marriage and domestic servitude, while men and boys are more commonly victims of trafficking in the fishing and mining industries.

The complex nature of the crime is a major obstacle in disrupting traffickers.⁷ Where migrants are trafficked transnationally, another layer of complexity is added to criminal justice response efforts and victim protection. Human trafficking networks span multiple countries, often intersecting with the commission of other criminal activities, such as migrant smuggling. Organized criminals are adept at leveraging the latest digital technologies, including social media, the darknet and cryptocurrencies, to commit crimes and conceal their profits.

This chapter explores some of the current and emerging challenges of confronting human trafficking in migration pathways. While aiming to provide a balanced picture of the geographic reach of migrants' trafficking worldwide, examples used in this chapter are not representative of the prevalence of the crime, nor the challenges it presents in some countries and regions that remain under-researched. Moreover, while this chapter focuses on international migration, trafficking within countries is also prevalent, sometimes as a result of internal displacement triggered by crises.

The first section of this chapter introduces the legal definition of human trafficking, differentiating it from the distinct but related crime of smuggling of migrants. The second section then provides an overview of current trafficking trends and patterns, looking at the available data on migrant victims of human trafficking and traffickers. The third section explores current challenges and promising avenues for the prevention of trafficking of migrants, including prosecuting traffickers, protecting victims and cooperating for counter-trafficking efforts. Finally, building on the findings of earlier sections, the conclusion outlines policy and programmatic implications and offers recommendations for further research.

Defining migrant trafficking

The concept of human trafficking emerged from centuries' worth of international law, on issues including the suppression of trading in white women and girls for sexual exploitation, trafficking in women and children, and slavery and practices similar to it, as well as trafficking and exploitation involving the prostitution of others.⁸ Yet it was not until 2000, with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol) supplementing the United Nations Convention against Transnational Organized Crime, that an international definition to criminalize "trafficking in persons" was agreed upon and accepted.⁹

The definition of human trafficking, as deconstructed in Figure 1 below, comprises three elements: an "act", a "means" by which the act is done, and a "purpose" of the action and means, being exploitation. One of each of the three elements is required, except where the victim is a child (any person under age 18), where only an "act" and an exploitative "purpose" need to be established.¹⁰

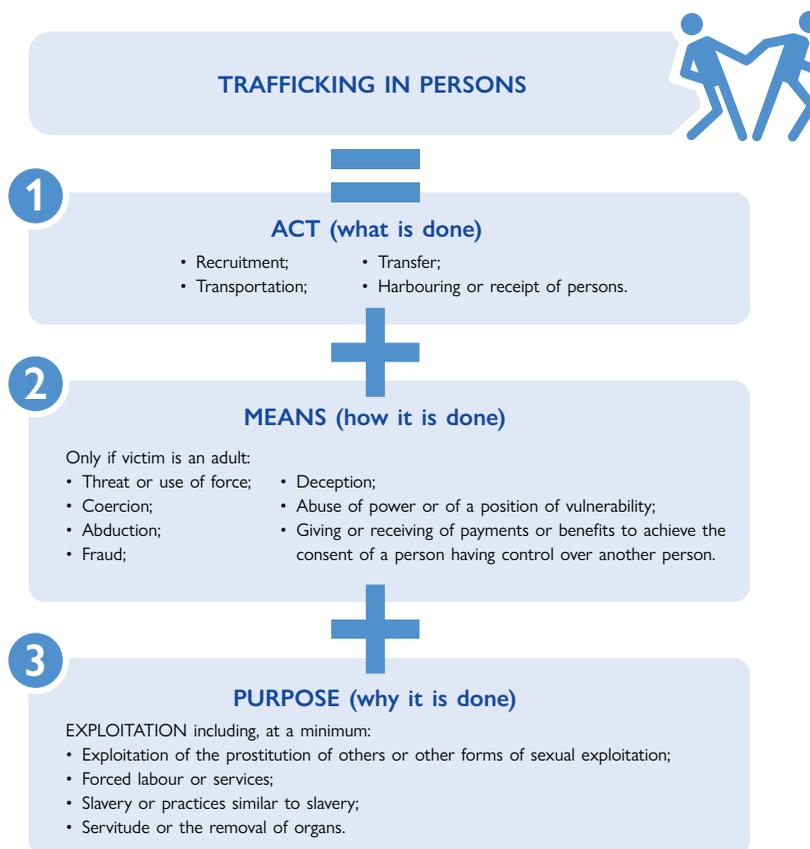
7 Gallagher, 2010.

8 LoN, 1904, 1921, 1926, 1933; UN, 1949; UN, 1956; McAdam, 2019.

9 UN, 2000a.

10 Ibid., Articles 3(c) and (d).

Figure 1. The three cumulative elements of trafficking in persons as defined in Article 3(a) of the Trafficking Protocol



Note: As set out in Articles 3(c) and (d) of the Trafficking Protocol, the second element referring to the means of trafficking does not apply to children. For children, an act and the purpose of exploitation are thus sufficient for a crime to be considered as trafficking in persons.

Trafficking “acts” can occur within a country (domestic trafficking) or involve the crossing of international borders (transnational trafficking). In the international migration context, migrants not only become victims of transnational trafficking, but also of domestic trafficking, when for instance they are recruited for the purpose of exploitation once in the destination country.

These acts are performed through diverse “means” that vitiate the victim’s consent, rendering it irrelevant. For instance, a victim’s consent is irrelevant where it has been achieved by force, where a person has been deceived, or where their vulnerable position has been abused. This element is not required for children, who lack legal capacity to consent to such acts for the purposes of exploitation.¹¹ As a definitional element of trafficking in adults, the “abuse of a position of vulnerability” does not refer specifically to a person’s vulnerability to human trafficking, but in the criminal justice context requires credible evidence to prove that a trafficker has intentionally abused or taken advantage of a victim’s position of vulnerability for the purpose of exploiting him or her.¹²

11 UNODC, 2014.

12 UNODC, 2011; UNODC, 2013; UNODC, 2018a.

Vulnerability to trafficking generally refers to factors such as age, gender or socioeconomic conditions that may render a person at risk of being trafficked. For migrants, additional factors of vulnerability may include, but are not limited to:¹³

- **Drivers of migration, especially when adverse**, that may lead migrants to be deceived in exploitative recruitment abroad.
- **Migration routes** that may lead migrants into the hands of organized trafficking networks, exploitative employment or situations of extortion.¹⁴ Refugees and other migrants escaping conflict and violence may be particularly vulnerable, as evidenced by the trafficking of Syrians in the Syrian Arab Republic's neighbouring countries and along the Balkan route.¹⁵
- **Migration status**, especially when irregularity exposes migrants to possible negative legal consequences, from fines to detention or deportation. Moreover, irregularity often leads migrants to work in sectors prone to exploitation, such as in the fishing industry in South-East Asia,¹⁶ the agricultural sector in Europe,¹⁷ and construction jobs in Northern America.¹⁸

The COVID-19 pandemic exacerbating and creating vulnerabilities to human trafficking

Increased insecurity, poverty and marginalization induced by the virus outbreak can be drivers of human trafficking.^a The impact of the COVID-19 pandemic is difficult to quantify precisely, but, as noted by UNODC, it will probably have the most dramatic implications in countries with the highest and fastest increase in unemployment rates, and for individuals with the lowest salaries, as is the case for some migrants.^b Substantial rises in human trafficking in different locations have already been reported, such as in the United States of America, where a human rights organization has estimated a 185 per cent increase in human trafficking cases compared to the previous year.^c Closed borders may also increase the market for irregular channels to circumvent them, provided by organized criminal smugglers and traffickers.

The dire economic situation may curb the livelihood options of the many migrants who work in industries most affected by the crisis, creating incentives to turn to more precarious and dangerous earning solutions, increasing the risk of falling prey to exploitative trafficking networks. Many migrants search for opportunities online and risk being deceived by traffickers.^d In other cases, people remain in jobs, but conditions worsen. Those working in domestic settings whose employers have shifted to work-from-home arrangements often face increased demands, accompanied by decreased pay, liberty and ability to leave.^e Migrant workers who lack access to health, social, legal and other services also quickly become vulnerable not only to the pandemic itself, but also to falling victim to traffickers and other criminals, as, in the absence of official and reliable safety nets, traffickers increasingly appear to be the only “last resort solution” available.

13 For migrants' factors of vulnerability to human trafficking, see IOM, 2019a.

14 UNODC, 2013.

15 See respectively ICMPD, 2015 and Brunovskis and Surtees, 2019.

16 Marschke and Vandergeest, 2016; ILO, 2013.

17 Monzini, 2015.

18 Buckley et al., 2016.

The plight of the more than 5 million Venezuelan migrants who have left their country since 2014 is illustrative of how such external factors can exacerbate pre-existing vulnerabilities.^f Some of these migrants lacked regular status and access to social protection, and were reliant on the informal labour markets prior to the pandemic. Since 2014, many have lost their jobs, been evicted from their accommodation and found themselves living on the streets.^g In this context of increased vulnerability, estimates show that the first four months of 2020 accounted for a 20 per cent increase in the number of victims of trafficking in Colombia when compared with the entire year 2019, the majority being Venezuelan migrants.^h The decision of the Colombian Government in February 2021 to regularize Venezuelan migrants who were irregularly in the country with a 10-year temporary protection status constitutes a major step forward in improving their protection and safety, and decreasing their vulnerability to human trafficking.ⁱ

The pandemic has not only increased the risk of trafficking for migrants and others in vulnerable situations, but has also curtailed efforts to identify victims, due to measures of confinement and shifting priorities of law enforcement towards implementing measures to curb the spread of the pandemic. The closure of social services has also diminished identification of and support to victims.^j

a UNODC, 2021; Polaris, 2020a; Worsnop, 2019.

b UNODC, 2021.

c Blake et al., 2020.

d Europol, 2020.

e UNHRC, 2020; Giammarinaro, 2020; McAdam, 2020.

f UNODC, 2021; R4V, 2020.

g For survey data in Peru and Colombia, see Equilibrium CenDE, 2020a, 2020b. See also Freier et al., 2020.

h Observatorio del Proyecto Migración Venezuela, 2020.

i See UNHCR and IOM, 2021.

j UNODC, 2020a; CoE GRETA, 2020; Teixeira, 2020.

The third and most central element of the definition of trafficking is the exploitative purpose. While the Trafficking Protocol does not define exploitation, it does offer a non-exhaustive list of examples, some of which are defined in international law (e.g. slavery, practices similar to slavery, and forced labour) while others are not defined in international law (e.g. sexual exploitation).¹⁹ States take various approaches in their domestic law, whether by including the same list of exploitation examples from the Trafficking Protocol, or by omitting some examples while adding others.²⁰ The exploitation must be of significant gravity to reach the threshold of trafficking as a serious crime, but in practice it may be difficult to differentiate between a migrant enduring exploitative labour conditions and a migrant who has been trafficked into forced labour, particularly when the exploitation is yet to take place.

Challenges in understanding the definition and how its components interact in migration dynamics impact on whether victims are identified, which cases are investigated and prosecuted, and what sentences are imposed. Expansive understandings can cast the net too broadly, capturing as situations that may not be trafficking, while overly narrow understandings deny protection and justice to victims who are not recognized as such.²¹

19 See respectively, LoN, 1926; UN, 1956; ILO, 1930.

20 States have added forms of exploitation including forced begging, illegal adoption, commercial surrogacy, exploitation in criminal activities, and removal of body parts and fluids, as well as major organs.

21 The analysis of the trafficking definition in this section extensively draws on a series of issue papers authored by A. Gallagher and M. McAdam and commissioned by the Working Group of States Parties to the Trafficking in Persons Protocol. See UNODC, 2018a.

Another challenge in the migration context is the differentiation between trafficking in persons and the smuggling of migrants, with the two concepts often being confused by the media and other stakeholders. Migrant smuggling is captured in a distinct legal instrument – the 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air – as “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or permanent resident.”²² In other words, while the criminal purpose of trafficking is exploitation, for smuggling it is achieving a “financial or other material benefit” by facilitating another person’s irregular border crossing.²³ Smuggling typically occurs in the context of irregular international migration, while trafficking may occur in the course of regular migration or internal migration. The two types of crime may intersect, as organized crime groups interact across irregular migration routes, passing migrants between each other or controlling or taxing sections of a route.²⁴ While relying on smugglers’ services to cross international borders, smuggled migrants may fall victim to trafficking and other crimes in the course of being smuggled or as a consequence of it. This could occur, for instance, when smuggling fees result in debt that can be leveraged for exploitation. In extreme cases they can end up suffering from coercion, extortion, violence and even torture, as evident in the movement of Rohingya refugees in the Andaman Sea.²⁵

Conflation of smuggling and trafficking along irregular migration routes: a migrant’s testimony

My name is Deborah, I’m 20 years old and I’m from Nigeria. I went through Libya to Malta. This is my story.

Life in Nigeria was very hard. ... A friend of mine introduced me to someone, a man who said he’d take me to Europe. The agreement was that when I’d reach Europe I’d work as a fashion designer so I could pay them.

...

The ... first day we reached Libya, he sold me to a woman. I told them I wasn’t going to work, this wasn’t where they promised to bring me. The woman said no, here is where I was headed. I told them to take me back. ... They said that was impossible.

The first woman I was sold to was Abigail. She took me to her place and told me to start working. I asked her, what work? ... She said I’d work as a prostitute. I told her I wouldn’t because that wasn’t the work I was told I’d be doing here. She said this wasn’t Europe, this was Libya and you must work. ... I refused.

...

I didn’t want to work because in Libya people have a lot of diseases. I am still young, and I don’t have children yet. Then, they would pour cold water from the fridge on my body, beat me and say I must work.

After all the beating I decided to [work] and pay them their money. So that was it. I was surprised I ended up in Libya using my body to work, that wasn’t what we had agreed.

22 Article 3(a), Smuggling Protocol, UN, 2000b.

23 McAdam, 2021.

24 Sanchez and Achilli, 2019, 2020; Triandafyllidou and McAuliffe, 2018.

25 Kontinentalist, 2020; McAuliffe, 2016.

When I had finished paying them, I still had to pay money to a woman called Fatima. I gave her money to take me to Tripoli. She took me from Murzuq to Sabha. Then she took me to Sabratha, but she didn't pay the smugglers. Even in Sabratha, they still wanted to sell me because I still owed money. It was there that I met my husband. My husband paid the money and rescued me from there. I went to stay with him. We left Sabratha to Sorman and still faced other challenges. We went from one smuggler to another, but didn't succeed. It was only on the sixth attempt that we reached Malta. ...

Listen to the full story from Deborah on the Telling the Real Story website, available at www.tellingtherealstory.org/en/stories/video/deborahs-story/.

Notwithstanding its complexities, the Trafficking Protocol has achieved almost universal ratification, unlike most migration-related instruments; as of 30 June 2021, 178 States had become party to it (see Appendix A). The fact that States aspire to a common understanding of trafficking is evident in the transposition of the international definition into regional instruments. As detailed in Appendix B, these transpositions have, however, taken different forms, with some regional instruments replicating the protocol definition verbatim (e.g. the Council of Europe and Association of Southeast Asian Nations conventions on human trafficking), with others more or less following it and adding some forms of exploitation (e.g. the European Union Directive). The South Asian Association for Regional Cooperation (SAARC) Convention diverts significantly from the protocol, limiting trafficking to “selling or buying of women and children for prostitution”, excluding male victims and most other forms of exploitation. Where the definition of trafficking is not effectively transposed into the local context, there is a risk that it will be understood too expansively, thereby diluting the serious nature of trafficking; or, conversely, too narrowly, leaving some victims unidentified and unprotected, as they are not recognized as trafficked victims.

Conceptual confusions and definitional divergences aside, the adoption of regional instruments is testament to a widespread commitment to counter-trafficking and endorsement of the Trafficking Protocol as the appropriate framework for response. There has been significant progress in the 21 years since the protocol was adopted. What was once understood as a crime that victimized females for sexual forms of exploitation is now widely understood as a crime that can affect anyone across a wide range of exploitative purposes.

The scope of human trafficking

Despite the commitment to address human trafficking worldwide, human trafficking remains a growing and lucrative criminal activity. The latest estimates from the International Labour Organization (ILO) indicate that forced labour alone generates some USD 150 billion in illegal profits per year.²⁶ This figure remains a conservative estimate, as the profits generated by human trafficking go beyond forced labour and often evade financial monitoring, through money-laundering, the use of cryptocurrencies and other new payment methods.²⁷ As highlighted by the United Nations Office on Drugs and Crime (UNODC), there is scarce information on traffickers' profits.²⁸ Review of trafficking court cases indicate, however, that their financial gains also depend on their structure and scale, with larger profits deriving from large criminal organizations and networks trafficking a higher number of victims. These profits are also often blurred with gains generated by other transnational criminal activities. Human traffickers are often involved in other organized transnational criminal activities to mitigate risks, reduce operational costs and increase profit margins, as for instance in the case of drug cartels in Mexico.²⁹

More generally, the clandestine nature of human trafficking constitutes one of the main impediments to collecting accurate data on gains generated and the scope of trafficking worldwide. Broadly, two main sources of data can be identified: administrative (or operational) data, and data collected for research purposes.³⁰ Data collected for research purposes mainly focus on qualitative data, through surveys and interviews with victims and key informants. These data provide useful insights into human trafficking, complementing administrative or operational data collected within the mandates of diverse organizations. However, these types of data remain difficult to obtain, due to obstacles in reaching out to victims through traditional sampling methods, especially for victims of sexual exploitation and child victims. These obstacles include resource constraints, security issues and ethical considerations regarding the sensitivity of certain questions.

Administrative or operational data are collected by a range of different actors, including law enforcement and judicial authorities, as well as governmental and non-governmental organizations providing protection and assistance to victims. While today's trend towards datafication – or quantification – entails the risk of focusing on measuring the prevalence of trafficking worldwide, to the detriment of examining other important qualitative dimensions of trafficking,³¹ these data constitute the main window into this criminal activity, as they provide detailed insights into the profiles and experiences of the victims, the forms of human trafficking and information on perpetrators.

UNODC provides a valuable overview of human trafficking worldwide in its Global Report on Trafficking in Persons, relying on official national statistics, together with qualitative information from investigative files.³² UNODC surveys governments on trafficking victims identified in their respective countries, using a common questionnaire with a standard set of indicators, and then aggregates the results. Another data collection endeavour is the Counter Trafficking Data Collaborative (CTDC), the first inter-agency global data hub on human trafficking, led by the International Organization for Migration (IOM). CTDC releases harmonized data with the assistance of counter-trafficking organizations, including IOM, which has been assisting victims of trafficking since the mid-1990s with approximately 8,000 victims assisted each year globally.³³

26 ILO, 2014.

27 Europol, 2017.

28 UNODC, 2021.

29 Rabasa et al., 2017.

30 Grant et al., 2018.

31 Yea, 2017.

32 UNODC, 2021.

33 CTDC, 2020.

Such data are highly sensitive and pertain to individuals, raising a range of privacy concerns when it comes to collecting, managing and sharing them. Victims of trafficking are a particularly sensitive population, in that the risk of identification of a single victim in a data set can be high and the consequences severe. Data privacy, confidentiality and victim protection are important considerations in ensuring that publicly available data sets do not identify individual trafficked victims, as set out in the text box below, but they may also limit the scope of available data. Data are also to be approached cautiously, as they can be manipulated to promote political goals, biased by focusing on quantitative aspects of trafficking to the detriment of qualitative ones, and/or distorted, for instance from the use of “modern slavery” framings in efforts to quantify exploitative practices that may entail or overlap with trafficking in persons.³⁴

The Counter Trafficking Data Collaborative: data-sharing, de-identification and anonymization

IOM first launched the Counter Trafficking Data Collaborative (CTDC) in 2017 as the first global repository of primary data on human trafficking contributed by multiple organizations. CTDC was launched in partnership with Polaris and Liberty Shared. It combined the three biggest victim case data sets in the world, resulting in one centralized data set with information on over 108,000 trafficking cases, comprising 164 nationalities exploited in 175 countries across the five regions, namely Africa, the Americas, Asia, Europe and Oceania.

Because data on human trafficking are not publicly available most of the time due to confidentiality, data protection and content sensitivity, the goal of CTDC is to break down information-sharing barriers and provide counter-trafficking actors with up-to-date information to support effective counter-trafficking strategies. The publicly available data set is de-identified via k-anonymization, a data anonymization technique that redacts cases falling into sets with fewer than $k - 1$ members, where each set is defined by a unique combination of values of the different variables in a data set. Based on research and testing, CTDC data have been set at $k = 11$, so that queries cannot return fewer than 10 results. The full, non-anonymized data set is also available through the detailed visualizations and maps available on the site.

However, more work is needed throughout the counter-trafficking community to agree on common standards and methods of data sharing. For instance, IOM is working with UNODC to establish the first set of international data standards on human trafficking administrative data, so that governments and organizations around the world can collect data that are comparable and of high quality, and can be safely shared and used to develop the evidence base. Since 2019, IOM has also been working with Microsoft Research to develop a new approach to the de-identification of human trafficking administrative data that could be used by governments and other stakeholders. The solution will allow organizations to publish an unredacted data set while preserving the confidentiality of victims, by modelling a synthetic data set based on the original data set. The resulting synthetic data set no longer contains “real” data on “real” individuals, but retains the statistical properties of the original data set, allowing users to continue to perform meaningful analyses. This de-identification solution has been made available online,^a together with an article detailing the algorithm used.^b

See the CTDC at www.ctdatacollaborative.org/.

a See <https://github.com/microsoft/synthetic-data-showcase>.

b See <https://arxiv.org/abs/2005.05688>.

The availability of administrative data on identified victims of trafficking depends on a range of factors, such as whether counter-trafficking organizations are operational or able to consistently collect or share data in any given country/location. As UNODC points out, the existence of rigorous data also depends on States' data-collection capacities, which are low in some regions, such as in sub-Saharan Africa and East Asia.³⁵ It follows that the existence of large quantities of human trafficking data may not necessarily indicate higher prevalence. In addition, identified cases should be understood as a sample of the unidentified population of victims, not as attempts to measure the prevalence of human trafficking. If some types of trafficking cases are more likely to be identified than others, this sample could be biased. The extent of this bias is rarely known, since the unidentified population is, by definition, unknown.

Beyond the question of the value and effectiveness of measuring the prevalence of trafficking for informing counter-trafficking policies and programmes,³⁶ estimations of such prevalence are being carried out using new methodologies based on administrative data. For instance, UNODC is supporting countries in using a multiple systems estimation (MSE) methodology to generate estimates of the number of trafficked victims who have not been identified, based on solid national data.³⁷ When implemented in the Netherlands, the MSE methodology revealed that non-identified trafficked victims may be four to five times more numerous than detected ones. Surveys can also be used to estimate prevalence, as done for example for the related crimes of forced labour and forced marriage in the Global Estimates of Modern Slavery by the ILO, Walk Free Foundation and IOM.³⁸

In its latest Global Report, UNODC indicates that the number of detected victims of trafficking reported by countries per year increased from fewer than 20,000 in 2003 to about 49,000 in 2018, the most recent figure available.³⁹ The number of trafficking convictions has also increased globally. However, these data do not necessarily entail an increase in human trafficking worldwide, as they also reflect the greater capacity of some States to identify trafficking and collect data.

Although victims of trafficking were historically stereotyped as vulnerable women and children trafficked for sexual exploitation, the gender profile of victims has changed over time. Females still make up the largest share of identified victims (around 65% in total, with 46% women and 19% girls), yet males are also victims of trafficking (20% men and 15% boys), especially for forced labour, in which they constitute nearly 60 per cent of detected victims.⁴⁰ Victims' gender and age vary among regions; more children than adults are detected in sub-Saharan Africa, while adult females make the greatest share of identified victims in Europe, North America and Asia, and adult male victims are more frequently detected in North Africa and the Middle East.⁴¹

According to the latest data collected by UNODC, 45 per cent of all identified victims were trafficked across borders.⁴² However, migrants can also be among the victims reported as domestic trafficking when they are trafficked once in the country of destination. While no data exist on the number of identified victims of trafficking who are migrants, the citizenship of detected trafficked victims often correlates with that of regular migrants.⁴³ This suggests that trafficking flows show similarities in patterns when compared with migration flows, usually heading

35 UNODC, 2018b.

36 For different opinions, see for instance, David, 2017; Feingold, 2017; Robinson et al., 2017; and Dottridge, 2017.

37 UNODC, 2016a.

38 ILO, 2017.

39 UNODC, 2018b:21; UNODC, 2021:25. As set out by UNODC, while 2018 is the reference year, "most recent" data from 2019, 2017 or 2016 were used for countries for which 2018 data were not available.

40 UNODC, 2021:31–36. Similar rates are reported by CTDC, with women and girls making up about 70 per cent of victims in the data set: CTDC, n.d.a.

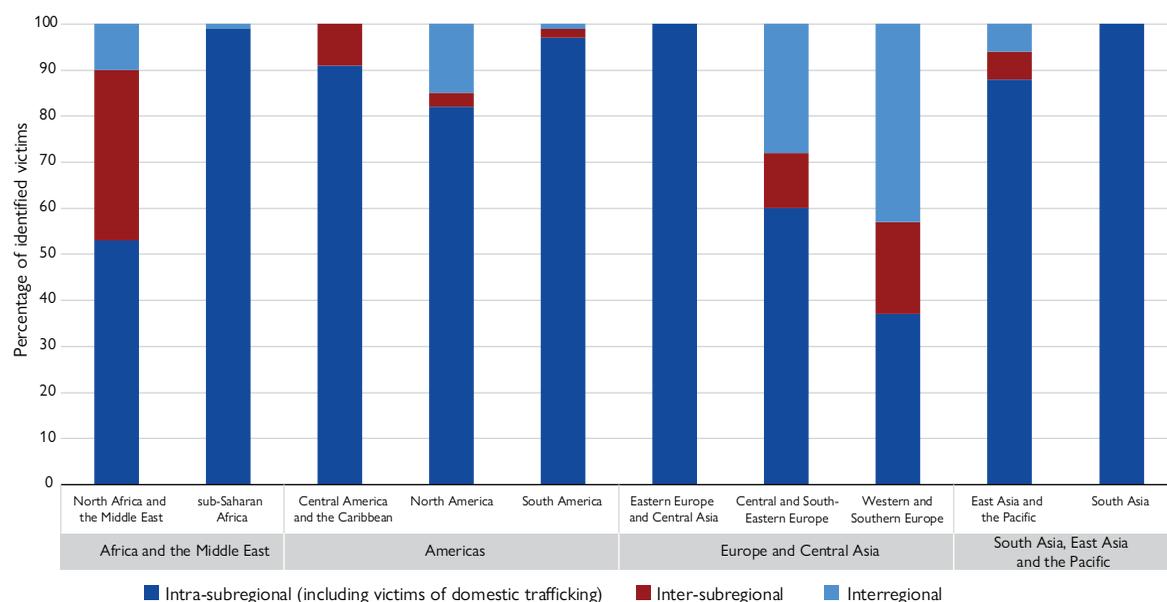
41 Ibid.

42 UNODC, 2021:55.

43 UNODC, 2016b:9, 58.

towards richer countries where exploitation is more profitable due to higher demand and prices.⁴⁴ Like migration flows, transnational trafficking flows are first and foremost intra(sub)regional: among the identified victims reported to UNODC, 12 per cent were subject to trafficking within the same subregion, 8 per cent within the same region and 15 per cent interregionally.⁴⁵ The largest share of victims being trafficked clearly appears as intraregional in Figure 2 below, although it should be noted here that available statistics on victims of intra-subregional trafficking captured in this figure also include victims of domestic trafficking. Data on repatriation of victims to their country of origin nevertheless confirm the prevalence of intra-subregional and intraregional trafficking over interregional flows.⁴⁶ With regards to interregional trafficking, nearly all regions report a large number of victims identified as being from East Asia and sub-Saharan Africa.⁴⁷

Figure 2. Percentage of detected victims by type of trafficking flows and subregions, 2018 (or most recently available)



Source: UNODC, 2021.

Note: Categorization based on UNODC geographic regions as used in its report and detailed in *ibid.*:26.

According to CTDC, transnational trafficking may in large part use official border control points, with nearly 80 per cent of journeys (especially those of women) crossing official border control points, such as airports and land border control points.⁴⁸ Children are more likely than adults not to be trafficked through official border control points, with an estimated 44 per cent having used routes without any official border control point during their trafficking journeys. CTDC indicates a difference in the means of trafficking depending on the type of migration route: trafficking is mostly achieved through debt bondage, threats, and restrictions on freedom of movement when victims are trafficked through official border control points, whereas confiscation and destruction of documents

44 *Ibid.*:58.

45 UNODC, 2021. The highest share of detected victims (65%) were victims of domestic trafficking.

46 *Ibid.*:60.

47 According to the classification of (sub)regions used by UNODC, East Asia includes Brunei Darussalam, Cambodia, China, Indonesia, Japan, Malaysia, Mongolia, Myanmar, the Philippines, the Republic of Korea, Singapore, Thailand and Timor-Leste. See *ibid.*: 26.

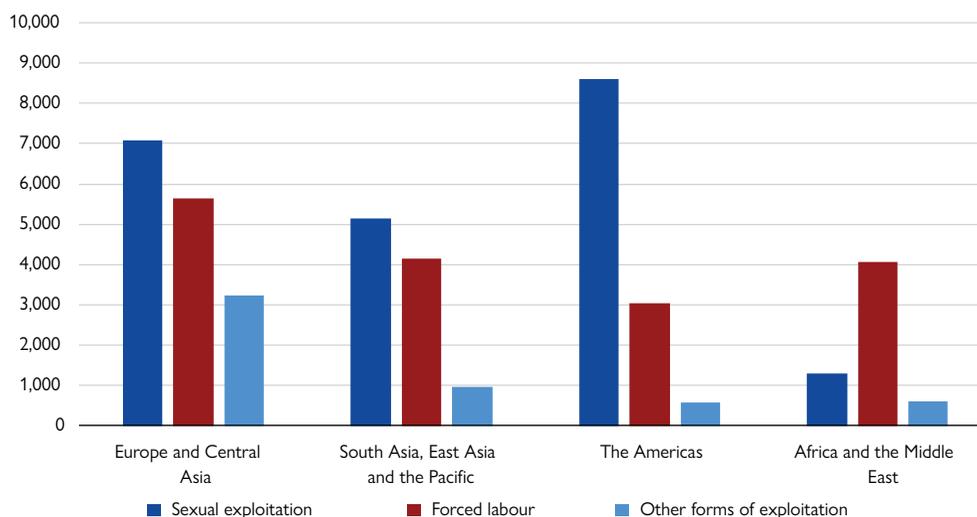
48 CTDC, n.d.b.

is more likely to occur where trafficking journeys do not involve crossing through official border control points. In fact, the same data indicate that most victims (about two thirds) are exploited at some point during their journeys, regardless of whether they are trafficked through an official border control point or not. In both cases, migrants' trafficking may be facilitated by officials corrupted by traffickers.⁴⁹ Following the outbreak of COVID-19, in December 2020 the Prime Minister of Thailand ordered a crackdown on corrupt officials who may have assisted traffickers, following a reported inflow of migrants from Myanmar smuggled and trafficked to work in shrimp markets.⁵⁰

The predominant type of trafficking is for forced labour irrespective of the type of border crossings (83% through official border control points and 64% through non-official ones), followed by trafficking for sexual exploitation (15% and 22% respectively) and other forms (2% and 13% respectively).⁵¹ Interestingly, these shares diverge from more general findings on the main exploitation types when domestic and transnational trafficking are considered together, where sexual exploitation ranks in first position (around 54%), followed by forced labour (around 42%) and other forms of exploitation (including slavery and similar practices at 0.56%, forced marriage at 0.45%, organ removal at 0.03%, forced military service at 0.01% and other forms at 10.46%).⁵² This could mean that, more than for other forms of exploitation, trafficking for sexual exploitation not only occurs in transnational instances of trafficking, but is also prevalent in domestic cases.

As noted by UNODC, there are disparities in the forms of exploitation among regions: while trafficking for sexual exploitation is predominant in most regions, the most prevalent form of exploitation in Africa and the Middle East is forced labour (at least among identified victims; see Figure 3 and text box below).⁵³

Figure 3. Number of detected trafficking victims, by form of exploitation and region of detection, 2018



Source: UNODC, 2021.

49 UNODC, 2011; Bali Process and UNODC, 2021.

50 Zsombor, 2020.

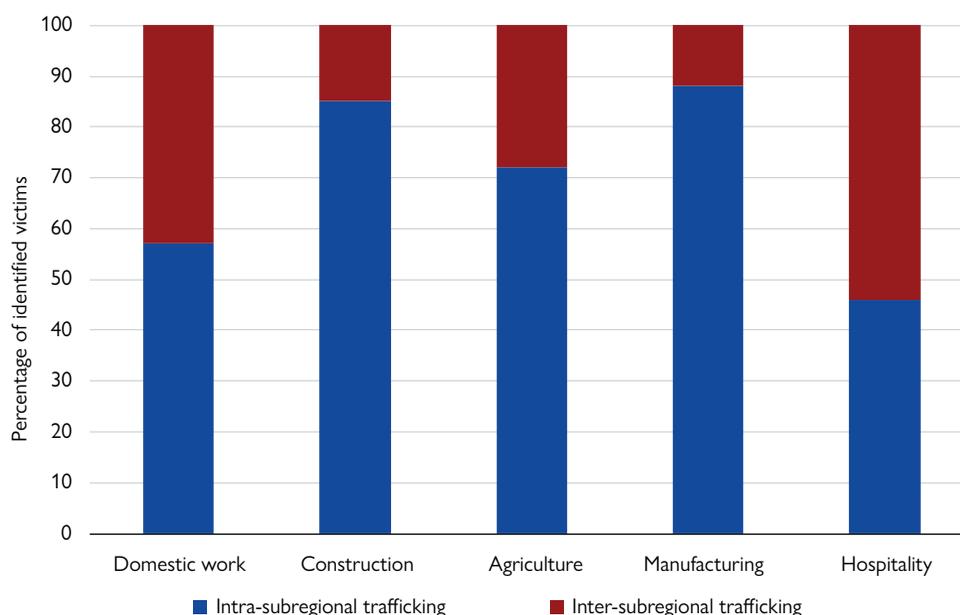
51 CTDC, n.d.b.

52 CTDC, n.d.c. These forms of exploitation can be cumulative, hence the total percentage surpasses 100 per cent. Similar shares are reported by UNODC, with 50 per cent of detected victims being trafficked for sexual exploitation, 38 per cent for forced labour and 12 per cent for other purposes: UNODC, 2021:34.

53 UNODC, 2021.

The main sectors of trafficking for forced labour are domestic work (30% of identified victims), construction (16%), agriculture (10%), manufacturing (9%) and hospitality (8%).⁵⁴ As for other forms of exploitation, trafficking in these sectors tends to be highly intraregional, and even intra-subregional. However, as apparent in Figure 4 below, among identified victims in the CTDC data set, exploitation in the hospitality sector and, to a lesser extent, in domestic work, are more likely to span beyond the victims' subregions of origin, with 54 per cent and 43 per cent of victims respectively identified outside their subregions. Victims trafficked in the hospitality sector predominantly come from Eastern Europe (43%) and South-East Asia (26%) and are exploited in North America (19%) and Eastern Europe (19%).⁵⁵ Victims of trafficking in domestic work are mainly from South-East Asia (66%) and Eastern Europe (9%) and are exploited in South-East Asia (37%), Western Asia (20%) and North America (16%).⁵⁶

Figure 4. Percentage of identified victims, by exploitation sector and intra-/inter-subregional trafficking



Source: CTDC, n.d.d–n.d.h.

Note: Intra-subregional trafficking also covers domestic trafficking.

Trafficking for forced labour can also take the form of forced begging, peddling and the commission of illicit activities as detailed in the text box below in the African context, though these forms are not prevalent.

Compared with other forms of exploitation, trafficking for organ removal remains limited. This may be at least partially owing to the fact that it is often addressed outside of the trafficking framework and so may not be counted as a trafficking-driven phenomenon.⁵⁷ UNODC notes traffickers' increased ability to operate across borders and to collude with medical professionals abroad.⁵⁸

54 CTDC, n.d.c.

55 CTDC, n.d.d.

56 CTDC, n.d.e.

57 UNODC, 2015.

58 UNODC, 2018b:30–31.

Trafficking for other purposes may include forced, arranged and sham marriages, as victims often face violence, abuse, exploitation and restrictions on movement.⁵⁹ This type of trafficking is highly gendered, with victims being mainly women and girls from disadvantaged backgrounds, although some cases of LGBTI persons forced into heterosexual marriages by their families have been reported.⁶⁰ These “marriages” tend to be organized for bride price by family members and/or brokers who are motivated by financial and material gain. However, there are also cases where brides have been deceived or kidnapped. Migrants may also enter into sham marriages to enter a country regularly, or to regularize their migration status when already in the destination country, rendering them vulnerable to subsequent exploitation. Cases are also reported of Eastern European women who are promised well-paid employment by brokers in Western Europe and who, upon arrival, end up being trafficked into forced marriages with irregular migrants who seek to regularize their stay by obtaining a European Union passport through marriage.⁶¹ There are also cases in the Middle East of women and girls being entered into “tourist” or “temporary” forms of marriage, for the purposes of being sexually exploited.⁶²

Trafficking of migrants from and within Africa

African victims are predominantly trafficked within their region of origin. According to CTDC data, 75 per cent of African victims are trafficked within Africa, with 13 per cent trafficked to Europe, 7 per cent to Asia, and 5 per cent to the Americas.^a

Trafficking in Africa has two main particularities compared with other regions of the world. First, rather than sexual exploitation, trafficking in Africa is for forced labour, especially for begging (more than 25%) and domestic work (over 40%).^b Second, the majority of victims are children, accounting for over 50 per cent of victims detected in the continent.^c Trafficking of African children is particularly detected in West African countries,^d such as in Ghana, Benin, Burkina Faso, Côte d'Ivoire, Nigeria, Sierra Leone and Togo. In rural areas, children are mainly trafficked for farming and fishing. In urban areas, children are trafficked for forced begging, peddling and the commission of illicit activities.^e An operation coordinated by Interpol in Benin and Nigeria in 2019 rescued some 220 trafficking victims, mostly children from West African countries, who were forced to work in markets all day or as housemaids, or who were sexually exploited.^f

Trafficking patterns differ in other African subregions. Forced labour remains the prime form of trafficking in Southern Africa, which nonetheless also features a comparatively high rate of forced marriages.^g In East Africa, trafficking mostly concerns adults trafficked for domestic work.^h In North Africa (especially Libya), sexual exploitation, forced labour, slavery and forced marriage are all prevalent.ⁱ

a CTDC, n.d.i.

b Ibid.

c CTDC data show that 55 per cent of victims detected in Africa were children, while UNODC estimates of trafficking victims in sub-Saharan Africa report that 59 per cent were children.

d UNODC, 2021:165.

e Sawadogo, 2012.

f Interpol, 2019.

g UNODC and SADC, 2017.

h IOM, 2008.

i Van Reisen and Estefanos, 2017.

59 UNODC, 2020b.

60 Ibid.

61 BBC News, 2017.

62 UNODC, 2020b.

Challenges and responses to the trafficking of migrants

The Trafficking Protocol primarily takes a criminal justice approach to human trafficking, advocating for its criminalization, investigation and prosecution, and calling for trafficked persons to be protected and assisted as victims of serious crime.⁶³ This approach is often referred to as the “3P approach”, entailing prosecution, protection and prevention. A fourth “P” of partnership emphasizes the need to strengthen criminal justice cooperation between States.

A social justice approach that ensures that counter-trafficking measures are human rights-based, victim-oriented and gender-sensitive is also essential.⁶⁴ The primacy of the rule of law is not only central in order to avoid victims becoming collateral damage of anti-trafficking efforts,⁶⁵ but also to ensure that criminal justice measures are not counterproductive and detrimental to the fight against human trafficking and, more broadly, the governance of migration.

Preventing trafficking of migrants

In addition to proactive investigation and disruption of transnational organized crime, other measures are key in addressing the trafficking of migrants. Among these are most notably the following complementary measures:

1. Address individual, household, community and structural vulnerability factors;
2. Raise awareness about risks;
3. Enhance availability of regular migration pathways;
4. Curb demand for goods and services entailing exploitation;
5. Secure labour rights and working conditions.⁶⁶

These measures are complementary and require migrants’ involvement in their development to be appropriately targeted and tailored to migrants at risk of trafficking.⁶⁷

Reliable and accurate information about trafficking risks, among other issues, is essential for migrants to make informed decisions about their migration journeys. Yet the effectiveness of awareness-raising campaigns is increasingly questioned, especially when implemented with the objective of deterring irregular migration, or of deflecting scrutiny from migration policy for its role in the exploitation of migrants. The intention to migrate irregularly is not outweighed by risks when no regular migration alternative exists.⁶⁸ Awareness campaigns may also have the unintended consequence of stigmatizing trafficking victims returning to their country of origin, especially when they have been sexually exploited.⁶⁹

While the impact of awareness campaigns remains unclear, as few of such campaigns have been evaluated, they seem to be more effective when targeting specific populations, adapting to local contexts and directly involving

63 ICAT, 2012.

64 ECOSOC, 2002.

65 GAATW, 2007.

66 Adapted from UNGA (2010).

67 Ibid.

68 Tjaden, 2020; McAuliffe et al., 2017.

69 Kiss and Zimmermann, 2019; UNGA, 2010: para. 45.

migrants, since prospective migrants consider migrants to be the most trusted source of information.⁷⁰ Hence, information crowdsourcing is used in some technology-based initiatives through which migrants share experiences of their migration journeys.⁷¹

Concerning trafficking for forced labour, consumer moves towards ethical consumption through increased attention to the environmental, human rights and socioeconomic conditions in which goods are produced has improved trafficking prevention by enhancing the focus on accountability of the private sector. If States' implementation of national legislation in accordance with ILO instruments constitutes a first step, global initiatives have followed to better regulate activities of public and private recruitment agencies and avoid deceptive recruitment practices leading to trafficking. In addition to the ILO's Fair Recruitment Initiative,⁷² private recruitment agencies can obtain a certificate when meeting the standards set by the International Recruitment Integrity System (IRIS).⁷³ Similar licencing schemes have been implemented at the national level, such as in the Philippines, where certificates are supported by a mobile app for prospective migrant workers to check whether a specific recruitment agency is allowed to recruit Filipinos abroad.⁷⁴ Corporate responsibility also concerns (migrant) workers' working conditions.⁷⁵ A growing number of companies now consider social sustainability as a key marketing feature and strive for supply chain transparency and traceability through blockchain technology to ensure that their products do not involve exploitative practices, including trafficking.⁷⁶ This provides an opportunity to build on the impetus for transparency and achieve corporate accountability for failures to report and for infractions identified.

However, these recent developments have not undermined the importance of more traditional measures that are essential and still effective in preventing trafficking, nor should they detract from State responsibility to introduce measures to prevent trafficking and amend the migration and labour policies that fuel it. The historic step taken by Qatar in August 2020 to abolish its sponsorship system tying migrant workers to their employers, and to adopt non-discriminatory minimum wages, is emblematic of the increased momentum towards protecting labour rights and working conditions in the context of labour migration.⁷⁷ Another fundamental measure is to ensure the rights to unionize and bargain collectively, which empower workers, including migrant workers; these rights recognize their agency and constitute an important safety net in avoiding exploitation in workplaces. For instance, in countries where prostitution is legal, sex workers' organizations are recognized as playing a crucial role in ensuring decent and safe working conditions, including preventing abuse, exploitation and trafficking.⁷⁸ However, challenges remain despite increased trade union activism, as migrant workers may still be prohibited from joining trade unions in some countries, based on their foreign nationality.⁷⁹

Countries of origin of migrant workers also have a critical role to play in protecting their citizens from being trafficked abroad, including the provision of pre-departure information, the removal of migrant-paid recruitment agency fees and other costs in favour of employer-pays models, and the regulation of recruitment agencies to reduce the vulnerability of their nationals to exploitation and trafficking abroad.⁸⁰

70 Bryant and Landman, 2020; Tjaden, 2020; Koser and McAuliffe, 2013.

71 OSCE and Tech Against Trafficking, 2020; McAuliffe et al., 2017.

72 ILO, 2015.

73 See the IRIS website at <https://iris.iom.int/>. Concerning migrant domestic workers more specifically, see IOM, 2020.

74 See <https://poea-mobile.soft112.com/>.

75 See for instance IHRB, 2012; ILO, n.d.

76 ILO et al., 2019; Bateman and Bonanni, 2019; Feasley, 2015. However, also see Taylor, 2020.

77 ILO, 2020a.

78 Lepp and Gerasimov, 2019.

79 Marks and Olsen, 2015.

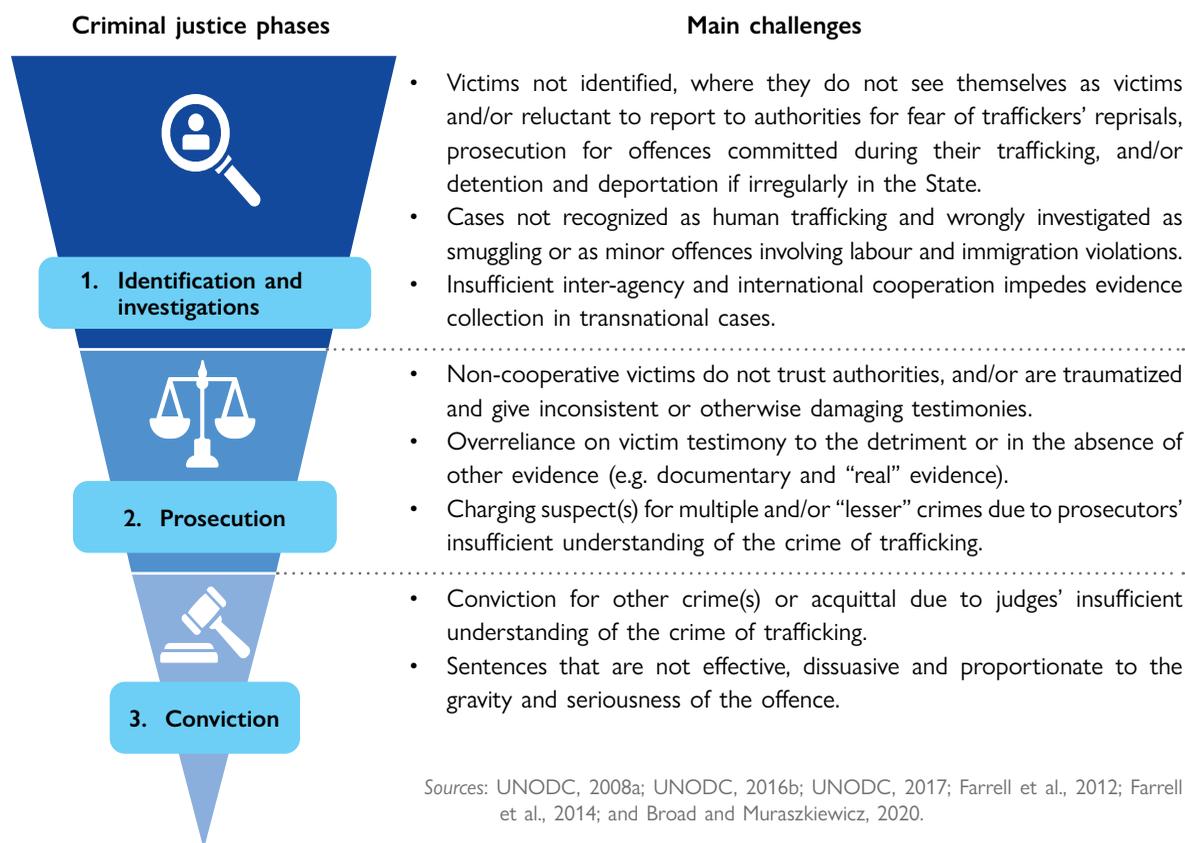
80 See for instance ILO, 2020b, 2021a. See also the Dhaka Principles for Migration with Dignity in IHRB, 2012.

Prosecuting traffickers

The criminal justice approach to counter-trafficking is essential for the dismantling of trafficking networks, preventing trafficking and protecting its victims. Victims have the right to access justice.

The great majority of countries have criminalized trafficking in persons,⁸¹ and while the trend of trafficking convictions has increased since 2007, absolute numbers remain low.⁸² This reality reflects what is referred to as a criminal justice “funnel”.⁸³ As set out in Figure 5 below, each of the different phases of this funnel entails its share of challenges, progressively reducing the number of cases resulting in successful convictions.

Figure 5. Criminal justice funnel for trafficking cases and main challenges



81 According to UNODC, “[a]s of August 2020, 169 countries among the 181 assessed have legislation in place that criminalizes trafficking in persons broadly in line with the [Trafficking Protocol]”: UNODC, 2021:61.

82 UNODC, 2018b:23.

83 UNODC, 2016b:51.

The majority of challenges identified above relate to the capacity of criminal justice practitioners to grapple with the complexity of the crime of human trafficking. Capacity-building thus traditionally constitutes one of the main measures taken to strengthen the criminal justice response to human trafficking.⁸⁴

Beyond capacity-building, cooperation among different stakeholders is essential in improving the prosecution of traffickers. Recent initiatives highlight the importance for law enforcement and prosecution authorities of collaborating with financial institutions to identify potential instances of human trafficking and to gather evidence in trafficking cases. Among these, the Finance Against Slavery (FAST) initiative, a public–private partnership previously known as the Liechtenstein Initiative, aims to strengthen the financial sector’s compliance with antislavery and human trafficking laws, including through improved enforcement of anti-money-laundering laws.⁸⁵ This entails due diligence and risk assessment by financial institutions and the reporting of suspicious activities to law enforcement authorities, in line with data privacy and confidentiality requirements.

Strengthening the involvement of the finance sector is a promising avenue for improving the identification of trafficking cases. Accordingly, providing clear guidance to financial institutions on reporting suspicions of slavery and human trafficking risks has at times resulted in an increase of up to 1,000 per cent of reported suspected cases.⁸⁶ Collaboration between law enforcement and financial institutions is also enhanced through technological innovations. The online Human Trafficking Fusion Center developed by Collective Liberty creates an online expert community of practice through which interagency collaboration can be enhanced; it also supports law enforcement investigations using artificial intelligence that identifies individuals potentially involved in human trafficking, money-laundering, wage theft or tax evasion.⁸⁷

Evidence gathered from the finance sector is also crucial in avoiding overreliance on victims’ testimony during prosecutions.⁸⁸ Overreliance on victim testimony as the main or only source of evidence can hamper their protection, as victims are treated as mere “witnesses” without due regard for their human rights.⁸⁹ Victims may be revictimized when their protection is made contingent on their participation in criminal proceedings, or when their return and reintegration is delayed by these procedures and they are made to remain in destination countries, sometimes in closed shelters. These outcomes may also be detrimental to criminal proceedings, as victims are disincentivized to report trafficking cases and cooperate during the investigation and prosecution phases.⁹⁰ The quality of their testimony may also deteriorate over time as they lose trust in authorities.

Protecting migrant victims of trafficking

Identification of victims of trafficking is fundamental not only for criminal proceedings against traffickers, but also, in the first place, for the protection of victims. The diversity of actors who may be in contact with potential victims requires referral mechanisms to be in place so that victims can quickly benefit from services to which they are entitled.⁹¹ Hotlines have been set up in some countries. The independent non-profit organization Polaris is for instance operating the National Human Trafficking Hotline in the United States, which victims can contact via phone, text, online chat or email before being redirected to relevant support services. Polaris has since helped

84 Police Executive Research Forum, 2020.

85 Liechtenstein Initiative, 2019.

86 Ibid.

87 Police Executive Research Forum, 2020. See https://htfusion.org/#ab_our_mission.

88 Liechtenstein Initiative, 2019.

89 Broad and Muraszkiwicz, 2020.

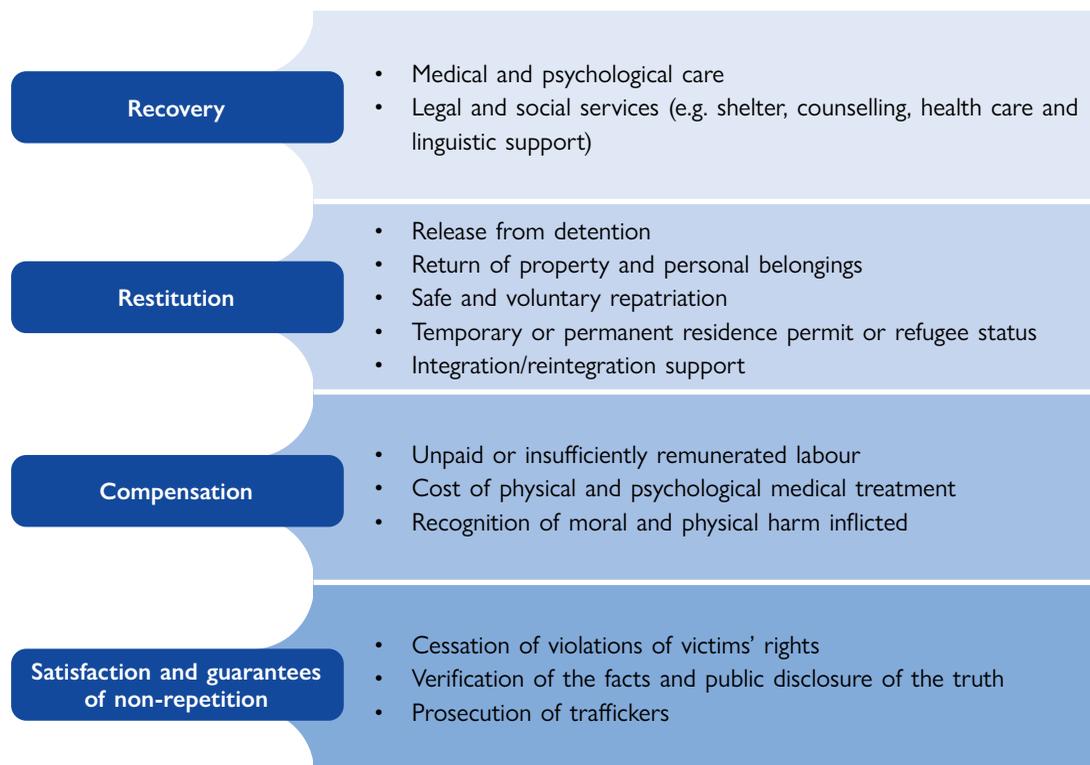
90 UNODC, 2008b.

91 Liu, 2017.

some 15 countries to set up similar hotlines, including Kuwait, Mexico, Oman, Qatar, South Africa, Thailand and the United Arab Emirates.⁹²

Referral to appropriate services constitutes the first step to protect victims from their traffickers and fulfil their human right to an effective remedy. In addition to procedural rights, such as the right for victims to be informed, this right entails four main components, as illustrated in Figure 6 below.

Figure 6. Main components of the right to an effective remedy for victims of trafficking



Source: UNGA, 2011; UNHRC, 2014.

Note: The list of measures under each component only serves illustrative purposes.

While there is consensus on the principle of non-punishment of victims for offences they have committed as a consequence of their trafficking,⁹³ victims too often continue to be detained and prosecuted. This is especially the case for victims of sexual exploitation in countries where sex work is prohibited, but also for criminal offences they may be forced to commit, such as drug trafficking. A 2016 study by the National Survivor Network in the United States highlighted that, out of 130 trafficking victims surveyed, about 91 per cent had been arrested, and over half considered that their arrest concerned offences committed as part of their trafficking.⁹⁴ According to these victims, the stigma attached to their incarceration had long-term impacts, with difficulties accessing employment, housing,

92 See <https://humantraffickinghotline.org/national-hotline-overview> and <https://polarisproject.org/global-hotline-consulting/>.

93 OHCHR, 2020; ICAT, 2020.

94 National Survivor Network, 2016.

credit or educational loans. Among their recommendations to the authorities, victims called for non-punishment of their trafficking offences and the cleansing of their criminal history:

“Our criminal history should be wiped clean as we deserve a fresh start. We may not only have prostitution charges as we are also used to facilitate drug trafficking and that leads to various other charges all related. My theft charges were for food or clothing during times I ran from my pimp in order to survive but went to jail.”⁹⁵

As this study also illustrated, release from detention, access to recovery support measures and withholding deportation with the granting of temporary residence permits are too often made contingent on victims' cooperation in criminal proceedings.⁹⁶ Pressure exerted on victims to testify against their traffickers fails to recognize them as rights-holders, and does not give them the possibility to make an informed decision about their collaboration with authorities and on their potential return to their country of origin.⁹⁷ Adopting a victim-centred approach, some countries are granting reflection periods with temporary residence permits during which victims can benefit from the necessary support measures to start recovering and (re)gain trust in the authorities, increasing the likelihood of their cooperation in criminal proceedings. That being said, reflection periods are usually for 30 days only, although some States extend it to 60 days (Croatia, Czechia and Lesotho), 90 days (Maldives and Montenegro) and even six months in Finland.⁹⁸

While migrant victims of trafficking are ideally safely and voluntarily repatriated to their country of origin, victims may not be able to return when they face threats from traffickers or will be at high risk of being re trafficked. They also may not want to be repatriated, because they may be stigmatized in their communities of origin; experience difficulties in reintegrating, particularly in countries that do not support reintegration; or simply want to stay to obtain better life opportunities offered in the destination country.⁹⁹ Some destination countries provide the option of applying for long-term residence permits, although these are usually not automatically granted and remain at the authorities' discretion. When victims face serious risks of being re trafficked or suffering retaliation from traffickers in their country of origin, they are eligible for international protection and can be granted refugee status.¹⁰⁰

Partnering to counter human trafficking in migration pathways

In the criminal justice context, partnership refers to cooperation among States in exchanging information on transnational trafficking networks and practical law enforcement collaboration, such as those operations carried out by multiple States under the auspices of Interpol.¹⁰¹ Given States' widespread commitment, cooperation on counter-trafficking is also common in policy dialogues on migration at the global and (inter)regional levels.¹⁰² As detailed in Appendix C, a wide range of inter-State consultation mechanisms on migration address human trafficking, given its

95 Ibid.

96 UNGA, 2020; Brunovskis and Skilbrei, 2016.

97 UNHRC, 2014: para. 21.

98 See respectively Government of Croatia, 2013; EU, n.d.; Government of Lesotho, 2011; Government of Maldives, 2013; Government of Montenegro, 2018; Government of Finland, 2004.

99 Pandey et al., 2018.

100 UNHCR, 2006.

101 For illustrations of recent antitrafficking operations led by Interpol with multiple countries, see for instance Interpol (2020) concerning an operation in South-East Asia; and Interpol (2018) for an operation in Latin America and the Caribbean.

102 Bauloz, 2017.

relationship with migration. Among these, the Bali Process is the only interregional forum on migration explicitly focused on human trafficking (see text box below). Other initiatives have stemmed from interregional dialogues, such as the African Union Commission Initiative against Trafficking in Human Beings (AU COMMIT), launched with IOM under the auspices of the Africa–EU Partnership to raise awareness and improve the implementation of the Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children in Africa.¹⁰³

The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime

Launched in 2002, the Bali Process is a non-binding policy dialogue forum for members to exchange information and best practices, strengthen cooperation and build capacity, including addressing trafficking in persons in the context of irregular migration. The Bali Process is co-chaired by Australia and Indonesia and gathers 45 member States and four United Nations agencies (IOM, the ILO, UNHCR and UNODC) in addition to observer countries and international organizations. The Bali Process regional support office was established in 2012 to provide technical support to the Bali Process and take practical initiatives on these issues.

Two Bali Process working groups specifically concern human trafficking, these being the Working Group on Trafficking in Persons established in 2013 and the Working Group on Disruption of People Smuggling and Trafficking in Persons Networks, established in 2014. Further, the Government and Business Forum was launched in 2017 in recognition of the need to strengthen cooperation with the private sector.

The 2016 Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime, endorsed at the Sixth Bali Process Ministerial Conference, points to the interlinkage between the abuse and exploitation of migrants and refugees at the hands of smugglers and traffickers and the overlap between these distinct types of crime. In that Declaration, ministers and representatives of member States and organizations, while recognizing “the sovereign rights and legitimate interests of states to safeguard their borders and determine their migration policies, consistent with international law” also “emphasized the need for a comprehensive regional approach, based on the principles of burden sharing and collective responsibility” and “underlined the need to translate political commitments into concrete actions.”^a

Those commitments were reaffirmed in the 2018 Declaration,^b yet questions have been asked as to whether the Bali Process has effectively championed its fulfilment, including in the context of the movement of Rohingya in the Bay of Bengal and the Andaman Sea in 2015, 2020 and 2021.^c The 2022 Ministerial Conference will offer Bali Process members an opportunity to reflect on whether Bali Process mechanisms serve the purposes for which they were established and promote constructive dialogue on issues the Bali Process was created 20 years ago to address, including the trafficking of migrants.

More information on the Bali Process is available at www.baliprocess.net/.

a Bali Process, 2016.

b Bali Process, 2018.

c McAuliffe, 2016; UNHCR, IOM and UNODC, 2020.

The understanding of the partnership has evolved since the adoption of the Trafficking Protocol to include a multiplicity of actors beyond States. Diverse cooperation initiatives at the global level are testament to these forms of partnerships not explicitly recognized in the protocol. The Inter-Agency Coordination Group against Trafficking in Persons is for instance mandated by the United Nations General Assembly to enhance collaboration and coordination between the various United Nations agencies and other intergovernmental organizations working on human trafficking.¹⁰⁴

The role of civil society organizations has long been recognized and new forms of cooperation have also emerged among non-governmental organizations (NGOs) to foster coordination, such as the Swedish Platform Civil Society against Human Trafficking.¹⁰⁵ However, research underlines that NGOs tend to primarily focus on trafficking for sexual exploitation, especially of children, and are underrepresented in certain regions, such as in Central and South America, the Middle East and North Africa, as well as sub-Saharan Africa.¹⁰⁶ Yet exceptions are also emerging, with stakeholders like the Labour Protection Network in Thailand, which works at the local level to protect migrant labourers against trafficking by advocating against discrimination and inequality.¹⁰⁷

The most significant development, however, relates to State cooperation with the private sector. In line with broader efforts to strengthen accountability of businesses in the field of human rights,¹⁰⁸ emphasis is now placed – with varying success – on the responsibility of private sector actors in countering human trafficking, inter alia in the area of goods and services production throughout their supply chains. In addition to certification schemes for recruitment agencies, the involvement of businesses has materialized in other global initiatives more broadly concerning social corporate responsibility and sustainability. The United Nations Global Compact, the largest corporate sustainability initiative, supports some 12,000 companies in their social and supply chain sustainability strategies, for instance by sharing diverse resources, tools and best practices concerning social sustainability.¹⁰⁹ Other initiatives tackle human trafficking more specifically, such as the Responsible and Ethical Private Sector Coalition against Trafficking (RESPECT) led by the Global Initiative Against Transnational Organized Crime, which seeks to enhance public–private partnerships.¹¹⁰

Partnership with financial actors has also recently attracted increased attention in recognition of their role in identifying financial flows, including money-laundering connected to human trafficking networks. For instance, in January 2020, the non-profit organization Polaris started a new partnership with Paypal, the global digital payment platform, to create a financial intelligence unit to team up with law enforcement to devise new ways of identifying transactions linked to human trafficking.¹¹¹ The role played by the financial sector is also broadening, not only to support prosecution efforts, but also to prevent trafficking and ensure the protection of victims. The FAST initiative mentioned earlier in this chapter aims not only to support criminal investigations, but also to prevent human trafficking by investing in digital finance that supports people who may be vulnerable to trafficking.¹¹² Through its survivor inclusion initiative, FAST also participates in victim protection through the provision of basic

104 See <https://icat.un.org/>.

105 See <https://manniskohandel.se/english/>. See also Erikson and Larsson, 2020.

106 Limoncelli, 2016.

107 See www.lpnfoundation.org/about.

108 See for instance the United Nations Guiding Principles on Business and Human Rights in OHCHR, 2011.

109 See UN Global Compact, n.d. See also IOM Corporate Responsibility in Eliminating Slavery and Trafficking (CREST), available at <https://crest.iom.int/>.

110 See <https://globalinitiative.net/initiatives/respect/>.

111 Polaris, 2020b; Laviertes, 2020.

112 Liechtenstein Initiative, 2019.

banking services, especially when the financial identities and/or banking accounts of the victims have been hijacked by traffickers.¹¹³

Cooperation is also increasingly fostered with tech companies to design innovative solutions for countering human trafficking by leveraging new technological developments, such as artificial intelligence or mobile technology. Coalitions of technology companies are emerging, such as Tech Against Trafficking launched in 2018 by technology companies, civil society and intergovernmental organizations to identify new technological developments to prevent and disrupt human trafficking and support its victims.¹¹⁴ While acknowledging the extent to which technology is used today by traffickers, together with the Organization for Security and Co-operation in Europe (OSCE), the coalition identified some 305 technology tools and initiatives existing in 2019 to fight human trafficking.¹¹⁵

The main partnership trend over the last decade has hinged on the establishment of global coalitions of diverse stakeholders. There is, however, a lack of research evaluating the impact and effectiveness of these global coalitions on antitrafficking efforts in general, and victim protection in particular. In the migration context too, consideration must be given as to whether efforts effectively prevent trafficking, instead of simply impeding migration. Scant research exists on partnerships at the local level, despite the importance of urban and local community spaces for implementing antitrafficking activities and offering assistance to victims.¹¹⁶ While it is commonly agreed that partnerships must be comprised of multisector stakeholders, research appears to predominantly focus on the traditional State-to-State notion of partnerships, particularly with respect to the prosecution of traffickers.

Conclusion

There is widespread national, regional and global consensus on the urgent need to prevent and combat human trafficking in migration pathways. Indeed, few other migration-related issues have attained as much agreement within the international community. However, there is less consensus on how to achieve this in practice, and there remains a shortfall in political will to introduce effective policies to that end.

Confronting the trafficking of migrants specifically brings unique challenges. This chapter has endeavoured to highlight some of these challenges and showcase promising avenues, new trends and developments in addressing them. Three main lessons can be drawn, with implications for future research, as well as policy and programmatic responses:

- **Strengthening the understanding of migrants' trafficking:** Trafficking of migrants is still too often confused with other crimes, especially migrant smuggling. This conflation is made by a variety of actors, from media outlets that use trafficking and smuggling interchangeably, to State authorities that misappropriate the discourse of trafficking in their "fight" against irregular migration. Whether through lack of understanding on the issue or by design, the implications of this conflation are far from semantic: migrant victims may not be identified, which in turn impacts the investigation and prosecution of traffickers, the disruption of organized crime networks and, more importantly, the protection to which migrant victims are entitled. Moreover, there is a risk that counter-trafficking is leveraged as political currency to confront irregular migration, or that responsibility to address it is deflected from States onto the private sector and other non-State actors. Improving the understanding and evidence base of migrant trafficking calls for capacity-building efforts not only of State authorities, but also of

113 See www.fastinitiative.org/implementation/survivor-inclusion/#1590953818950-c3e528d7-fe15.

114 See Darnton and Nestor, 2019.

115 OSCE and Tech Against Trafficking, 2020.

116 Winterdyk, 2018; Kim et al., 2018.

other relevant stakeholders, including the media. Capacity-building, from this perspective, is to be understood broadly, beyond the technical legal definition of human trafficking to cover also the dynamics behind the trafficking of migrants, including the impact of migration policies in countries of origin, transit and destination that may drive trafficking and exploitation of migrants. Research, data collection and analysis will continue to be essential, especially for under-researched subregions and countries. Evidence-based analysis provides useful insights into the changing dynamics of migrant trafficking, in order to further enhance antitrafficking policies and programmatic responses. More regular and rigorous monitoring and evaluations of the outcomes of antitrafficking programmes are vital to contribute to the evidence base.

- **Adopting tailor-made protection responses for migrant victims of trafficking:** Every victim of trafficking is a unique individual with specific protection and assistance needs. There are factors that make individual migrants vulnerable to trafficking and that shape their experience of being trafficked. Those outside their country of origin have protection needs that are specific to their migration situation, in addition to more general protection and assistance needs as victims of serious crime. For instance, migrant victims in irregular situations may be reluctant to report to the authorities for fear of deportation or punishment for their irregular status or irregular migration. Overlooking the specific situations in which migrant victims find themselves is detrimental to antitrafficking efforts; migrants may avoid cooperating with authorities in criminal proceedings against traffickers, and re-enter into cycles of re-trafficking. Likewise, human trafficking and its implications are highly gendered, calling for gender-sensitive responses throughout the 4P approach. Recognizing these realities, some countries have adopted not only victim-centred approaches, but also migrant-specific victim-centred responses, for instance, by granting reflection periods and residence permits. While the granting of such permits remains the decision of each sovereign State, international migration governance forums offer a potential avenue for some States to highlight this approach as best practice to be emulated and for others to learn from. Similarly, concerning the return of migrant victims to their country of origin, the reintegration process needs to be tailored to their specific protection needs, taking due account of their age, gender, vulnerabilities and potential stigmatization upon return.
- **Transforming cooperation into effective and impactful collaboration:** Cross-border cooperation among States is essential for countering transnational trafficking of migrants. Since the adoption of the Trafficking Protocol in 2000, the understanding of cooperation has dramatically evolved. Cooperation is now multi-stakeholder, whole-of-government, whole-of-society and cross-sectoral. The recent involvement of the financial and technology sectors is a major development, as it mirrors traffickers' modes of operating through multiple types of criminality, including money-laundering and leveraging of new technologies. Overall, however, the impact and effectiveness of cooperation initiatives is unclear. More research is needed to better understand the extent to which cooperation has translated into concrete, meaningful and measurable actions to effectively counter human trafficking in migration pathways, without hampering migration itself and the development that is advanced by it.

Appendix A. Ratification status of international instruments relevant to migration

Instrument	No. of State parties as at 30 June 2021
United Nations Convention against Transnational Organized Crime, 2000	190
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000	178
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000	150
Convention Relating to the Status of Refugees, 1951	146
Protocol Relating to the Status of Refugees, 1967	147
International Convention of the Rights of All Migrant Workers and their Families, 1990	56
United Nations Convention on the Law of the Sea, 1982	168
International Convention for the Safety of Life at Sea, 1974 as amended	165
International Convention on Maritime Search and Rescue, 1979, as amended	113
International Covenant on Civil and Political Rights, 1966	173
International Covenant on Economic, Social and Cultural Rights, 1966	171
Convention on the Rights of the Child, 1989	196
Convention on the Elimination of All Forms of Discrimination against Women, 1979	189
Slavery Convention, 1926	99
Protocol amending the Slavery Convention, 1953	61
Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956	124
ILO Convention No. 97 concerning Migration for Employment (Revised, 1949)	51
ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975	26
Fundamental ILO Conventions	
Freedom of Association and the Protection of the Rights to Organize Convention, 1948 (No. 87)	157
Right to Organize and Collective Bargaining Convention, 1949 (No. 98)	168
Forced Labour Convention, 1930 (No. 29)	179
Protocol to the Forced Labour Convention, 2014	53
Abolition of Forced Labour Convention, 1957 (No. 105)	176
Minimum Age Convention, 1973 (No. 138)	173
Worst Forms of Child Labour Convention, 1999 (No. 182)	187
Equal Remuneration Convention, 1951 (No. 100)	173
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	175

Sources: ILO, 2021b; IMO, 2021; UNTC, 2021.

Appendix B. Forms of exploitation captured in regional instruments

Trafficking in Persons Protocol supplementing the United Nations Convention against Transnational Organized Crime (2000)	Exploitation of the prostitution of others or other forms of sexual exploitation	Forced labour or services	Slavery or practices similar to slavery and servitude	Removal of organs	Other forms	All potential victims
Inter-American Convention on International Traffic of Minors (1994)	Prostitution, sexual exploitation	No	Servitude only	No	Any other unlawful purpose.	No. Minors only.
ECOWAS Declaration on the Fight against Trafficking in persons (2001)	Yes	Yes	Yes	Yes	Yes. Adopts the international Protocol definition.	Yes
SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)	No	No	No	No	Only includes buying or selling for prostitution.	No. Only women or children.
Council of Europe Convention on Action against Trafficking in Human Beings (2005)	Yes	Yes	Yes	Yes	Yes – “at a minimum”.	Yes
European Council Directive 2011/36/EU (2011)	Yes	Yes	Yes	Yes	Yes. Adds forced begging, exploitation in criminal activities, illegal adoption, forced marriage.	Yes
ASEAN Convention against Trafficking in Persons, Especially Women and Children (2015)	Yes	Yes	Yes	Yes	Yes – “at a minimum”.	Yes

Appendix C. Inter-State consultation mechanisms relevant to human trafficking

Inter-State consultation mechanisms on migration (ISCMs) are “State-led, ongoing information-sharing and policy dialogues on the regional, interregional or global level for States with an interest in promoting cooperation in the field of migration.”¹¹⁷ While ISCMs may be focused on specific aspects of migration, they usually tackle human trafficking, given its close relationship with migration.

The table below provides an illustrative list of ISCMs that are relevant to human trafficking and is structured along the three main types of ISCMs, namely, regional consultative processes on migration (RCPs), interregional forums on migration (IRFs) and global processes on migration.¹¹⁸ Each ISCM’s name is hyperlinked to the relevant website/page.

Regional consultative processes on migration (RCPs)	Africa	<p>African Union – Horn of Africa Initiative on Human Trafficking and Migrant Smuggling (AU-HoAI)</p> <p>Arab Regional Consultative Process on Migration and Refugee Affairs</p> <p>Intergovernmental Authority on Development Regional Consultative Process on Migration (IGAD-RCP)</p> <p>Migration Dialogue from the Common Market for Eastern and Southern Africa Member States (MIDCOM)</p> <p>Migration Dialogue for Southern Africa (MIDSA)</p> <p>Migration Dialogue for West Africa (MIDWA)</p>
	Americas	<p>Caribbean Migration Consultations (CMC)</p> <p>Central American Commission of Migration Directors (OCAM)</p> <p>Regional Conference on Migration (RCM or Puebla Process)</p> <p>South American Conference on Migration (SACM)</p>
	Asia and Pacific	<p>Coordinated Mekong Ministerial Initiative against Trafficking</p> <p>Pacific Immigration Development Community (PIDC)</p> <p>Regional Consultative Process on Overseas Employment and Contractual Labour for Countries of Origin in Asia (Colombo Process)</p>
	Europe	<p>Almaty Process on Refugee Protection and International Migration</p> <p>Prague Process</p>
	Middle East	<p>Arab Regional Consultative Process on Migration and Refugee Affairs (ARCP)</p>

117 IOM, 2019b.

118 For more information on ISCMs, see www.iom.int/inter-state-consultation-mechanisms-migration.

Interregional forums on migration (IRFs)	Africa–Europe	5+5 Dialogue on Migration in the Western Mediterranean EU–Horn of Africa Migration Route Initiative (Khartoum Process) Euro–African Dialogue on Migration and Development (Rabat Process)
	Americas–Europe	Ibero–American Forum on Migration and Development (FIBEMYD) Ibero–American Network of Migration Authorities (RIAM)
	Asia–Europe	Budapest Process
	Asia–Middle East	Abu Dhabi Dialogue among the Asian Labor Sending and Receiving Countries
	Europe–Asia–Americas	Inter–Governmental Consultations on Migration, Asylum and Refugees (IGC)
	Europe–Asia–Americas–Middle East	Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime
	Intra–African	Pan–African Forum on Migration
Global processes on migration	State-led	Global Forum on Migration and Development (GFMD)
	Facilitated by an intergovernmental organization (IOM)	International Dialogue on Migration (IDM)

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