

INSTRUMENTS AGAINST TRANSNATIONAL ORGANIZED CRIME



Tool 1.4 Introduction to international instruments against transnational organized crime

Overview

This tool discusses the need for international instruments to facilitate international cooperation, introduces the Organized Crime Convention and its Protocols, and recommends resources which can facilitate international understanding of the crime of trafficking.

International cooperation is a basic condition for the success of any response to trafficking in persons. Various forms of trafficking, including trafficking in persons, take place across borders and cannot be addressed without joint international efforts and international cooperation. States must therefore assist each other in the fight against various forms of complex and harmful transnational offences.

A growing number of bilateral, regional and global agreements reflect the realization that transnational crime must be addressed through international cooperation. As criminal groups operate across borders, judicial systems must do the same.

Several United Nations conventions and regional instruments form the international legal framework within which States must define their own laws in order to address the problem of human trafficking effectively. These instruments also provide a framework for States wishing to collaborate with each other in various aspects of the fight against human trafficking. The most directly relevant of these instruments are:

- The Organized Crime Convention
- The Trafficking in Persons Protocol
- The Migrants Protocol

States that are serious about attacking the problem of human trafficking will find that it is to their advantage to ratify and implement the Organized Crime Convention, the Trafficking in Persons Protocol and the Migrants Protocol.

The Organized Crime Convention and its Protocols

The Organized Crime Convention establishes general measures against transnational organized crime, whereas the two Protocols in question deal with specific crime problems. Each Protocol must be read and applied in conjunction with the Convention. The Convention applies to the two Protocols *mutatis mutandis*—“with such modification as the case requires”—and all offences established by the Protocols are also considered offences under the Convention itself.

The Organized Crime Convention and the Trafficking in Persons Protocol establish minimum standards. States parties are bound to adhere to these minimum standards, but may adopt stricter measures.

The Organized Crime Convention and the Trafficking in Persons Protocol enable States to tackle the problem of trafficking in persons in a comprehensive manner. This is important because trafficking operations are often only one part of the overall picture. The criminal groups involved also tend to engage in other illicit activities, such as smuggling migrants, drugs, weapons or other illicit commodities, and engaging in corruption or money-laundering. The Convention facilitates the investigation and prosecution of all these criminal activities in a comprehensive manner, across borders. For example, it may be possible in some instances to prosecute someone involved in human trafficking for the offence of participating in the activities of an organized criminal group, even if there is not enough evidence to prosecute that person for the trafficking offence itself.

The Organized Crime Convention is the international community's response to the need for a truly global approach. Its purpose is to promote cooperation to prevent and to combat transnational organized crime more effectively (art. 1). It seeks to increase the number of States that take effective measures against transnational organized crime and to build and strengthen international cooperation. It respects the differences and specificities of diverse legal traditions and cultures, while at the same time promoting a common language and helping to remove some of the existing barriers to effective transnational collaboration.

The Convention focuses essentially on offences that are facilitative of the profit-making activities of organized criminal groups. Its supplementary Protocols target specific types of organized criminal activity requiring specialized provisions.

The Trafficking in Persons Protocol has three basic purposes (art. 2):

- To prevent and combat trafficking
- To protect and assist victims of trafficking
- To promote cooperation between States parties in order to meet those objectives

The Migrants Smuggling Protocol aims at preventing and combating the smuggling of migrants, as well as promoting cooperation among States parties, while protecting the rights of smuggled migrants (art. 2).



The text of the Convention and the Protocols thereto can be found at:
www.unodc.org/unodc/en/treaties/CTOC/index.html

In addition to setting out specific requirements for extradition, mutual legal assistance and other forms of international cooperation, the Convention and the two Protocols set standards for both substantive and procedural law in order to assist States parties to harmonize their legislation and eliminate differences that can hamper prompt and effective international cooperation.

Recommended resources

Other relevant conventions

- Convention on the Rights of the Child, adopted by the General Assembly in its resolution 44/25 of 20 November 1989
United Nations, *Treaty Series*, vol. 1577, No. 27531
www2.ohchr.org/english/law/crc.htm
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, adopted by the General Assembly in its resolution 54/263 (annex II) of 25 May 2000
United Nations, *Treaty Series*, vol. 2171, No. 27531
www2.ohchr.org/english/law/crc-sale.htm
- Convention concerning Forced or Compulsory Labour, 1930 (Convention No. 29), of the International Labour Organization Convention
United Nations, *Treaty Series*, vol. 39, No. 612
www.ilo.org/ilolex/cgi-lex/convde.pl?C029
- Convention on the Elimination of All Forms of Discrimination against Women, adopted by the General Assembly in its resolution 34/180 of 18 December 1979 (article 6 refers to traffic in women and exploitation of prostitution of women)
United Nations, *Treaty Series*, vol. 1249, No. 20378
www.unhchr.ch/html/menu3/b/e1cedaw.htm

For information on further international conventions relevant to trafficking in persons, see Tool 1.7.

Principles and guidelines

A number of non-binding international standards relating to trafficking are also relevant, including:

- Recommended Principles and Guidelines on Human Rights and Human Trafficking; report of the United Nations High Commissioner for Human Rights to the Economic and Social Council (2002) (E/2002/68/Add.1)



These principles and guidelines are available at:

[www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.2002.68.Add.1.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.2002.68.Add.1.En?Opendocument)

United Nations General Assembly resolutions

- Resolution 57/176 of 18 December 2002, entitled “Trafficking in women and girls”
- Resolution 58/137 of 22 December 2003, entitled “Strengthening international cooperation in preventing and combating trafficking in persons and protecting victims of such trafficking”
- Resolution 59/156 of 20 December 2004, entitled “Preventing, combating and punishing trafficking in human organs”
- Resolution 59/166 of 20 December 2004, entitled “Trafficking in women and girls”
- Resolution 61/144 of 19 December 2006, entitled “Trafficking in women and girls”
- Resolution 61/180 of 20 December 2006, entitled “Improving the coordination efforts against trafficking in persons”



All General Assembly resolutions are available at:
www.un.org/documents