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Countering Trafficking in Persons in Conflict Situations

THEMATIC PAPER



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Executive summary

Background and purpose

Trafficking in persons is a serious crime that affects every country in the world. Conflicts that arise in countries or other geographical areas can exacerbate vulnerability to trafficking, as well as its prevalence and severity. As State and non-State structures weaken, and as people turn to negative coping strategies in order to survive, not only does the risk of falling victim to trafficking increase, but so too does the risk of perpetrating it against others. At the same time, conflict also increases the demand for goods and services provided by exploited persons and creates new demands for exploitative combat and support roles. For these reasons, United Nations entities and other international actors active in settings affected by conflict have a crucial role to play in preventing and countering trafficking in persons.

Definition and elements of trafficking in persons

Trafficking in persons is addressed in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking in Persons Protocol). The Protocol provides a comprehensive framework for cooperation between States parties and sets out minimum standards for victim protection to complement the wider framework of international law, including international human rights law. The Protocol requires States parties to criminalize the offence of trafficking as defined in its article 3 (a). That definition comprises three elements:

- (a) An “act” (recruitment, transportation, transfer, harbouring or receipt of persons);
- (b) A “means” by which that action is achieved (threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve consent of a person having control over another person);
- (c) A “purpose” of exploitation, regardless of what type.

The “means” element is not a requisite for the definition of trafficking in persons when the victim is a child; any act committed for an exploitative purpose is sufficient to establish the trafficking of a child as an offence.

Even though the forms of exploitation that occur in settings affected by conflict may also occur in other contexts, conditions of conflict are often more likely to engender such exploitation or to exacerbate its prevalence and severity. Some forms of exploitation, identified through research on exploitative practices in conflict settings, have emerged as specific to the context of conflict, including but not limited to the following:

- Sexual exploitation of women and girls by members of armed and terrorist groups
- Use of trafficked children as soldiers

- Removal of organs to treat wounded fighters or finance war
- Enslavement as a tactic of terrorism, including its use to suppress ethnic minorities

Consent of the victim to exploitation is irrelevant in cases where any of the means have been used in relation to an adult victim, and is always irrelevant where the victim is a child.

Six keys to understanding trafficking in persons

1. *Trafficking does not necessarily involve a person being taken across a border.* A person can be trafficked within a single country or region.
2. *There is no single profile of a victim of trafficking.* Victims of trafficking can be rich or poor, men, women, children, lesbian, gay, bisexual, transgender or intersex, migrants in regular or irregular situations or asylum seekers.
3. *There is no single profile of a human trafficker.* Traffickers can be members of organized criminal groups, or friends or family members of the victim.
4. *Trafficking can be for any exploitative purpose,* including for sexual, labour, criminal, combat or other exploitative purposes.
5. *Not all people who are exploited are victims of trafficking.* Persons who are exploited are only considered victims of trafficking if acts and means have been used to exploit them (or only acts, in the case of children).
6. *A person can consent to being exploited, but still be considered as a victim of trafficking.* The use of “means” to obtain a person’s consent makes the consent irrelevant; in cases where the victim is a child, consent is always irrelevant.

Linkages between trafficking in persons, human rights abuses and other phenomena

Many United Nations actors do not have a specific mandate to address trafficking in persons. However, there may be linkages between trafficking in persons and other crimes or situations that they do have a mandate to address. A better understanding of trafficking and its intersection with these other phenomena can support the integration of responses to trafficking in persons into existing mandates.

Smuggling of migrants is defined in article 3 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Smuggling of Migrants Protocol), 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 a permanent resident.” Trafficking in persons and the smuggling of migrants are often confused, although they are distinct crimes comprising unique elements.

Trafficking in persons versus smuggling of migrants: differences

- *Geographical*. Trafficking may occur entirely within a single country, whereas smuggling involves crossing international borders.
- *Purpose*. Trafficking is perpetrated for exploitation, whereas smuggling is perpetrated for profit (termed “financial or material benefit”).
- *Consent*. Victims of trafficking may consent to the trafficking act or to their exploitation, but consent is irrelevant if one of the means has been used (and in all cases where the victim is a child, as means need not be established). Consent is not an element of the smuggling crime; in practice, smuggled migrants may consent to being smuggled but may retract their consent at a later stage, yet still be forced onwards.
- *Exploitation*. Exploitation is the purpose (intention) of trafficking, but is not an element of the smuggling offence. Smugglers may exploit migrants, in which case the smuggling offence is aggravated.
- *Profit*. Profit is not an element of trafficking, but traffickers almost always profit from the exploitation of their victims. Profit (financial or material benefit) is the required element and sole purpose of smuggling a person across an international border.
- *Victimhood*. The victim of trafficking is an individual person, whereas the victim of smuggling is the State, at the moment its border is unlawfully crossed in the course of the smuggling. However, smuggled migrants may be victims of other crimes at the hands of smugglers, including violent crimes.
- *Perpetrator*. Traffickers may be members of organized criminal groups, the victim’s own family members or friends, or others whose intent is to exploit the victim. Smugglers may be members of organized criminal groups, the migrant’s own family members or friends, or others, but are only considered smugglers when they act for financial or material benefit.

In practice, what looks like a situation of smuggling of migrants may prove on closer examination to be a situation of trafficking in persons. For instance, a person may believe that he or she has paid a smuggler in order to reach safety or to find decent work elsewhere, but instead ends up in a situation of exploitation as the smuggler also traffics him or her or passes him or her on to someone else for that purpose.

Conflict exacerbates the smuggling of migrants, as people in situations of conflict are increasingly forced to turn to smugglers for safe, alternative channels by which to flee *from* conflict and seek safety or asylum. Those who seek to join armed or terrorist groups may also engage the services of smugglers to facilitate their movement *into* conflict areas.

Atrocity crimes comprise war crimes, crimes against humanity and genocide. These are serious international crimes that States are obliged to prevent and that fall within the jurisdiction of the International Criminal Court. Certain acts committed in the context of trafficking may potentially reach a level of gravity characteristic of atrocity crimes.

War crimes can be understood as violations of international humanitarian law for which perpetrators bear individual criminal responsibility under international law. Certain acts or offences associated with trafficking in the context of armed conflict may constitute war crimes.

Crimes against humanity include acts of murder, extermination, enslavement, deportation or forcible transfer, imprisonment or severe deprivation of physical liberty, torture, rape, sexual slavery, enforced prostitution, forced pregnancy and other forms of sexual violence of comparable

gravity. Trafficking in persons, where it is committed as part of a widespread or systematic attack directed against a civilian population, may amount to a crime against humanity.

Genocide is a crime committed against members of a national, ethnic, racial or religious group targeted because of their membership of that group. Some acts associated with conflict-related trafficking in persons (such as the sexual enslavement of members of particular ethnic minority groups) may in some extreme situations constitute genocide.

Conflict-related sexual violence includes rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, forced sterilization, forced marriage, forced temporary marriage and any other form of sexual violence against women, men, girls or boys that is directly or indirectly linked to a conflict. That link may be evident in the profile of the perpetrator, the profile of the victim, the climate of impunity precipitated by the collapse of rule of law or the State, cross-border consequences, and/or violations of provisions of a ceasefire agreement. Conflict-related sexual violence may be used as a tactic of war or terrorism, and can constitute a war crime, a crime against humanity or an act of genocide.

Conflict-related sexual violence may occur in the context of trafficking in persons or entail trafficking for purposes of sexual exploitation. For instance, internally displaced refugee women and girls in areas controlled by armed or terrorist groups are particularly vulnerable to sexual violence, including in the context of sexual slavery. Local populations may be trafficked for the purpose of sexual exploitation by armed and non-armed groups. Demand for sexual abuse against men and boys can also increase in conflict.

Six grave violations against children in armed conflict have been identified in a number of Security Council resolutions and include the killing and maiming of children, the recruitment and use of children by armed forces and armed groups, rape and other forms of sexual violence against children, attacks against schools or hospitals, abduction of children and denial of humanitarian access for children. Except for denial of humanitarian access, these violations trigger the listing of parties to armed conflicts in the annexes to the annual report of the Secretary-General on children and armed conflict. Furthermore, grave violations fall under the monitoring and reporting mechanism on grave violations against children in situations of armed conflict. Trafficking in persons is not one of the six grave violations, but acts constituting grave violations may also amount to trafficking in persons.

Relationship between “grave violations” and trafficking in children

- *Killing and maiming of children* can occur as a result of children being trafficked into armed conflicts as combatants, human shields, suicide bombers or in supportive roles.
- *Recruitment and use of children by armed forces and armed groups* can constitute trafficking in persons, being an act (recruitment) carried out for the purpose of exploitation (use in armed conflict).
- *Rape and other forms of sexual violence against children* can result when children are trafficked for the purpose of forced, temporary or child marriage, sexual slavery or other forms of sexual exploitation.
- *Attacks against schools or hospitals* can occur in the context of trafficking when the objective is to abduct and exploit children.
- *Abduction of children* can constitute trafficking where abduction is found to include exploitation, whether for sexual, combative, terrorist or other purposes.
- *Denial of humanitarian access for children* may involve trafficking, for instance, where a child is denied humanitarian access because he or she is in a trafficking situation.

Terrorism is not comprehensively defined in international law but can be understood as comprising acts intended to cause death or serious bodily injury to civilians for the purpose of intimidating a population or compelling a government or international organization to do or not do something. In some situations, terrorist acts may have a strong link to trafficking in persons; the forms of exploitation specified in the Trafficking in Persons Protocol are non-exhaustive, meaning that the definition can capture situations in which people are trafficked for the purpose of being exploited to carry out terrorist activities.

Where terrorist groups finance their activities through profits derived from trafficking in persons, that trafficking offence also constitutes a terrorism-related offence under the International Convention for the Suppression of the Financing of Terrorism. Examples of such activities may include trafficking in persons for the purposes of ransoming them, selling persons for the purposes of sexual exploitation, reaping the benefits of forced labour or exploiting children for begging.

Irrespective of whether or not trafficking is used to fund terrorism, the link between trafficking and terrorism often manifests itself in brutal forms in settings affected by conflict, including the use of children in combat roles, the sexual enslavement of women and children, and their forced marriage to armed combatants.

Integrating the fight against trafficking in persons into conflict-related work

A number of United Nations entities that are active on the ground in settings affected by conflict encounter situations of trafficking and are therefore well-placed to confront them. The following interrelated and cross-cutting measures are offered in support of their efforts to integrate counter-trafficking responses into their work.

Research and information-gathering

Effective research and the collection and analysis of information are essential to formulating evidence-based prevention and protection responses to trafficking in persons, as well as to bringing perpetrators to justice.

United Nations entities and other actors, including non-governmental organizations active in settings affected by conflict, can support research and information-gathering by ensuring that phenomena related to trafficking, including conflict-related sexual violence, gender-based violence and grave violations against children, are flagged as relevant to counter-trafficking efforts. Examples of existing mechanisms that provide support in this way are the monitoring, analysis and reporting arrangements on conflict-related sexual violence, which are used to collect data on trafficking in persons for the purpose of sexual exploitation, and the International Organization for Migration (IOM) Displacement Tracking Matrix, which captures data related to trafficking in persons and exploitation in emergencies in order to identify populations of concern, including potential and actual victims of trafficking during crises, including conflicts.

To support better information collection, the understanding of what constitutes trafficking in persons should be harmonized on the basis of the definition in article 3 of the Trafficking

in Persons Protocol. In settings affected by conflict, disaggregating data on victims and perpetrators by age, gender, ethnicity and other relevant characteristics can lead to a better understanding of risk factors. Further analysis may also address how religious, political, ethnic, economic, cultural and social factors influence traffickers' choices as to which victims to target, the means to use to traffic them and the forms of exploitation to subject them to.

Existing conflict-related assessment tools such as the “matrix: early-warning indicators of conflict-related sexual violence” (2011), the early-warning indicators of the Organization for Security and Cooperation in Europe (OSCE) and the Framework of analysis for atrocity crimes: a tool for prevention of the United Nations Office on Genocide Prevention and the Responsibility to Protect could be enhanced to facilitate the gathering of information in support of the assessment of trafficking risks through the flagging of existing potential relevance and the addition of trafficking-related components.

Information that is relevant to trafficking in persons in settings affected by conflict should be securely and efficiently shared with those United Nations entities and State and non-State actors that can effectively use it to address trafficking. It is imperative that any sharing of data or other information be based on robust ethical principles and data protection standards in order to reduce the risk of violating privacy rights.

Recommended resources

Global Report on Trafficking in Persons 2016 (United Nations publication, Sales No. E.16.IV.6)

Recommended Principles and Guidelines on Human Rights and Human Trafficking: Commentary (United Nations publication, Sales No. E.10.XIV.1)

World Health Organization, *WHO Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies* (Geneva, 2007)

Organization for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights, *Gender and Early Warning Systems: An Introduction* (Warsaw, 2009)

Matrix: early-warning indicators of conflict related sexual violence (2011)

Prevention of trafficking in persons in settings affected by conflict

The 2030 Agenda for Sustainable Development sets out a holistic framework for preventing both trafficking in persons and conflict. For prevention to be effective, anti-trafficking responses must be generated long before the onset of conflict. Even if cases of trafficking have not yet been confirmed, actual or potential risks should be identified and addressed. For instance, counter-trafficking experts and multidisciplinary teams could be deployed to identify the risks faced by those forced to flee conflict, often within large-scale movements of people, and those trapped in it.

Prevention also requires that measures be put in place to address vulnerability by building resilience through livelihood and educational opportunities, ensuring food security, and taking measures to address sex and gender-based violence and forms of discrimination that can lead to the use of negative coping mechanisms. Measures to reduce the vulnerability of those fleeing conflict include providing safe and regular pathways for crossing borders and ensuring the proper birth and marriage registration of non-nationals including internally displaced persons in camps.

Prevention in settings affected by conflict also requires measures to reduce the demand for exploitative labour and services, particularly as conflict disrupts or depletes the regular workforce. The increased presence of military personnel, including predominantly male armed forces, can fuel demand for sexually exploitative services. Addressing demand as a root cause of exploitation requires strong evidence of the factors that fuel demand as a basis on which to formulate strategies that are calibrated to specific conflict and post-conflict settings.

Prevention measures can also include raising awareness of the risks of trafficking and other forms of exploitation. Messages must be targeted and actionable; people receive no benefit from being told that smuggling situations can descend into trafficking when they are in situations in which they have no choice but to use the services of smugglers to flee conflict. People at risk of being trafficked into conflict situations, including radicalized youth, may benefit from counter-messages conveyed by means of the same social media tools that traffickers use to recruit them. Anti-radicalization messages from religious leaders and warnings about risks from former victims of radicalization may provide valuable information to vulnerable people. Trafficking-related training tools that are publically available online can be adapted and integrated into existing training and capacity-building programmes aimed at United Nations personnel deployed in areas affected by conflict.

Recommended resources

2030 Agenda for Sustainable Development (General Assembly resolution 70/1)

Addressing Human Trafficking and Exploitation in Times of Crises: Evidence and Recommendations for Further Action to Protect Vulnerable and Mobile Populations (IOM, 2015)

Toolkit to Combat Trafficking in Persons (United Nations publication, Sales No. E.08.V.14)

Women, Girls, Boys and Men: Different Needs Equal Opportunities. Gender Handbook in Humanitarian Action (Inter-Agency Standing Committee, 2006)

Peacekeeping Resource Hub, peacekeeping training resources (United Nations Department of Peacekeeping Operations) (see <http://research.un.org/en/peacekeeping-community/training>)

Stop Abuse: Human Trafficking Resource Package (Department of Peacekeeping Operations, 2004)

Protection and assistance

Any response to trafficking must be victim-centred, meaning that the safety and well-being of victims is paramount. United Nations agencies and other actors have a role to play in supporting States in their efforts to fulfil their obligations to protect and assist victims of trafficking. Protection and assistance obligations are not diminished by the onset of conflict; under the Trafficking in Persons Protocol and other applicable international law, victims have the same rights to protection and assistance in conflict and post-conflict situations as they have otherwise. However, in reality, conflict may drastically reduce a State's capacity to fulfil its protection and assistance obligations, which underscores the important role the United Nations and other actors can play in filling gaps in the provision of protection and assistance.

At the outset, mapping exercises can be carried out to identify which State and non-State actors are able to provide direct protection and assistance services to victims or potential victims of trafficking, factoring in any national strategies, plans of action and referral mechanisms already in place at the local or national level and assessing whether and how their implementation has changed as a result of the conflict.

Victims of trafficking are unlikely to identify themselves as having been trafficked, owing to shame and an often well-founded fear of stigmatization, fear of retaliation by traffickers, fear of authorities, or fear of deportation or detention, or because they do not understand their situation. Therefore, the use of trafficking indicators can be helpful for identifying individual victims. Law enforcement personnel, peacekeepers, humanitarian workers and others who engage directly with vulnerable individuals or who may encounter victims or potential victims of trafficking should be provided with indicators of trafficking in persons. Such indicators can be provided on small cards that personnel can carry with them.

Indicators are inconclusive on their own; their purpose is to raise a flag to non-specialists indicating that an individual *may* be a victim of trafficking, whereupon the individual can be referred to a specialist who has been trained to verify whether a person is a victim of trafficking or not and to ensure that the person receives the appropriate services. Indicators are most effective when they are tailored to specific contexts.

In a victim-centred approach, the referral of victims should not be made conditional on their participation in criminal justice processes or in any particular programme or activity. Nor should their access to assistance and protection be limited on the basis of their immigration or other status. In determining where an individual should be referred, actors should bear in mind that victims or potential victims of trafficking may be eligible for international protection as a refugee under the 1951 Convention and its 1967 Protocol relating to the Status of Refugees and/or under regional refugee-related instruments, or may otherwise be eligible for permission to remain on humanitarian and compassionate grounds.

A key component of protecting and assisting victims of trafficking is ensuring that they are not criminalized or otherwise punished for acts they have committed as a direct result of being trafficked, regardless of the form the trafficking has taken. Similarly, victims should not be stigmatized. Male and female victims of sexual forms of exploitation, and children born in situations of exploitation can be particularly stigmatized. People trafficked by armed or terrorist groups may be mistrusted after they escape or are released from captivity, or may even be subject to prosecution on the sole basis of their perceived association with the criminals.

These concerns are acute in conflict-related trafficking; they hamper the effective identification of victims and deter them from seeking assistance. Security Council resolution 2331 (2016) clarifies that victims of trafficking in persons should be classified as victims of terrorism; the role that this classification can play in mitigating stigmatization should be fully explored.

Recommended resources

National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons—A Practical Handbook (OSCE/Office for Democratic Institutions and Human Rights, 2004)

Matrix: early warning indicators of conflict-related sexual violence (2011)

Anti-Human Trafficking Manual for Criminal Justice Practitioners: Indicators of Trafficking in Persons (UNODC, 2008)

“Trafficking in persons and refugee status”, ICAT Issue Brief No. 3 (2017)

“Operational indicators of trafficking in human beings” (International Labour Organization, 2009)

“Policy guide on identifying victims of trafficking” (Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, 2015)

“Guidelines on International Protection No. 7: the application of 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked” (HCR/GIP/06/07)

Addressing Human Trafficking and Exploitation in Times of Crises: Evidence and Recommendations for Further Action to Protect Vulnerable and Mobile Populations (IOM, 2015)

Policy and Legislative Recommendations Towards the Effective Implementation of the Non-Punishment Provision with regard to Victims of Trafficking (OSCE, 2013)

“Principles and practical guidance on the protection of the human rights of migrants in vulnerable situations” (A/HRC/34/31)

The IOM Handbook on Direct Assistance for Victims of Trafficking (IOM, 2007)

Toolkit to Combat Trafficking in Persons (United Nations publication, Sales No. E.08.V.14)

Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons in Europe: TRM-EU (Department for Equal Opportunities—Presidency of the Council of Ministers, Italy; International Centre for Migration Policy Development, 2010)

Investigation and prosecution

Notwithstanding the almost universal ratification of the Trafficking in Persons Protocol and widespread enactment of legislation to criminalize trafficking in persons in accordance with it, the level of prosecution of trafficking remains low throughout the world. From the perspective of a trafficker, it is a low-risk, high-profit crime, even in countries not affected by conflict. This underscores the need to strengthen the rule of law, build criminal justice capacity and ensure that protection and assistance to victims or potential victims is not linked to the outcome of criminal justice proceedings.

Strengthening investigation and prosecution requires that the understanding of what constitutes trafficking in persons be harmonized with international law and that measures to confront trafficking comply with international standards. It also requires that United Nations agencies and other actors active in areas affected by conflict have a clear understanding of the different types of crime they may encounter that could amount to, or be related to, trafficking in persons.

Bringing perpetrators to justice also requires that actors that are in a position to do so, such as peacekeeping operations mandated to monitor, assist in investigations into and report on violations and abuses of human rights, gather evidence of trafficking in persons in conflict situations so that opportunities to bring perpetrators to justice are not missed. Relevant information should therefore be provided to those who carry out investigations and prosecutions. Financial bodies involved in combating illicit financial flows have a role to play in

“following the money” in order to identify and disrupt trafficking-related financial flows to, through, from and within areas affected by conflict.

Victim testimony often constitutes the main or even the only evidence in prosecutions of trafficking. Therefore, non-State actors who work with victims have a key role to play in providing assistance and empowering them to support criminal justice processes, if they so choose. Risks to victims can dramatically increase when they participate in criminal justice procedures against traffickers, underscoring the need for effective witness protection measures.

Beyond the criminal justice framework, other mechanisms may also be leveraged to bring traffickers in persons to account. For instance, where trafficking reaches the level of an atrocity crime, it may fall within the jurisdiction of the International Criminal Court. Sanctions regimes established in United Nations Security Council resolutions that allow for asset freezing, travel bans, and arms embargos directed at individuals involved in planning, directing, or committing acts that constitute human rights abuses or violations could apply to traffickers in some circumstances. Similarly, when designation criteria include involvement in acts that constitute human rights violations and abuses such as trafficking in persons, monitoring groups, teams and panels of experts supporting the work of relevant sanctions committees may collect information of potentially crucial importance for the investigation of traffickers. The opportunities afforded by such mechanisms underscore the need to consider the range of tools available in conflict-related trafficking situations for disrupting and bringing traffickers to justice and facilitating victims’ access to justice.

Recommended resources

Needs Assessment Toolkit on the Criminal Justice Response to Human Trafficking (UNODC, 2010)
International Framework for Action to Implement the Trafficking in Persons Protocol (UNODC, 2009)
 UNODC Human Trafficking Knowledge Portal (www.unodc.org/)
Anti-Human Trafficking Manual for Criminal Justice Practitioners (UNODC, 2009)
Evidential Issues in Trafficking in Persons Cases: Case Digest (UNODC, 2017)
UNODC global e-learning module on human trafficking (www.unodc.org/elearning/)

Cooperation and coordination

Prevention of trafficking, protection of its victims and prosecution of its perpetrators cannot be achieved without effective cooperation between State and non-State stakeholders. The Organized Crime Convention and the Trafficking in Persons Protocol support international cooperation in criminal matters between States parties, including informal police-to-police cooperation and formal cooperation through mutual legal assistance and extradition. Coordination among United Nations and regional and non-State entities, in particular with State actors, is essential for ensuring that efforts are complementary and not duplicative.

The complexity of trafficking in persons within, from and to areas affected by conflict makes the diversification of partnerships an urgent priority. To ensure that a range of expertise is effectively channelled, partnerships are needed between State and non-State actors, including international and non-governmental organizations and civil society actors.

In addition, other non-traditional actors outside of the trafficking-related sector must be creatively engaged. Social media and communications technology used by traffickers to perpetrate their crimes must be harnessed as a means of preventing and stopping such crimes.

It is also essential that individuals and groups representing communities affected by trafficking be engaged in combating it, including religious and traditional leaders, faith-based organizations, non-governmental and civil society organizations, academia and community members. In its resolution 2331 (2016), the Security Council emphasized the importance of engaging religious and traditional leaders, paying particular attention to amplifying the voices of women and girls alongside men and boys. In that connection, lessons can be learned from the strategic results framework on women and peace and security, which is aimed at including women and girls in crisis response efforts. Lessons can also be learned from the Secretary-General's approach to combating sexual exploitation and abuse by encouraging victims to make their voices heard. Such approaches need not be limited to cases of sexual exploitation and abuse; they should also be applied in cases of trafficking in persons, regardless of the form the exploitation takes. Those affected as perpetrators of trafficking may also have a preventative role to play.

States, United Nations entities and other actors must use existing coordination platforms in ways that are mutually supportive and that strengthen rather than detract from effective and efficient cooperation in addressing trafficking in persons in settings affected by conflict.

Among the existing coordination platforms are those described below.

The *Inter-Agency Coordination Group against Trafficking in Persons (ICAT)* is a United Nations system-wide policy forum and coordination mechanism among United Nations agencies and other relevant international organizations, established pursuant to Economic and Social Council resolution 2006/27 and reinforced in General Assembly resolution 61/180. The Assembly subsequently adopted the Global Plan of Action to Combat Trafficking in Persons, which called for the strengthening of ICAT to improve coordination and cooperation among relevant United Nations bodies, including in the context of the implementation of the Global Plan of Action. UNODC is the designated coordinator of ICAT.

Composition of the Inter-Agency Coordination Group against Trafficking in Persons

- *Chair.* Rotates annually among ICAT Working Group members, which include the International Centre for Migration Policy Development (ICMPD), the International Labour Organization (ILO), IOM, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Office of the United Nations High Commissioner for Refugees (UNHCR), the Organization for Security and Cooperation in Europe (OSCE), the United Nations Children's Fund (UNICEF), UNODC and the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)
- *Members.* Counter-Terrorism Committee Executive Directorate (CTED), Department of Political Affairs of the Secretariat (DPA), United Nations Department of Peacekeeping Operations (DPKO), International Civil Aviation Organization (ICAO), International Criminal Police Organization (INTERPOL), ICMPD, ILO, IOM, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Office on Genocide Prevention and the Responsibility to Protect, OHCHR, OSCE, Joint United Nations Programme on HIV/AIDS (UNAIDS), United Nations Development Programme (UNDP), United Nations Educational, Scientific and Cultural

Organization (UNESCO), United Nations Population Fund (UNFPA), UNHCR, UNICEF, United Nations Interregional Crime and Justice Research Institute, UNODC, UN Women and the World Bank

- *Other partners.* Council of Europe.

The Inter-Agency Standing Committee and the Global Protection Cluster coordinate much of the international community’s humanitarian assistance by drawing together “clusters” of United Nations agencies and non-United Nations organizations. The *Task Team on Anti-trafficking in Humanitarian Action*, established in 2017, works to strengthen anti-trafficking interventions in humanitarian responses and to provide recommendations and guidance on how to best integrate such interventions systematically in cluster mechanisms.

Composition of the Task Team on Anti-trafficking in Humanitarian Action

- *Chairs.* International Organization for Migration, UNHCR and Heartland Alliance International
- *Members.* Participation is open to humanitarian and non-governmental organizations, United Nations agencies, the International Red Cross/Red Crescent Movement, special rapporteurs and other international organizations
- *Other partners.* Experts, donors and/or Governments may be invited as observers to provide technical input or discuss relevant issues

In addition to the above, other cooperation platforms relevant to trafficking in persons or related exploitation are emerging, including the Alliance 8.7 Action Group on Conflict and Humanitarian Settings.

In short, the complex manifestations of trafficking in persons in conflict situations and the broadening range of actors involved in perpetrating this serious crime and other crimes related to it, underline the need for both diversification of the actors engaged in mounting responses to it and their urgent collaboration in identifying and protecting victims and bringing perpetrators to justice.

1. Background and purpose

Trafficking in persons in areas affected by conflict is not a new phenomenon, but a better understanding of the complex interrelationship between trafficking in persons and conflict has emerged in recent years. It is increasingly clear that conflict exacerbates vulnerability to trafficking and its severity.¹ This fact is evident in the extremely egregious treatment inflicted by armed and terrorist groups in areas where conflict is ongoing, the different forms of exploitation emerging in that context and the large number of people who are made vulnerable by conflicts and who are forced to flee them.

During conflict, widespread trafficking and other forms of exploitation that occur in criminal contexts perpetuate criminality and corruption, thereby severely obstructing efforts to restore peace and rebuild societies. In that regard, the Security Council, in its resolution 2331 (2016), stressed that “... trafficking in persons undermines the rule of law and contributes to other forms of transnational organized crime, which can exacerbate conflict and foster insecurity and instability and undermine development.”

Conflict-related displacement significantly increases individuals’ vulnerability to organized criminal groups, including those groups that take advantage of displaced and otherwise vulnerable people to profit from their desperate situations.² Conflict increases the number of people who are internally displaced, including refugees or asylum seekers and migrants, who are often in irregular situations. Such situations make people particularly vulnerable to exploitation not only once they have arrived at a destination, but also en route as they are approached in camps or transit points by people looking to exploit them.³ Indeed, one of the most serious humanitarian crises of the twenty-first century is the large-scale internal and cross-border movement of people resulting from conflict, which has created extreme vulnerability among populations and lucrative markets for those who profit from it, including migrant smugglers and traffickers. Addressing such criminal activities while upholding the rights of people who

¹ See, for instance, the report of the Secretary-General on the implementation of measures to counter trafficking in persons (S/2016/949).

² The *Global Report on Trafficking in Persons 2016* established that an increasing number of trafficking victims from countries affected by conflict such as Iraq, Somalia and the Syrian Arab Republic were being detected in multiple countries in Europe. See also, “Conflict-related displacement in Ukraine: increased vulnerabilities of affected populations and triggers of tension within communities”, Thematic reports from the Special Monitoring Mission to Ukraine (OSCE, 2016).

³ See, for instance, Claire Healy, *Targeting Vulnerabilities: The Impact of the Syrian War and Refugee Situation on Trafficking in Persons — A Study on Syria, Turkey, Lebanon, Jordan and Iraq* (Vienna, International Centre for Migration Policy Development, 2015), chap. 4.

are forced from their homes continues to pose significant economic, cultural, social and political challenges for countries of origin, transit and destination.

Vulnerability to trafficking in post-conflict situations is also acute. As the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro, explains, vulnerability to trafficking is high in post-conflict situations that are characterized by “absent or dysfunctional justice and law enforcement institutions, and consequently by: a climate of impunity that fosters violent criminal networks; high levels of poverty and lack of basic resources; significant inequality; large populations of highly vulnerable individuals (displaced persons, returnees, widows, unaccompanied children); fractured communities and lack of trust; and militarized societies tolerant of extreme levels of violence.”⁴ Post-conflict environments fuel organized crime and provide opportunities for criminals to profit from institutional instability, as warlords who profited from arms and other illicit trades during conflict seek out new criminal opportunities.⁵ Such factors, combined with the lack of access to economic opportunities and social resources, not only increase the vulnerability of affected individuals, but also hinder efforts by States and United Nations entities to identify and refer victims. In short, conflict and post-conflict settings present United Nations entities with urgent challenges in working within and across their respective mandates on a range of complex and intersecting issues.

Against this backdrop, the Security Council, in its resolution 2331 (2016), invited the Secretary-General to integrate, when relevant, the issue of trafficking in persons in the context of armed conflict and post-conflict situations in all its forms as a factor in conflict prevention strategies, conflict analysis, integrated missions’ assessment and planning, peacebuilding support and humanitarian response. To support relevant United Nations entities in integrating the fight against trafficking in persons into their work, UNODC has prepared the present thematic paper on the basis of consultations with a number of key actors across the United Nations system.⁶ The methodology used in preparing the paper entailed the dissemination of survey questionnaires among relevant United Nations entities and other stakeholders, including all members of the Working Group of the Inter-Agency Coordination Group against Trafficking in Persons; follow-up consultations with several respondents to the questionnaires; and an expert group meeting, held in Vienna on 20 and 21 September 2017, in which the draft Thematic Paper was discussed. Revisions were subsequently made on the basis of those discussions.

⁴ Report of the Special Rapporteur on trafficking in persons, especially women and children (see A/71/303), para. 39.

⁵ Olivier Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations* (Secours Catholique, Caritas France, 2016), p. 38.

⁶ For the purpose of preparing the present thematic paper, the following entities were consulted by means of surveys and in some cases through follow-up telephone conversations: Counter-Terrorism Committee Executive Directorate, Department of Political Affairs, International Centre for Migration Policy Development, International Organization for Migration, International Labour Organization, Inter-Agency Standing Committee, Analytical Support and Sanctions Monitoring Team, Office of the Special Representative of the Secretary-General for Children and Armed Conflict, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Office on Genocide Prevention and the Responsibility to Protect, Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse, Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings of the Organization for Security and Cooperation in Europe, United Nations Children’s Fund, United Nations Office on Drugs and Crime, United Nations University, United Nations Entity for Gender Equality and the Empowerment of Women, United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, United Nations Interim Security Force for Abyei, United Nations Integrated Peacebuilding Office in Guinea-Bissau, United Nations Mission in South Sudan, United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, African Union–United Nations Hybrid Operation in Darfur, United Nations Interim Administration Mission in Kosovo, United Nations Mission for Justice Support in Haiti, United Nations Mission in Liberia, Office for the Coordination of Humanitarian Affairs, World Food Programme, Office of the United Nations High Commissioner for Refugees, Heartland Alliance International, Secours Catholique Caritas France/Caritas Internationalis.

The objectives of the present thematic paper are to provide insight into what trafficking in persons is and how it may manifest itself in conflict and post-conflict contexts, and to offer readers an overview of the relevant actions involved in addressing it, with the overall aim of supporting them in collaborative and concrete efforts to prevent and counter conflict-related trafficking in persons, identify and refer victims of trafficking to protection and assistance services and help bring its perpetrators to justice in the course of their work.

2. Definition and elements of trafficking in persons

The present thematic paper focuses primarily on the anti-trafficking framework provided by the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking in Persons Protocol), supplementing the United Nations Convention against Transnational Organized Crime.

The stated purpose of the Trafficking in Persons Protocol is to prevent and combat trafficking in persons, to protect and assist its victims with full respect for their human rights, and to promote cooperation to those ends. The Trafficking in Persons Protocol includes measures towards achieving this purpose, and offers the first internationally agreed definition of trafficking in persons. As at 31 January 2018, 173 States had become parties to the Protocol and among those, according to the *Global Report on Trafficking in Persons 2016*, 158 had criminalized most forms of trafficking in persons in their domestic legislation, in line with the Protocol.⁷

Other instruments of international law that are relevant to the fight against trafficking in persons in conflict and post-conflict situations include the following:⁸

International human rights law^a

- International Covenant on Civil and Political Rights
- Convention on the Elimination of All Forms of Discrimination against Women
- Convention on the Rights of the Child (1989), the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography (2000) and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)
- Slavery Convention of 1926 and its Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)

^a For more information, see Office of the United Nations High Commissioner for Human Rights, *Human Rights and Human Trafficking*, Fact Sheet No. 36 (Geneva, 2014) and "International instruments concerning trafficking in persons" (Geneva, August 2014).

⁷ *Global Report on Trafficking in Persons 2016* (United Nations publication, Sales No. E.16.IV.6), p. 12.

⁸ See the report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/32/41).

International humanitarian law^a

- Geneva Conventions (I), (II), (III) and (IV) of 12 August 1949; the fourth Geneva Convention is aimed in particular at protecting civilians, including those in occupied territories
- Additional Protocols I and II of 1977, relating to the protection of victims of international armed conflict and non-international armed conflict, respectively
- Rome Statute of the International Criminal Court

^a For more information, see International Committee of the Red Cross, “What is international humanitarian law?”, 31 December 2014. Available from www.icrc.org/en/document/what-international-humanitarian-law.

International Labour Organization Conventions^a

- Forced Labour Convention, 1930 (No. 29), its Protocol (2014) and the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), supplementing the Protocol
- Abolition of Forced Labour Convention, 1957 No. 105
- Worst Forms of Child Labour Convention, 1999 No. 182

^a For more information, see the International Labour Standards on Forced Labour of the International Labour Organization, available from www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang--en/index.htm.

International refugee law^a

- Convention relating to the Status of Refugees (1951)
- Protocol relating to the Status of Refugees (1967)
- Organization for African Unity Convention governing the specific aspects of refugee problems in Africa (1969)
- Cartagena Declaration on Refugees (1984)
- European Union asylum acquis

^a For more information, see Office of the United Nations High Commissioner for Refugees, *Refugee Protection and Human Trafficking: Selected Legal Reference Materials* (December 2008).

Regional instruments

There are also instruments relating to trafficking in persons at the regional level, including the following:

- Association of Southeast Asian Nations (ASEAN) Convention against Trafficking in Persons, Especially Women and Children (2015)
- Council of Europe Convention on Action against Trafficking in Human Beings (2005)
- European Union directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims
- South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002)

Definition of trafficking in persons

Article 3 (a) of the Trafficking in Persons Protocol defines the offence of trafficking in persons as comprising three elements:⁹

- (a) An “act” (recruitment, transportation, transfer, harbouring or receipt of persons);
- (b) A “means” by which that act is committed (threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person);
- (c) A “purpose” of exploitation, regardless of what type.

It is important to note that although the Trafficking in Persons Protocol does not specifically define exploitation, it does stipulate that the types of exploitation “shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” Also, the exploitation need not actually occur; the *intent* to exploit the person using the acts and means set out in the definition is sufficient to substantiate the offence of trafficking in persons.

In accordance with the Trafficking in Persons Protocol, all three elements (an act, a means and a purpose of exploitation) must be present to constitute trafficking in persons, unless the victim is a child, in which case the “means” element is not a requisite for the definition; any act committed for an exploitative purpose is sufficient to establish the trafficking of a child as an offence. For the purposes of the Trafficking in Persons Protocol, a “child” is any person under 18 years of age.¹⁰

Moreover, the Trafficking in Persons Protocol addresses the important issue of the consent of the victim to the intended exploitation, as experience has shown that, in some situations of trafficking in persons, perpetrators argued that the victims consented to, or did not oppose, the exploitative acts they were subjected to. In accordance with the Protocol, consent is irrelevant when any of the means have been used. It follows that, if the perpetrators have used threats, force, coercion, fraud or deception, or even one of the more “subtle” means such as the abuse of a position of vulnerability, any expression or manifestation of consent by the victim should not be taken into consideration in determining whether the person was a victim of trafficking or whether a trafficking crime was committed.

Where the victim is a child, consent is always irrelevant, as the “means” element is not required to establish the trafficking of a child as an offence

⁹ For the full definition, see the glossary (annex A).

¹⁰ Trafficking in Persons Protocol, art. 3 (d).

Understanding trafficking in persons: six key points

1. Trafficking does not necessarily involve a person being taken across a border. A person can be trafficked within a single country, region or area without ever crossing a border, though a border may be crossed.
2. There is no single profile of a victim of trafficking. Victims can be rich or poor, young or old, men, women, children, lesbian, gay, bisexual, transgender or intersex, migrants in regular or irregular situations, asylum seekers or refugees.
3. There is no single profile of a trafficker. Traffickers can be men or women, members of organized criminal groups, armed or terrorist groups, personnel of international or non-governmental organizations, or friends or relatives of the victim.
4. Trafficking can be for *any* exploitative purpose, including for sexual exploitation, forced labour or other exploitative purposes not explicitly mentioned in the Trafficking in Persons Protocol, such as exploitation for the commission of criminal activities.
5. Not all people who are exploited are victims of trafficking. An adult who has been exploited is only considered a victim of trafficking if *acts* and *means* have been used to exploit him or her (or, in the case of a child, if there was an *act* carried out *for the purpose of exploitation*).
6. A person can consent to the intended exploitation, but still be considered a victim of trafficking. The use of “means” to obtain a person’s consent makes that consent irrelevant; *in cases where the victim is a child, consent is always irrelevant*.

Inadequate understanding of the definition of trafficking and its various components is a significant barrier to the effective identification of victims and potential victims of trafficking. If victims are not identified, they cannot be adequately protected and assisted, and perpetrators cannot be brought to justice. Where situations of trafficking are allowed to persist, organized crime can flourish, further undermining the healthy functioning of States.

Table 1. Examples of trafficking in persons in conflict and post-conflict situations

Act	Means	Exploitative purpose
Woman kidnapped in urban area taken to jungle and received by armed commander	Abduction, threat and use of force	Sexual exploitation or practices similar to slavery, servitude, forced labour
Receipt of boy or girl under 18 years of age by armed group operating in conflict area in Latin America	Not required: victim is a child	Exploitation as a child soldier
Smuggled migrant from sub-Saharan Africa approached and recruited at a transit point in North Africa	Deceived through false promises of decent work in a safe and wealthy country	Forced labour in construction in an area affected by conflict
Vulnerable family in conflict zone approached by marriage broker who gives family members money and arranges marriage of 19-year-old daughter to wealthy man who subsequently abandons her after a week of marriage	Abuse of position of vulnerability, giving or receiving of payments or benefits to achieve consent of a person having control over another person, deception	Sexual exploitation, forced marriage
Vulnerable family in conflict zone approached by marriage broker who gives family members money and arranges marriage of 17-year-old daughter to wealthy man from the Persian Gulf region who intends to use her as a servant for his extended family	Not required: victim is a child	Forced marriage, domestic servitude
Woman harbours young Yazidi girls and women abducted by armed groups while they are auctioned online	If under 18 years of age: not required If over 18: use or threat of force, abuse of a position of vulnerability	Sexual exploitation, sexual slavery
A teenager is indoctrinated and recruited by terrorist fighters online. He pays smugglers to facilitate his travel abroad to join the terrorist group	If under 18: not required If over 18: possibly deception or abuse of a position of vulnerability, or if no "means" were used, the person should be held to account as a terrorist	Exploitation as a combatant or in a support role

2.1. “Means” used for trafficking in persons

In cases where the victim is an adult, in order for a crime to be considered a case of trafficking in persons, all three elements of the definition of trafficking in persons must be established: an *act* through the use of *means* for the *purpose of exploitation*. Although the act (such as the recruitment, transportation, transfer, harbouring or receipt of persons) is generally readily established on the basis of the facts of a given situation, identifying the means used (threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or a position of vulnerability, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person) is significantly more complex. In practice, a combination of more than one means is often employed.

Whereas the more direct means, such as the threat or use of force or abduction, may be clearly present, the more subtle forms may be more difficult to identify and may be almost invisible without further investigation. For instance, people may be placed in exploitative situations by traffickers taking advantage of vulnerability factors such as age, poverty, illiteracy, unemployment or displacement, whether those situations are incidental to or the direct result of conflict, and whether those situations existed previously or were created by the traffickers themselves.¹¹ As violence and desperation escalate, pushing families and communities into increased debt and dependence on humanitarian assistance, negative coping mechanisms (i.e., conduct adopted and action taken to respond to a difficult situation that has harmful effects in the long run, such as begging, child labour and forced marriage) may develop into situations of trafficking in persons.

In identifying the “means” element, it is also important to understand that, in the case of an adult, consent of the victim to the intended exploitation is irrelevant where any of the means are used, and is always irrelevant in the case of child victims, for whom no “means” element is required.¹² In practice, where a person in a conflict setting appears to have consented to the exploitation, a closer look may reveal that traffickers have used “means” to achieve that consent. In such cases, the consent is irrelevant, both for the purpose of victim identification and as a defence for the traffickers. Although consent is clearly irrelevant in cases where direct and particularly onerous means are used (such as the use of force or abduction), it can be more difficult to establish such irrelevance in cases where more subtle means, such as coercion or abuse of a position of vulnerability are used.¹³ In the case of children, no means need to be identified; the consent of a child is always irrelevant.

2.2. “Exploitative purpose” in the definition of trafficking in persons

In general terms, the “purpose” of trafficking in persons is the exploitation of the victim. The “purpose” element of the offence speaks to the criminal intention (or *mens rea*) of a given crime. In cases where criminal intention can be established, the exploitation need not have already occurred in order for trafficking to be substantiated; indeed, ideally the situation will be discovered before the person is exploited. The term “exploitation” is not defined in international law. However, the Trafficking in Persons Protocol provides the following examples of types of exploitation:

¹¹ See UNODC, *Issue Paper: Abuse of a Position of Vulnerability and other “Means” within the Definition of Trafficking in Persons* (Vienna, 2013).

¹² This principle is made clear by virtue of article 3 (b) of the Trafficking in Persons Protocol.

¹³ See UNODC, *Issue Paper: The Role of “Consent” in the Trafficking in Persons Protocol* (Vienna, 2014).

- Exploitation of the prostitution of others or other forms of sexual exploitation
- Forced labour or services
- Slavery or practices similar to slavery
- Servitude
- The removal of organs

This non-exhaustive list can capture all forms of exploitation encountered in conflict and post-conflict situations. Although all forms of trafficking in persons that occur in non-conflict situations may also occur in conflict and post-conflict situations, certain forms of exploitation have emerged that occur specifically in the context of conflict. Such forms, identified through research on exploitative practices in conflict settings, include the following:

- Sexual exploitation of women and girls by members of armed and terrorist groups
- Exploitation of children as child soldiers
- Removal of organs to treat wounded fighters or finance war¹⁴
- Enslavement as a tactic of terrorism, including its use to suppress ethnic minorities¹⁵

In other cases, even when the form of exploitation is not specific to the conflict situation (such as forced labour or services), its prevalence and/or severity may be exacerbated in conflict or post-conflict settings in which violence is normalized. The forms of exploitation addressed below are not exhaustive but are commonly encountered in conflict situations.

2.2.1. Exploitation of the prostitution of others and other forms of sexual exploitation

The term “exploitation of the prostitution of others” is generally understood to refer to profiting from the prostitution of another person. While international law takes no particular stance on prostitution per se, profiting from the prostitution of another person may give rise to human rights and criminal law concerns.¹⁶ In cases where exploitation of a person for prostitution is the intended purpose of an act and a means for committing that act, as set out in the Trafficking in Persons Protocol, establishing the “exploitation of the prostitution of others” may indicate a situation of trafficking in persons.

Sexual exploitation has no agreed definition in international law and is not part of human rights law except in the context of children. The sexual exploitation of children, as defined

¹⁴ Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations*, p. 15. Furthermore, a system for collecting and selling human organs from fighters, captives and hostages as a means of financing war has allegedly been established by armed opposition groups, especially the Islamic State in Iraq and the Levant (ISIL) and affiliated armed groups, as a means of financing war. There is also evidence that migrants fleeing conflict in the Sudan have been trafficked for organ harvesting in Egypt. Palestinians from Syria who have used smugglers to travel to Europe through the Sudan and Libya have also become victims of trafficking for the purposes of organ removal when unable to pay the ransom for their kidnapping. In post-conflict Kosovo, medical practitioners were found to be involved in the trafficking of victims for the purpose of organ removal from the Republic of Moldova, the Russian Federation and Turkey to Kosovo (see A/68/256, para. 29).

¹⁵ Inter-Agency Coordination Group against Trafficking in Persons, “Trafficking in persons in humanitarian crises”, Issue Brief No. 2, 2 June 2017, p. 1; Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations*, pp. 15–16; “‘They came to destroy’: ISIS crimes against the Yazidis” (A/HRC/32/CRP.2).

¹⁶ See, for instance, the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others and the Convention on the Elimination of Discrimination against Women, article 6.

in the Convention on the Rights of the Child, means: (a) the inducement or coercion of a child to engage in any unlawful sexual activity; (b) the exploitative use of children in prostitution or other unlawful sexual practices; and (c) the exploitative use of children in pornographic performances and materials.¹⁷ Several other forms of sexual exploitation may occur in conflict settings, including sexual slavery, forced or early marriage, forced prostitution and forced pregnancy. So-called “bush wives” or “camp wives” are women or girls who are trafficked by armed groups such as the Lord’s Resistance Army and who are not only forced into marriage and subjected to sexual exploitation but also made to cook, clean and sometimes fight. Forced or early marriages with combatants may occur following abduction and by means of force and coercion, but may also result as families attempt to cope with dire situations in a bid to achieve some measure of protection and security.¹⁸

Other negative coping mechanisms that people in dire situations may resort to include exploitative forms of marriage, forced labour situations or participation in conflict or sexual exploitation. There have been several reported instances of women and girls being sold into brothels, forced marriages, child marriages or temporary marriages by their parents or other relatives, or who have fallen victim to sexual exploitation directly arranged by their family members.¹⁹ Such practices are present not only in areas affected by conflict but also among families fleeing from them, for instance, where traffickers broker marriages between children from vulnerable families and rich men in Gulf States, who may or may not remain married to them, sometimes abandoning and divorcing their brides within days, weeks or months.²⁰ There have also been situations in which women or girls have been forced into prostitution by their “husbands”, or otherwise used.²¹

A related phenomenon is that of “survival sex”, whereby a person, usually a woman, engages in sexual relations in order to gain access to a need such as food, shelter, protection or passage.²² Survival sex does not, in and of itself, amount to trafficking in persons, but it can be of an exploitative nature and occur during migration journeys as people flee from conflict in dire circumstances, often with limited resources.

Much of the sexual exploitation that occurs across the world takes place clandestinely. However, armed and terrorist groups such as the Islamic State in Iraq and the Levant (ISIL, also known as Da’esh) and Boko Haram in Nigeria are openly flouting their activities and even promoting the slavery of women and children as part of their bid to recruit fighters and to terrorize and control civilian populations (see sect. 3.3). Trafficking for the purposes of sexual exploitation, including forced marriage or sexual slavery, by means of kidnapping and abduction is believed to be part of the strategy of certain terrorist groups.²³ In conflict-related contexts, such forms of exploitation can occur as part of the wider sexual violence that is perpetrated against civilian populations, thereby constituting conflict-related sexual violence (see sect. 3.3).

¹⁷ Convention on the Rights of the Child, art. 34.

¹⁸ Report of the Secretary-General on conflict-related sexual violence (S/2016/361/Rev.1).

¹⁹ See, for instance, Healy, *Targeting Vulnerabilities*, pp. 57–62, 68; Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations*, pp. 16–17.

²⁰ Healy, *Targeting Vulnerabilities*, pp. 155–166; Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations*, pp. 13–14; James Cockayne and Summer Walker, *Fighting Human Trafficking in Conflict: 10 Ideas for Action by the United Nations Security Council—Workshop Report* (United Nations University, September 2016), p. 11.

²¹ A/71/303, para. 34.

²² “Trafficking in persons in humanitarian crises”, p. 1; A/71/303, para. 32; Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations*, p. 23.

²³ A/71/303, para. 33. See also Security Council resolution 2242 (2015).

2.2.2. Slavery or practices similar to slavery

One of the most extreme forms of human exploitation is slavery. Slavery is so serious that its prohibition is one of the few fundamental norms of international law that have *jus cogens* status, meaning that there is no circumstance in which States can derogate from such prohibition. Protection from slavery is also an *erga omnes* obligation under international law, meaning all States have an obligation to prohibit it and an interest in doing so.²⁴

Slavery is defined in the Slavery Convention of 1926 as “... the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.” Accordingly, slavery is identified by the relationship between the perpetrator and the victim, rather than by the conditions of the situation. A person who is enslaved may live in acceptable conditions, but have no power to make decisions about his or her life, which may include his or her name, religion or sexual or marital partners. The notion of what constitutes slavery has broadened over time, both at the international and domestic levels.²⁵ In the context of conflict, the many situations in which people have fallen into the hands of armed or terrorist groups may amount to slavery, including forms of sexual slavery.

The term “practices similar to slavery” may also refer to exploitative relationships between people that have elements of ownership. Specifically, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956 identifies practices that are similar to slavery (see table 2 below).

Table 2. Practices similar to slavery as defined in the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956

Practice similar to slavery	Relevance in conflict situations
<p><i>Debt bondage</i> is defined as “the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined” (art. 1 (a))</p>	<p>Debt bondage refers to a situation in which a person provides services to pay a debt imposed by a trafficker that can never be repaid, or where the conditions are otherwise unclear or unfair. In some jurisdictions, debt bondage is more widely understood to also include situations in which labour or services are applied to repay a debt in conditions that are exploitative. Many people fleeing conflict find themselves in debt bondage owing to the fees they must pay to smugglers to facilitate their movement. That debt bondage may make them vulnerable to trafficking, or may be an indicator of trafficking.</p>

²⁴ See Case concerning the Barcelona Traction, Light and Power Company, Limited (*Belgium v. Spain*) (New Application: 1962), Judgment, I.C.J. Reports 1970, p. 32.

²⁵ See for instance, International Criminal Tribunal for the Former Yugoslavia, *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, case No. IT-96-23 and IT-96-23/1-A, judgment of 12 June 2002 in which the International Criminal Tribunal for the Former Yugoslavia broadened the notion of enslavement. An example at the domestic level is the Australian High Court case *The Queen v. Tang*, HCA 39, of 28 August 2008, concerning slavery in Australian law, in which the High Court recognized both de jure and de facto slavery in Australian law, and clarified the contemporary understanding of slavery as involving the use of the person as if he or she were owned.

Table 2. (continued)

Practice similar to slavery	Relevance in conflict situations
<p><i>Servile forms of marriage</i> are understood as being any institutions or practices whereby “(i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or kind to her parents, guardian, family or any other person or group; or (ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise; or (iii) A woman on the death of her husband is liable to be inherited by another person” (art. 1 (c))^a</p>	<p>Forced marriage may occur in conflict situations, serving as a negative coping mechanism employed by the victim’s family members, who receive money in exchange for marriage with the victim. Women who are forced to marry members of armed or terrorist groups may be transferred between individuals or harboured in situations that may amount to trafficking in persons</p>
<p><i>Sale of children for exploitation</i>, whereby the parents or guardians of a child allow a third party to exploit the child’s labour (art. 1 (d))</p>	<p>The Worst Forms of Child Labour Convention, 1999, broadens the definition here to add forced or compulsory recruitment of children for use in armed conflict, among other activities, as “work which, by its nature or the circumstance in which it is carried out, is likely to harm the health, safety or morals of children.” Child labour is not the same as “child work”. Child work does not compromise the health or safety of children or diminish their educational opportunities</p> <p>Furthermore, article 2 (a) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002) defines the sale of children as “any act or transaction by any person or group of persons to another for remuneration or any other consideration” (art. 2 (a))</p> <p>The sale of children thus constitutes an “act” that, when done for the purpose of exploitation, amounts to trafficking in persons</p>

^a Since the entry into force of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery it has been widely accepted that boys and men can also be forced into marriage and that this provision is applicable to their situations.

2.2.3. Forced labour or services

Forced labour is a form of exploitation specified in the Trafficking in Persons Protocol, and it is defined in the Forced Labour Convention, 1930 (No. 29), as all work or service which is exacted from any person under the menace of penalty and for which the person has not offered herself or himself voluntarily.²⁶

In this definition, “work or service” includes *all* types of work, whether legal or illegal. The fact that the definition refers to “any person” means that *all* people, regardless of age, gender, ethnicity, migration or any other status, can be captured by it. The “menace of penalty” is

²⁶ See also the Forced Labour Convention, 1930 (No. 29), and its Protocol of 2014, as well as the Worst Forms of Child Labour Convention, 1999 (No. 182).

understood to include both physical and/or psychological coercion, which may include denial of wages, debt bondage or other measures. Finally, the absence of “voluntariness” refers to the fact that the person has not given free and informed consent or is not free to retract any consent given.

In conflict situations, armed and terrorist groups have forced people, both local citizens and non-citizens, into labour, including construction, cleaning, mining, trench digging, agriculture and domestic servitude. Such practices have impacted heavily on those seeking to flee areas affected by conflict. For instance, in Iraq it was found that some migrant workers fleeing areas under ISIL control, whether held captive at some point or not, were unable to leave Iraq until they had settled debts related to their initial entry into the country.²⁷

Persons forced to flee conflict or otherwise displaced are particularly vulnerable to forced labour or related services. For instance, in the process of fleeing their country, members of the Rohingya Muslim minority population have been trafficked into forced or bonded labour or held captive in countries of South-East Asia until their families pay ransom. Syrian refugees fleeing conflict have been trafficked into labour in agriculture, industry, manufacturing, catering and other sectors in States neighbouring Syria.²⁸

There have also been reported instances in which migrant workers, having fallen prey to deceptive and fraudulent recruitment practices, have been trafficked *into* conflict zones into situations amounting to forced labour, including, for example, cases in which South Asians have been deceptively recruited into conflict areas of the Middle East.²⁹ Such practices have sometimes been used by private contractors engaged by States and their military forces to recruit migrant workers to support large-scale military operations.³⁰ In Myanmar, a worsening security situation and overcrowded camps have increased the risk of internally displaced persons along border areas crossing international borders without legal status and subsequently falling victim to sexual exploitation or forced labour.³¹

Children are also exploited for labour. The Worst Forms of Child Labour Convention, 1999 (No. 182), defines the worst types of child labour as “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” The scope for such forms of child labour in conflict settings becomes particularly acute as homes and schools are destroyed, family units are fragmented, family members are lost to conflict and protection systems break down. Children easily fall prey to traffickers from outside their communities or even from within them, as negative coping mechanisms give rise to the exploitation of children for labour as a potential means of survival. The worst forms of child labour, including in mining, scavenging in war-torn areas, clearing rubble or working in streets, are evident among those who are left behind in areas affected by conflict.³² Examples of such forms of exploitation have been reported in many regions, including the forced recruitment of children into criminal gangs or paramilitary groups in times of conflict

²⁷ Laura Lungarotti, Sarah Craggs and Agnes Tillinac, “Human trafficking in crises: a neglected protection concern”, *Humanitarian Exchange*, No. 65 (November 2015), p. 7.

²⁸ A/71/303, para. 22.

²⁹ S/2016/949, para. 8.

³⁰ A/71/303.

³¹ A/71/303, para. 19.

³² See Guy Ryder, Director General of the International Labour Organization, “In conflicts and disasters, protect children from child labour”, statement on World Day against Child Labour, 12 June 2017. Available from www.ilo.org/.

in Colombia.³³ Children who flee conflict are also at particular risk. In situations where they are unaccompanied, children are particularly susceptible to the worst forms of exploitative labour. For example, unaccompanied children from Afghanistan and the Sudan living in refugee camps in Calais and Dunkirk in France have been trafficked for purposes of sexual exploitation and forced to commit crimes, including stealing and selling drugs, by traffickers who promised them passage to the United Kingdom.³⁴

2.2.4. Use of children by armed and terrorist groups

Although the use of children as combatants is not specifically listed as a form of exploitation in the definition of trafficking, it is clear that the recruitment of children (an act) into armed and/or terrorist groups (a purpose of exploitation) is a form of trafficking in persons. Furthermore, as mentioned above, the Worst Forms of Child Labour Convention, 1999 (No. 182), includes the forced or compulsory recruitment of children for use in armed conflict as one of the worst forms of child labour.

In conflict settings, children may be recruited into armed groups for sexual slavery and exploitation, as described above, and may also be exploited in supportive roles as domestic labourers, cooks, porters, messengers and lookouts. In addition to being exploited for sex or forced labour, children may also be exploited in combat roles, including for planting explosives, carrying out armed attacks and suicide bombings or as human shields.³⁵

A number of examples illustrate the extent of the problem of recruitment of children into combat roles: it is estimated that in Somalia more than half of the members of the Islamic militant group Al-Shabaab may comprise children,³⁶ and some estimates suggest that children comprise 90 per cent of the soldiers in the Lord's Resistance Army.³⁷ In another example, the United Nations verified a five-fold increase in recruitment of children into armed conflict in Yemen from 2014 to 2015.³⁸ For ISIL, which promotes the training of boys as fighters—so-called “Cubs of the Caliphate”—the value of children is found in their susceptibility to Islamic State ideology, which glorifies death by suicide; their dispensability to ISIL is proven by the fact that many are required to wear suicide vests while carrying out other tasks, lest an attack ensue.³⁹ UNICEF has also reported the widespread use of children in suicide bombing attacks by Boko Haram in Nigeria and Cameroon.⁴⁰ In August 2017, UNICEF reported that the use of children, primarily girls, as “human bombs” has markedly increased in northern Nigeria; between 1 January and 22 August 2017, 83 children had been used as

³³ Luz Estella Nagel, “How conflict and displacement fuel human trafficking and abuse of vulnerable groups: the case of Colombia and opportunities for real action and innovative solutions”, *Groningen Journal of International Law*, vol. 1, No. 2 (2013), p. 8.

³⁴ A/71/303, para. 23.

³⁵ Boko Haram has used girls as young as 10 years of age as suicide bombers. See for instance, “Report of the Secretary-General on conflict-related sexual violence” (S/2017/249), para. 89; “Report of the Secretary-General on children and armed conflict in Nigeria” (S/2017/304), para. 32; “Report of the Secretary-General on children and armed conflict in the Philippines” (S/2017/294), paras. 25–32; “Annual report of the Special Representative of the Secretary-General for Children and Armed Conflict” (A/HRC/34/44); Healy, *Targeting Vulnerabilities*, pp. 186–191.

³⁶ “Report of the Secretary-General on children and armed conflict in Somalia” (S/2016/1098), para. 17.

³⁷ United Nations, Department of Public Information, “Uganda: child soldiers at centre of mounting humanitarian crisis”, initiative entitled “10 Stories the World Should Hear More About”. Available from www.un.org/.

³⁸ “Report of the Secretary-General on children and armed conflict” (A/70/836-S/2016/360), para. 6.

³⁹ Norman Benotman and Nikita Malik, *The Children of Islamic State* (London, Quilliam, March 2016), p. 44, e-publication.

⁴⁰ UNICEF, Regional Office for West and Central Africa, “Beyond Chibok: over 1.3 million children uprooted by Boko Haram violence” (April 2016).

“human bombs”, including 55 girls, one of whom had a baby strapped to her.⁴¹ Armed and terrorist groups in the Philippines have also used children as human shields and combatants; in 2016 one child was beheaded for allegedly spying.⁴²

Armed groups may attract children in vulnerable situations by offering incentives, including education and livelihoods, status or glory, or the peers of vulnerable children may pressure them into joining such groups.⁴³ The recruitment of children by means of grooming is also a significant concern, with terrorist groups in the Middle East luring children from as far away as Germany or Australia.⁴⁴ The use of children to commit or support acts of terrorism and other crimes in conflict settings raises significant challenges for their identification and protection as victims of trafficking. A key concern is that, in many instances, victims of trafficking released from the captivity of armed and terrorist groups are not identified and supported as victims of trafficking and terrorism, but rather classified as “combatants” and treated as threats or intelligence assets, potentially detained and denied access to protection and assistance, or stigmatized for their involvement with terrorist groups if they are returned to their communities.⁴⁵

2.2.5. Use of adults in armed and terrorist groups as a form of exploitation

Whether the recruitment of adults into armed and terrorist groups can or should be considered trafficking in persons depends largely on the means used by those who recruit them. For instance, in cases where people are forced to join armed groups because their lives or safety or that of their families is directly threatened by the members of the groups intending to exploit them, it is clear that “the threat or use of force” is being used to exploit them. Complications arise where more subtle means are used to recruit a person, in particular in the extremely complex context of modern-day terrorist-related conflict, in which ideological means are used to manipulate people and false promises are made to deceive potentially vulnerable people. With specific regard to women, the employment by ISIL of online “groomers” to recruit persons via online forums and the operation of “marriage bureaux” to encourage women to marry fighters are examples that demonstrate the group’s investment in sophisticated means to recruit new members. Groups such as ISIL take advantage of socioeconomic grievances and feelings of alienation, marginalization, discrimination or victimization precipitated by a host of factors, including real or perceived lack of opportunities, lack of good governance, inequality, injustice and feelings of injustice in order to attract individuals to their cause.⁴⁶ Depending on individual circumstances, such means could be considered abuse of power or of a position of vulnerability as specified in the definition of trafficking in persons.

More complex issues arise in the context of the utilization of women and children to attract persons into armed or terrorist groups. The Special Representative of the Secretary-General on Sexual Violence in Conflict has documented instances in which the selling, gifting and trading of women and children among fighters served as an important strategy to recruit

⁴¹ UNICEF, “Use of children as “human bombs” rising in north east Nigeria”, 22 August 2017, https://www.unicef.org/infobycountry/media_100686.html.

⁴² A/70/836-S/2016/360, para. 205; S/2017/294.

⁴³ S/2016/1098, para. 20.

⁴⁴ Hamed el-Said and Richard Barrett, *Enhancing the Understanding of the Foreign Terrorist Fighters Phenomenon in Syria* (Office of Counter-Terrorism, July 2017).

⁴⁵ See S/2017/249; S/2016/1098, paras. 31–38; A/HRC/34/44, paras. 15–24; S/2017/304, paras. 37–44; S/2017/294, paras. 33–34.

⁴⁶ An estimated 30,000 foreign terrorist fighters from more than 100 countries have been lured into joining terrorist organizations such as Al-Qaida, ISIL and associated groups (see S/2016/92, para. 25).

men.⁴⁷ According to the ideology of ISIL, the “revival of [sexual] slavery before the hour” is a harbinger of the apocalypse and therefore an effective recruitment tool to attract jihadists to join the “final battle”. The promise of rewards of a sexual nature has been recognized as a drawing card for some fighters, in particular men seeking status and access to sex who cannot otherwise do so in socially conservative settings. Yet research has also shown that access to marital and sexual partners is not the only motivation people have for joining terrorist groups. While ISIL has lured some foreign fighters into situations of armed conflict or terrorism with the promise of sexual rewards, exposure to brutality and disgust over the slave trade have led others, who joined for other reasons, to become disillusioned with ISIL and defect.⁴⁸

These issues highlight the serious pitfalls of offering blanket statements as to what constitutes a situation of trafficking in persons in the context of conflict and speak to the enormous variance in contributing factors among individual situations. A 2017 report by the Office of Counter-Terrorism on the results of a small study of 43 foreign terrorist fighters (FTFs) who had returned from Syria emphasized that, while most of the individuals surveyed were young adult males, “there is no one profile for FTFs”, underscoring the need for more empirical research on the subject. The study found that the fighters had a range of reasons for joining the conflict in Syria. Many of them longed for a sense of belonging or were compelled by a sense of religious obligation. Many had come from families with several siblings and/or from backgrounds in which they were economically disadvantaged, lacked education and had poor labour prospects, and many belonged to marginalized families that showed signs of internal dysfunction, which had led to vulnerabilities that had facilitated their recruitment by transnational terrorist organizations.⁴⁹

Determining whether a person who joins (and is being, or is to be utilized by) an armed or terrorist group is a victim of trafficking requires careful consideration of the higher-order principles and purposes of the Trafficking in Persons Protocol. A number of important questions arise in relation to the potential application of article 3 (*b*) of the Protocol, which deems the victim’s consent to exploitation (which in this context would be involvement in terrorist activities) to be irrelevant where means have been used. For example, are there any circumstances under which the method of imparting ideological propaganda could potentially be considered as amounting to deception as a means under the definition of trafficking in persons? Who is to say what is deceptive or not? Can the susceptibility to radicalization of a young, impressionable mind be considered as abuse of power or of a position of vulnerability in cases where recruiters are in positions of power, for instance, because they are religious authorities or well-respected community leaders? Where a person is lured by promises of status or spiritual rewards, could this constitute a means of abuse of a position of vulnerability or of deception? What is the relevance of the veracity of such groups’ belief systems and who is to establish it in the context of secular decision-making? If a man joins a terrorist group in order to feed his family, how dire does his family situation need to be in order for him to be considered a victim of trafficking in persons whose position of vulnerability has been exploited by a terrorist group? How viable do other options available to him need to be?

While it falls to national legislation and jurisprudence to provide clarification on these questions, the fact remains that, if trafficking in persons *can* be substantiated in situations where

⁴⁷ The sexual exploitation of women is also used to maintain an “esprit de corps” among fighters. See the special report of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (S/2016/1090, annex).

⁴⁸ Hamed el-Said and Barrett, *Enhancing the Understanding of the Foreign Terrorist Fighters Phenomenon in Syria*, p. 41.

⁴⁹ *Ibid.*, pp. 3–5, 44–45.

people are recruited into armed and terrorist groups, that does not mean that such an approach *should* be taken in every case. At the same time, the principle of non-criminalization of victims of trafficking in persons underscores the need to identify such victims even among those who have committed crimes as a direct result of having been trafficked (discussed in more detail below in sect. 4.3.3). Misidentifying a victim of trafficking who has been trafficked into exploitative situations of armed conflict and exploited as a perpetrator of terrorist or other criminal acts undermines his or her access to protection and assistance. Such misidentifications may also result in missed opportunities to effectively rehabilitate and reintegrate bona fide victims and to gather evidence against higher-level offenders, who so often escape justice.

In order to strike a balance between these two considerations when determining if a situation constitutes trafficking in persons, a careful, case-by-case approach should be taken. Scarce counter-trafficking resources should not be allocated to address the protection and assistance needs of persons who could be considered victims but who should rather be held to account for their criminal acts. Yet at the same time, regard should be given to rights-based approaches to combating trafficking in persons, which underline that victims of trafficking, regardless of the form their exploitation takes, should not be penalized for crimes they commit as a direct result of having been trafficked (see sect. 4.3.3). The Security Council has affirmed that victims of trafficking in persons committed by terrorist groups should be classified as victims of terrorism with the purpose of rendering them eligible for official support, recognition and redress available to victims of terrorism.⁵⁰ In addition, a number of other international legal instruments concerning terrorism and other crimes may come into play. In the final analysis, determining whether it is appropriate to treat a situation as one of trafficking depends on careful consideration of the individual circumstances and the consequences that would flow from such a determination.

⁵⁰ Security Council resolution 2331 (2016), para. 10. See also S/2017/249, para. 45.

3. Linkages between trafficking in persons, human rights abuses and other phenomena

Although a number United Nations entities may be in a strong position to take action in the fight against trafficking in persons, the limited scope of their mandates restricts their ability to do so. As a consequence, there is a risk that United Nations actors may overlook forms of trafficking in persons that they encounter incidentally in the course of their mandated work, or that if they do take action in response to it, they risk being criticized for exceeding their given mandate. A better understanding of trafficking in persons and its intersection with other phenomena could make it easier to address this challenge and support the embedding of trafficking responses into the framework of mandated work. For instance, in addition to being established as an offence under the Trafficking in Persons Protocol, trafficking in persons has also been recognized by the Security Council as entailing the violation or abuse of human rights,⁵¹ which has direct implications for the work of United Nations entities, all of which are required to integrate human rights issues and considerations into their work.

Trafficking in persons generally involves the commission of other types of crime and phenomena that may be in the direct purview of a given actor; many United Nations entities active in conflict and post-conflict settings work on issues relating to trafficking in persons, though they may approach them by means of different frameworks. On a practical level, a person who is trafficked into a situation of sexual exploitation is often also a victim of rape or sexual assault, and persons trafficked into forced labour exploitation may be assaulted or otherwise subjected to violence, whereas forced labour may constitute a separate criminal offence. On a conceptual level, what constitutes trafficking in persons may also constitute other serious crimes.⁵² For instance, the term “conflict-related sexual violence” encompasses trafficking in persons when committed in situations of conflict for the purpose of sexual violence and/or exploitation.⁵³ Similarly, the grave violation “child abduction” also fulfils the definition of trafficking in children if committed with a view to exploiting an abducted child.⁵⁴ The grave violation “recruitment and use of children by armed forces and armed groups” can also constitute trafficking in children for the purpose of exploitation in armed conflict. Where traffickers are terrorist groups, their victims are not only victims of trafficking but also victims of terrorism.⁵⁵ And where certain conditions are fulfilled in the perpetration of acts associated with trafficking in persons in the context of armed conflict, such acts may constitute war crimes.

⁵¹ Security Council resolution 2331 (2016), eighth preambular paragraph.

⁵² According to article 2 (b) of the Organized Crime Convention, “serious crime” means “conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty.”

⁵³ S/2017/249, para. 2.

⁵⁴ See www.mrmtools.org/mrm/1095_1125.htm.

⁵⁵ Security Council resolution 2331 (2016), para. 10.

Such examples of the stark overlaps and interlinkages between concepts and definitions of trafficking in persons and other phenomena reveal potential grounds for strengthening United Nations responses to trafficking and cooperation across mandates. From a rights-based perspective, determining how to classify a given crime or phenomenon should be accomplished by carefully considering the facts of the given case, as well as by analysing the protection and assistance services available to the victim and the gains to be made by ending impunity for some of humanity's worst offenders against peace, security and the rights of individuals. Such a determination can only be made on the basis of case-by-case analysis of the facts at hand, anchored by a sound understanding of the fact that several interrelated phenomena may be concurrently relevant, including the smuggling of migrants, atrocity crimes, conflict-related sexual violence and grave violations against children in armed conflict (addressed in more detail below).

Where situations of trafficking in persons are identified within these other contexts, appropriate State and non-State entities and other actors can be alerted and engaged with the aim of addressing the specific needs of victims of trafficking and bringing perpetrators to justice. It should also be noted that qualifying an offence as an instance of trafficking in persons also triggers the application of the provisions on international cooperation of the Organized Crime Convention if the offence is transnational in nature and its perpetrators form an organized criminal group.⁵⁶

3.1. Smuggling of migrants

The Smuggling of Migrants Protocol, which alongside the Trafficking in Persons Protocol supplements the Organized Crime Convention, defines the smuggling of migrants 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 a permanent resident.”⁵⁷

Trafficking in persons and smuggling of migrants are distinct crimes that are often mistakenly conflated.⁵⁸ The confusion is understandable; while the two crime types are captured in different Protocols, those Protocols supplement the same parent convention (the Organized Crime Convention), and there is often, to some extent, interplay between them in practice; the same criminals who perpetrate transnational trafficking in persons are sometimes also involved in migrant smuggling, and vice versa.⁵⁹ This interplay is exacerbated in conflict settings; the large movements of people from conflict zones and lack of access to safe and regular pathways for admission or migration has created a lucrative market for migrant

⁵⁶ Organized Crime Convention, art. 3; Trafficking in Persons Protocol, art. 1, para. 3.

⁵⁷ Article 3 of the Smuggling of Migrants Protocol. Note that, for the purposes of the present paper, the term “migrant” is broadly understood to also include persons who may be on the move for the purpose of seeking asylum or other forms of international protection. The International Organization for Migration defines a migrant as any person who is moving or has moved across an international border or within a State away from his or her habitual place of residence, regardless of (a) the person's legal status; (b) whether the movement is voluntary or involuntary; (c) what the causes for the movement are; or (d) what the length of the stay is.

⁵⁸ Mixed Migration Platform, “Trafficking in mixed migration flows: exploitation of refugees and other migrants in the Middle East and Europe”, Briefing paper No. 4 (May 2017), p. 2.

⁵⁹ See also Inter-Agency Coordination Group against Trafficking in Persons “What is the difference between trafficking in persons and smuggling of migrants?”, Issue Brief No. 1 (October 2016), p. 2.

smugglers, who in some cases will try to maximize their profits by also exploiting people.⁶⁰ A person can therefore shift from being smuggled to becoming a victim of trafficking, whether at some point during their journey or upon arrival in the destination country.⁶¹ A person may even pay to be smuggled with the intention of travelling irregularly to a safe country to seek decent work, but instead may end up being diverted to an unsafe country and exploited as a victim of trafficking. Therefore, what may appear to be an indicator of one type of crime may also be an indicator of the other. For instance, debt due to smuggling fees may be an indicator of smuggling or amount to a situation of “debt bondage”, indicating a case of trafficking in persons, and sexual exploitation of a migrant en route may indicate an aggravated form of smuggling, or may indicate that a person is being “groomed” for exploitation in a trafficking situation.

The element of “financial or other material benefit” is key to understanding migrant smuggling; facilitating a person’s illegal border crossings without intending to profit does not fall within the purview of the Smuggling of Migrants Protocol.⁶² A person who smuggles a friend or family member over a border without receiving a benefit for doing so is not considered a migrant smuggler under international law. Similarly, a fisherman who rescues a person at sea and takes him or her across the sea border to disembark without being paid to do so is not considered a migrant smuggler. In short, in order for a crime to be considered migrant smuggling under international law, one must establish that it was committed intentionally (the principle of *mens rea*) for the purpose of obtaining a financial or other material benefit. By comparison, in order for a crime to be considered trafficking in persons, in addition to establishing the other elements of the offence, one must establish that it was committed for the purpose of exploitation; where there is no intended exploitation, there is no trafficking in persons.

However, this is not to say that exploitation may not be present in situations of smuggling. In recent years it has become apparent that smugglers may subject smuggled migrants to inhuman and degrading treatment en route, including forms of exploitation that are often abhorrent, perpetrating violence and extortion against them and sometimes even demanding sex or other services (including criminal services) in lieu of payment for passage.⁶³ For these reasons, article 6 (3) of the Smuggling of Migrants Protocol makes the exploitation of smuggled migrants by smugglers an aggravating circumstance of the smuggling offence.

In terms of similarities, both victims of trafficking and smuggled migrants may be subject to severe human rights abuses in the course of being trafficked or smuggled, and subject to extremely brutal crimes—including assault, battery, kidnapping, extortion and sexual violence—at the hands of callous criminals who disregard or even monetize human suffering and vulnerability. This reality points to what is perhaps the most important similarity between the two crimes: both can create significant protection and assistance needs for the people affected. Accordingly, protection of rights is a key *raison d’être* of both the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol. While the protection and assistance

⁶⁰ See, *inter alia*, “Trafficking in mixed migration flows”, p. 7; Global Migration Group, *Exploitation and Abuse of International Migrants, Particularly Those in an Irregular Situation: A Human Rights Approach* (Vienna, 2013); and Daniel Howden, “The central Mediterranean: European priorities, Libyan realities”, *Refugees Deeply Quarterly Reports*, 2 October 2017.

⁶¹ See for instance, Peyroux, *Trafficking in Human Beings in Conflict and Post-Conflict Situations*, p. 6.

⁶² According to article 6 of the Smuggling of Migrants Protocol, “financial or other material benefit” is included not only as an element of the offence of smuggling of migrants, but also as a requirement for its criminalization. For more on this element, see UNODC, *The Concept of “Financial or Other Material Benefit” in the Smuggling of Migrants Protocol: Issue Paper* (Vienna, 2017).

⁶³ *Exploitation and Abuse of International Migrants, Particularly Those in an Irregular Situation* (Global Migration Group, 2013).

measures contained in the two Protocols are different in nature and scope, States are required to protect both victims of trafficking and the rights of smuggled migrants and to cooperate to those ends.

Table 3. Differences between trafficking in persons and smuggling of migrants

	Trafficking in persons	Smuggling of migrants
ELEMENTS OF THE CRIME	For trafficking of adults: act + means + exploitative purpose For trafficking of children: act + exploitative purpose	For smuggling of adults and children: act (facilitation of another person's illegal entry) + purpose (financial or other material benefit)
GEOGRAPHY	All elements of the crime may occur within the borders of a single country, or may occur across borders	Involves crossing of international borders
PURPOSE OR INTENTION (<i>MENS REA</i>) OF THE CRIME	Intention that the acts result in <i>exploitation</i> Understood to include the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs, and other forms of exploitation The crime of trafficking in persons can be established <i>before</i> the exploitation has occurred, if the <i>intention</i> to exploit can be established	Intention that the act results in <i>financial or other material benefit</i> Understood to include non-financial or other material benefits including in-kind benefits (such as sexual gratification), but <i>not</i> to include actions of humanitarians, non-governmental organizations or family members of smuggled persons unless they obtain a financial or other material benefit The crime of migrant smuggling can be established before the benefit is achieved, where <i>intention</i> to obtain such benefit can be established
CONSENT	Victims of trafficking may consent to exploitation. In the case of adult victims, their consent is irrelevant where any of the listed means are used to obtain that consent, regardless of the type of exploitation. Consent is always irrelevant where the victim is a child, as means need not be established	In practice, smuggled migrants typically consent to being smuggled. At a later stage, however, they may retract their consent, for example owing to dangerous conditions or poor treatment en route, but still be forced to continue their journeys. Consent or the absence of consent is not an element of the crime type
EXPLOITATION	Exploitation is the perpetrator's <i>purpose</i> or intention (<i>mens rea</i>)	Exploitation is not an element of the crime type. However, smuggled migrants may be exploited during their smuggling journey and exploitation may amount to an aggravating circumstance of the crime

PROFIT	Although profit is not an element of the crime type, it is very often the motive of perpetrators seeking to financially or materially benefit from exploitation of trafficking victims	Profit (termed “financial or other material benefit”) is the “purpose” element of the crime. The intention is to financially or materially benefit from facilitating a person’s illegal entry into a country. Profit through extortion is an aggravating factor, or potentially a distinct crime type (for instance, where torture and abuse are involved)
VICTIM	The victim of the crime of trafficking in persons is an individual	The “victim” of the crime of migrant smuggling is considered to be a State, as its sovereignty is affected by the illegal entry of the smuggled migrant. However, migrants may be victims of other crimes at the hands of smugglers in the course of being smuggled
PERPETRATOR	Perpetrators can be members of an organized criminal group, family members or friends of the victim, or others who act with the intention of exploiting the victim	Perpetrators can be members of an organized criminal group, family members or friends of the victim, or others who act for financial or other material benefit. Persons who do not act for financial or material benefit are not migrant smugglers according to the Smuggling of Migrants Protocol

Conflict increases the risk factors for both types of crime. In both crimes, perpetrators prey on the vulnerability of people forced to flee areas affected by conflict; they source their human commodities from among the large flows of people displaced by conflict who are in need of a passage out of danger. Conflict also increases the demand for both crimes; in the case of trafficking in persons, the demand for exploitative services is driven by armed and terrorist groups, and in the case of migrant smuggling, the demand is driven by people who need to flee conflict and reach safety in a different country, and by their lack of access to regular and safer avenues for doing so. For this reason, the fight against migrant smuggling may be challenged by the fact that migrants (including asylum seekers or persons among them seeking other forms of international protection) may be dependent on and grateful to their smugglers for providing them with life-saving channels to safety.

Smuggling also plays a role in facilitating the movement of people *into* areas affected by conflict. Those travelling abroad to join armed and terrorist groups may use the services of smugglers to facilitate their movements and border crossings. If the smuggler knows or is aware of his or her client’s intention, he or she may be committing terrorism-related crimes. However, where the smuggler is simply being paid by the migrant and is unaware of the migrant’s motives, his or her act qualifies as migrant smuggling and should be prosecuted as such.

Even though the offence of migrant smuggling can be established merely on the basis of someone knowingly facilitating an illegal border crossing for financial or other material benefit, a closer scrutiny of who is being transported over a border and the source of the profit made in doing so can reveal that what initially appeared to be a case of smuggling is in fact a case

of trafficking; in some cases, people who believe that they are being smuggled into a situation of safety and/or decent work away from areas affected by conflict, instead end up in a conflict zone where they are forced to support armed or terrorist groups or perform other exploitative forms of labour. For instance, Rohingya refugees have needed to rely on migrant smugglers to cross borders and undertake maritime and overland journeys. Some have been subsequently trafficked into forced or bonded labour to repay smuggling debts. Others have been held captive in countries of South-East Asia until their families pay ransom.⁶⁴ In such situations, it may be unclear whether the initial intention of the person who facilitated the movement had been to engage in trafficking in persons, or whether it had been merely to smuggle persons, but the journey was interrupted and the smuggled persons were victimized en route.

These examples highlight the complexity of differentiating between trafficking in persons and migrant smuggling and the crucial distinction made with respect to the intention (*mens rea*) of a crime, which under the definition of trafficking in persons is to exploit a person, and under the definition of migrant smuggling is to acquire a financial or other material benefit from the facilitation of a person's illegal entry into a country.

3.2. Atrocity crimes

The term “atrocity crimes” refers to genocide, crimes against humanity and war crimes, which are grave international crimes that States are obliged to prevent and that fall within the jurisdiction of the International Criminal Court (ICC).

In practice, trafficking and atrocity crimes fuel one another; where people are forced to flee atrocity crimes, they become more vulnerable to trafficking. At the same time, high levels of trafficking in persons may be present in areas affected by conflict in which atrocity crimes are perpetrated. Certain acts committed in the context of trafficking may potentially reach the gravity of atrocity crimes. In recent years, as ICC has focused on these crimes, being “the gravest crimes of concern to the international community”, it has approached trafficking in persons through that lens. The Chief Prosecutor for ICC made a statement to the Security Council in May 2017 in which she identified a link between atrocity crimes, trafficking in persons and migrant smuggling in Libya, noting that the situation there was exacerbated by the smuggling of migrants and the trafficking of persons into, through and from Libya and that those activities provided fertile ground for organized crime and terrorist networks. In response to the situation, she declared that her Office was examining the feasibility of opening an investigation into migrant-related crimes in Libya.

⁶⁴ A/71/303, para. 22.

Table 4. Relationship between trafficking in persons and atrocity crimes

Atrocity crime	Relationship with trafficking in persons
<p><i>Genocide</i> is a crime committed against members of a national, ethnic, racial or religious group, who are targeted because of their membership in such a group, the prevention of which has become an obligation of customary international law</p> <p>Genocide is defined in the Convention on the Prevention and Punishment of the Crime of Genocide as acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, including killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group^a</p>	<p>Many of these acts may be perpetrated in the context of trafficking in persons. For example, the Independent International Commission of Inquiry on the Syrian Arab Republic, mandated by the Human Rights Council, has called for the crimes of ISIL against Yazidis, including their trafficking into sexual enslavement, to be classified as genocide and for the perpetrators to be held to account^b</p>
<p>The definition of <i>crimes against humanity</i> has developed under customary international law and the jurisdiction of international courts; however, definitions in various instruments of international law do not entirely align</p> <p>In accordance with the definition in article 7 of the Rome Statute of the International Criminal Court, “crimes against humanity” includes, inter alia, acts such as murder, extermination, enslavement, deportation or forcible transfer of population, imprisonment or other severe deprivation of physical liberty, torture, rape, sexual slavery, enforced prostitution, forced pregnancy, and enforced sterilization or any other forms of sexual violence of comparable gravity, when those acts are committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack. Some of these acts may be committed for the exploitative purpose of trafficking in persons</p> <p>Article 7 (2) (c) of the Rome Statute defines enslavement as “the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children”</p> <p>In the case of <i>Kunarac et al.</i> of the International Tribunal for the Former Yugoslavia, the Court broadened the list of acts that constitute enslavement as a crime against humanity to also include sexual enslavement and servitude, where previously the term “enslavement” had been associated only with forced labour and servitude^c</p>	<p>Where it is perpetrated against a civilian population in a “widespread or systematic” manner, trafficking in persons may amount to a crime against humanity and be subject to prosecution at the International Criminal Court or national courts, accordingly. Thus far, the Security Council has not referred the situation of enslavement of Yazidis by ISIL to the Court under this definition, as would be necessary for the Court to establish jurisdiction over crimes committed in the Syrian Arab Republic and Iraq, neither of which are yet signatories to the Rome Statute</p>

Table 4. (continued)

Atrocity crime	Relationship with trafficking in persons
There is no one single instrument that codifies all <i>war crimes</i> . War crimes can be understood as violations of international and humanitarian law for which perpetrators bear individual criminal responsibility under international law. Such acts may be committed against combatants or non-combatants; victims of war crimes in armed conflicts (including those specifically protected under the four Geneva Conventions of 1949) may include civilians	Security Council resolution 2331 (2016) underscores that “certain acts or offences associated with trafficking in persons in the context of armed conflict may constitute war crimes.”

^a See also, article 6 of the Rome Statute of the International Criminal Court.

^b See for instance, Office of the United Nations High Commissioner for Human Rights, “Commission of Inquiry on Syria calls for justice on the occasion of the third anniversary of ISIL’s attack on the Yazidis”, 3 August 2017 (available from www.ohchr.org/); and “‘They came to destroy’: ISIS crimes against the Yazidis”.

^c *Prosecutor v. Kunarac, Kovac and Vukovic*, Case No. IT-96-23-T and IT-96-23/1-T.

The relationship between atrocity crimes and sexual violence may also be connected with trafficking in persons. The Rome Statute of the International Criminal Court approaches sexual violence as a potential war crime or a crime against humanity. Furthermore, the purpose of specific types of exploitation for which trafficking in persons may be perpetrated, including “enslavement” or “sexual slavery”, “conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities”,⁶⁵ can constitute “crimes against humanity”⁶⁶ or “war crimes”.⁶⁷

3.3. Conflict-related sexual violence

The term “conflict-related sexual violence” includes rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, temporary marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict.⁶⁸ “Conflict-related sexual violence” also encompasses trafficking in persons committed in conflict situations for the purposes of sexual violence and/or sexual exploitation (see sect. 2.2).⁶⁹

Links between sexual violence and conflict may be evident in the following:

- The profile of the perpetrator (often affiliated with a State or non-State armed group, including terrorist entities or networks)
- The profile of the victim (frequently an actual or perceived member of a persecuted political, ethnic or religious minority, or a person targeted on the basis of his or her actual or perceived sexual orientation and gender identity)

⁶⁵ Rome Statute of the International Criminal Court, art. 8, para. 2 (b) (xxvi).

⁶⁶ *Ibid.*, art. 7, para. 1 (c) and (g).

⁶⁷ *Ibid.*, art. 8, para. 2 (b) (xxii), and art. 8, para. 2 (e) (vi).

⁶⁸ S/2017/249, para. 2.

⁶⁹ See also, Security Council resolution 1960 (2010) and “Provisional guidance note: implementation of Security Council resolution 1960 (2010) on women, peace and security (conflict-related sexual violence)”, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, June 2011, pp. 2–3.

- A climate of impunity (which is generally associated with the collapse of a State)
- Cross-border consequences (such as displacement or trafficking in persons)
- Violations of the provisions of a ceasefire agreement⁷⁰

It is clear that sexual violence can be used or commissioned as a tactic of war, and in conflict settings, can constitute a war crime. In relation to the sexual violence that accompanies violent extremism, the Secretary-General has noted that the targeting of women, girls and boys for sexual violence is not ancillary or incidental, but widespread, systematic and integrally linked with the strategic objectives of extremist groups. There is today global recognition and consensus that armed and terrorist groups, such as ISIL and its affiliates, are using sexual violence as a tactic of terrorism to advance their strategic and ideological objectives.⁷¹ The Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict has identified six ways in which sexual violence is used as a tactic of terrorism, namely, when it is:

- Systematically committed by violent extremist and terrorist groups
- Deliberately used to spread terror
- Used to finance the activities of terrorist groups
- Used as a form of persecution targeting political, ethnic or religious groups
- Advanced as a strategy to radicalize, recruit, retain or reward fighters
- Committed in pursuit of an ideology entailing control over women's bodies, sexuality and reproduction

Various forms of such violence have been extensively documented in several countries affected by conflict, including Afghanistan, the Central African Republic, Colombia, the Democratic Republic of the Congo, Iraq, Libya, Mali, Somalia, South Sudan, the Sudan (in Darfur), the Syrian Arab Republic and Yemen; and in post-conflict settings, including in Bosnia and Herzegovina, Côte d'Ivoire, Nepal and Sri Lanka.⁷² In Colombia, the conflict-related sexual violence perpetrated against ethnic minorities in remote areas has been recognized as placing victims at greater risk of trafficking within Colombia and internationally.⁷³ In practice, many forms of conflict-related sexual violence overlap; in cases of forced marriage, marriage may be the end purpose of the exploitation, or forced marriage may be a means of facilitating sexual exploitation.⁷⁴ Forced marriage has featured in practices of armed and terrorists groups in conflict settings.⁷⁵ In addition to the possibility of marriage being part of the recruitment strategy for armed and terrorist groups, forced marriage and subsequent forced pregnancy also constitutes a means of building and populating the caliphate that ISIL envisions.⁷⁶ Forced marriage in the context of trafficking in persons has notably increased as a direct result of the crisis in the Syrian Arab Republic; internally displaced refugee women and girls in areas controlled by ISIL are particularly vulnerable to being forcibly married to fighters or wealthy foreigners.⁷⁷

⁷⁰ See also "Provisional guidance note", pp. 2–3.

⁷¹ See S/2016/1090, annex; Security Council resolution 2331 (2016), seventh preambular paragraph; and S/2017/249, paras. 8 and 10.

⁷² S/2017/249.

⁷³ A/71/303, para. 19.

⁷⁴ Healy, *Targeting Vulnerabilities*, para. 155.

⁷⁵ S/2016/1098, para. 47.

⁷⁶ S/2016/1090, annex.

⁷⁷ Healy, *Targeting Vulnerabilities*.

Where females are not considered eligible for marriage with fighters (for example, in the context of ISIL, because they are not considered Muslim), they may instead be sexually enslaved. In some cases, women and children are treated as “wages of war” and gifted as a form of in-kind payment to fighters who are free to resell or exploit them as they wish.⁷⁸ Women and girls have been categorized (as being those with children and those without), evaluated on the basis of age, beauty and virginity, and subsequently bought, sold, given or even bequeathed as part of the estates of deceased ISIL fighters.⁷⁹ The depraved treatment they are subjected to at the hands of armed groups includes the administration of hormonal treatments by doctors to facilitate early physical maturation of young children and the administration of drugs to facilitate rape.⁸⁰ This subjugation of people and their treatment as chattel to be traded, sold or gifted is a strong indicator of the ownership that typifies slavery.⁸¹ In recent years, slavery and practices similar to slavery suffered by women and girls at the hands of ISIL in Iraq have been widely documented, along with their forcible transfer from Mosul (Iraq) into Raqqah (Syrian Arab Republic). In the case of ISIL, sexual violence is used strategically to further its agenda, as borne out in its fatwas, codes, pamphlets and magazines.⁸²

Women and girls are the main victims of rape and sexual violence, but such violence is also used against men and boys in many conflict settings. It was used as a form of humiliation during the war in the Former Yugoslavia, in Colombia, the Democratic Republic of the Congo and the Sudan, and more recently in the Syrian Arab Republic and Iraq. Online bidding processes have been observed to involve instances of boys who are disabled or considered “not smart enough to memorize the Quran”, presumably for purposes of exploitation.⁸³ A form of trafficking for the purpose of sexual exploitation that targets boys and young men in particular is the practice of *bacha bazi* (literally, “boy play”) in Afghanistan, the demand for which escalates in areas affected by conflict, owing to the influence of warlords and armed groups and to the increase in the supply of victims as families are displaced.⁸⁴ The suffering of male victims of sexual violence in times of conflict may be exacerbated by the fact that shame and stigma surround the issue, resulting in underreporting.

3.4. Grave violations against children in armed conflict

Six grave violations against children in armed conflict have been identified in a number of Security Council resolutions,⁸⁵ including:

- Killing and maiming of children
- Recruitment and use of children by armed forces and armed groups
- Rape and other forms of sexual violence against children
- Attacks against schools or hospitals or against students and teachers

⁷⁸ S/2017/249, para. 8.

⁷⁹ S/2016/1090, annex, p. 6.

⁸⁰ S/2016/361/Rev.1.

⁸¹ For the definition of slavery, see the glossary and section 2.2.2 above.

⁸² Including the magazines *Rumiyah* and *Dabiq* (see S/2016/1090, annex; and Healy, *Targeting Vulnerabilities*, pp. 194–195).

⁸³ S/2016/1090.

⁸⁴ United Nations Regional Information Centre for Western Europe, “The dancing boys of Afghanistan”, 19 March 2014. Available from www.unric.org/. The United Nations also reports the perpetration of *bacha bazi* (“dancing boys”) by Afghan National Defence and Security Force commanders (A/70/836-S/2016/360), para. 25.

⁸⁵ See Security Council resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011) and 2068 (2012).

- Abduction of children
- Denial of humanitarian access for children

These violations, all of which have a basis in international humanitarian, criminal and human rights law, were identified on the basis of their suitability for monitoring and verification, their egregious nature and the severity of their consequences for the lives of children.⁸⁶ With the exception of denial of humanitarian access, these violations all trigger the listing parties to armed conflict in annexes to the annual report of the Secretary-General on children and armed conflict.⁸⁷ Where a violation is classified as a “grave violation”, it falls within the purview of the monitoring and reporting mechanism on grave violations against children in situations of armed conflict.

Some forms of trafficking in children in conflict situations may amount to grave violations against children, or conversely, grave violations can amount to trafficking in children or can be closely connected to it, as explained in table 5 below.

Table 5. Relationship between trafficking in persons and grave violations against children in armed conflict

Grave violation	Relationship with trafficking in persons
KILLING AND MAIMING OF CHILDREN	Can occur within the context of trafficking or as a result of trafficking, for instance, where children are recruited into armed conflict as combatants or in supportive roles, or exploited as human shields (as described above in sect. 2.2.3)
RECRUITMENT AND USE OF CHILDREN BY ARMED FORCES AND ARMED GROUPS	Can constitute trafficking in persons, being an act (recruitment) for the purpose of using children in combat or for other exploitative purposes, including in support roles (including those described above in sect. 2.2.3)
RAPE AND OTHER FORMS OF SEXUAL VIOLENCE AGAINST CHILDREN	Children can be trafficked for an exploitative purpose that entails sexual violence, including forced or child marriage, sexual slavery and other forms of sexual exploitation (as described above in sect. 2.2.1) and also amounts to conflict-related sexual violence (described above in sect. 3.3)
ATTACKS AGAINST SCHOOLS OR HOSPITALS	May occur in the context of trafficking in persons, for instance, where the objective is to abduct children for the purpose of exploitation. Such actions may also be a strategy of terror (for instance, where attacks are mounted in opposition to girls’ and/or secular education). Military use of schools or the presence of armed groups near them increases children’s vulnerability to trafficking, as does forcing them out of schools and denying them access to education

⁸⁶ For a detailed outline of the international legal framework for these violations see Office of the Special Representative of the Secretary-General for Children and Armed Conflict, “The six grave violations against children during armed conflict: the legal foundation”, Working Paper No. 1 (New York, October 2009, updated in November 2013).

⁸⁷ For more information on the six grave violations, see <https://childrenandarmedconflict.un.org/effects-of-conflict/six-grave-violations/>.

Table 5. (continued)

Grave violation	Relationship with trafficking in persons
ABDUCTION OF CHILDREN	When defined as the unlawful removal, seizure, capture, apprehension, taking or enforced disappearance of a child either temporarily or permanently for the purpose of any form of exploitation of the child, ^a abduction can constitute trafficking in children, being an act, for the purpose of exploitation. Examples include activities of the Lord's Resistance Army in northern Uganda, ISIL in Iraq and the Syrian Arab Republic, Boko Haram in Nigeria, the Tamil Tigers in Sri Lanka, as well as other armed and terrorist groups in Afghanistan, Colombia, the Philippines, Somalia and Thailand
DENIAL OF HUMANITARIAN ACCESS FOR CHILDREN	Trafficking may be involved, for instance, where a child is denied humanitarian access because he or she is in a trafficking situation. Denial of humanitarian access for civilians, including children, and attacks against humanitarian workers assisting children are prohibited under the fourth Geneva Convention and its additional protocols and may amount to crimes against humanity and war crimes (described above in sect. 3.2)

^a See www.mrmtools.org/mrm/1095_1125.htm.

3.5. Trafficking offences relating to terrorist acts

There is no internationally agreed comprehensive definition of terrorism; however, a terrorist act can be understood as being an act intended to cause death or serious bodily injury to a civilian, when the purpose of such act, by its nature and context, is to intimidate a population, or to compel a government or an international organization to do or abstain from doing any act.⁸⁸

Recent experience has revealed several situations in which terrorism in practice has a strong and direct link to trafficking in persons. Terrorist groups traffic persons for various exploitative purposes; the forms of exploitation captured in the Trafficking in Persons Protocol are non-exhaustive and, accordingly, exploitation can encompass forms of exploitation not explicitly specified in the Protocol, including those perpetrated by armed and terrorist groups.

Terrorist groups may profit directly from trafficking in persons (for instance, by receiving payment for a person), or by reaping the benefits of exploitative labour and services provided by their victims. Where trafficking in persons is perpetrated to finance terrorism, under article 2 of the International Convention for the Suppression of the Financing of Terrorism, it would also constitute a terrorism-related offence.⁸⁹ In recent years, much consideration has been given to how ISIL finances its activities and the extent to which trafficking in persons may be involved. In 2016, States estimated that ISIL was primarily dependent on oil and extortion, which accounted for 70 to 80 per cent of its income, while the remainder of its income stream was thought to derive from the looting of antiquities, external donations, the sale of agricultural products and electricity, kidnapping for ransom and trafficking in persons.⁹⁰

⁸⁸ Art. 2, para. 1 (b), of the International Convention for the Suppression of Financing of Terrorism.

⁸⁹ See also Security Council resolution 1337 (2001), which calls for the suppression of the financing of terrorist acts.

⁹⁰ "Nineteenth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2253 (2015) concerning ISIL (Da'esh), Al-Qaida and associated individuals and entities" (S/2017/35, para. 21); S/2016/1090.

Payments made to ISIL as ransom for kidnappings were estimated to amount to between \$35 million and \$45 million in 2014; ransoming of people might be associated with trafficking in persons.⁹¹ In his 2016 report on the threat posed by ISIL (Da'esh) to international peace and security, the Secretary-General described the trafficking of women and girls as a critical component of the financial flows to ISIL and its affiliates, for which information and communications technology has been used to facilitate online bidding and sales.⁹² It was also noted that ISIL had been using an intricate system to sell women in both physical and online markets, with prices for enslaved Yazidi women ranging from \$20 to \$25,000. People have also been gifted to fighters in lieu of payment for their services.⁹³ ISIL also receives a significant income from the payments made to it by people seeking to free foreign terrorist fighters from conflict zones.⁹⁴ The Secretary-General has suggested the possibility that, as ISIL continues to lose territory and financial sources, it may continue to explore ways to diversify its sources of financing, including through trafficking in human beings, which underlines the need to pay greater attention to potential cases in which trafficking in persons is used to finance terrorism.⁹⁵

However, currently, the extent to which trafficking in persons generates assets for ISIL and affiliated individuals is unclear, as concrete evidence and quantitative data on the extent of the contribution of trafficking to ISIL finances are not available to establish a clear link. In its report of August 2017, the Analytical Support and Sanctions Monitoring Team noted that ISIL in Libya appeared to be largely self-sufficient and had financed itself through extortion, using improvised checkpoints, including by obtaining payments from smugglers and traffickers.⁹⁶ The extortion by terrorist groups of smugglers who facilitate large movements of migrants and refugees is a noticeable funding stream, but it is unclear whether or not trafficking is a direct source of income. While it is clear that some terrorist groups perpetrate trafficking, for instance for the purpose of sexually exploiting their victims, in the case of ISIL, its victims are generally sold within the group, meaning that the net assets of the group do not increase as a result of such sales.⁹⁷ This is not to say that such situations do not constitute trafficking in persons, but merely that they do not necessarily serve to finance terrorism.⁹⁸

Irrespective of whether and in what ways trafficking in persons is used to fund terrorism, the link between terrorism and trafficking in persons manifests itself in particularly violent ways, including those discussed above in the present chapter and acknowledged in Security Council resolution 2331 (2016).

⁹¹ “Report of the Secretary-General on the threat posed by ISIL (Da’esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat” (S/2016/92, para. 22). On the kidnapping and ransom of people, see Security Council resolution 2133 (2014) which calls upon States to prevent terrorists from benefiting from ransom payments.

⁹² “Report of the Secretary-General on the threat posed by ISIL (Da’esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat” (S/2016/501, para. 45).

⁹³ S/2016/1090.

⁹⁴ S/2016/92, para. 22.

⁹⁵ “Fifth report of the Secretary-General on the threat posed by ISIL (Da’esh) to international peace and security and the range of United Nations efforts in support of Member States in countering the threat” (S/2017/467, para. 65); S/2016/1090. In its resolution 2253 (2015), the Security Council encouraged States and non-State actors to bring to its attention evidence relating to the use of trafficking in persons as a means of financially supporting terrorists.

⁹⁶ “Twentieth report of the Analytical Support and Sanctions Monitoring Team submitted pursuant to resolution 2253 (2015) concerning ISIL (Da’esh), Al-Qaida and associated individuals and entities” (S/2017/573, para. 34).

⁹⁷ Ibid.

⁹⁸ A question calling for further discussion is whether the initial abduction of victims with the intention to offer them to fighters as a reward or wage could be viewed as increasing the resources available for that purpose and consequently as an indirect means for financing the terrorist activities of ISIL.

4. Integrating the fight against trafficking in persons into conflict-related work

Several United Nations actors and entities that operate in conflict and post-conflict settings are well placed to address trafficking in persons and can do so within their mandates by applying the concepts discussed above in practice. Specifically, they can adapt conflict-related guidance materials, training, referral mechanisms, procedures and other tools to include trafficking in persons. Conversely, trafficking-related tools can be adapted to conflict and post-conflict settings, in particular those that support the implementation of the Trafficking in Persons Protocol. The guidance below is a starting point for integrating trafficking-related measures into work in conflict and post-conflict settings.

Victim-centred approach

The OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking open with the following sentence: “The human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims.” Guideline 1 of the same document addresses the promotion and protection of human rights, and emphasizes that any actions taken by States or by international and non-governmental organizations should not have an adverse impact on the rights and dignity of persons, including those who have been trafficked. In practice, a victim-centred approach means that in all counter-trafficking work, the needs, rights and safety of victims as the primary stakeholders should be safeguarded above all else. A victim-centred approach is crucial not only to protection and assistance efforts, but also to any research and information-gathering, prevention efforts and measures related to investigation and prosecution.

4.1. Research and information-gathering

To mount an effective prevention and protection response to trafficking in persons and bring perpetrators to justice, it is crucial to do effective research, gather information and conduct an analysis. However, collecting information in conflict settings is fraught with challenges. According to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, States, intergovernmental organizations and non-governmental organizations should consider:

- Adopting and consistently using the internationally agreed definition of trafficking in persons contained in the Trafficking in Persons Protocol

- Standardizing the collection of statistical information on trafficking and related movements (such as the smuggling of migrants) that may include a trafficking element
- Ensuring that data concerning individuals who are trafficked is disaggregated on the basis of age, gender, ethnicity and other relevant characteristics
- Undertaking, supporting and bringing together research into trafficking. Such research should be firmly grounded in ethical principles, including an understanding of the need not to retraumatize victims of trafficking. Research methodologies and interpretative techniques should be of the highest quality

When deciding how to gather information and from whom, “do no harm” is highly relevant as a guiding principle. It can be dangerous to talk to the United Nations in areas affected by conflict, as that may attract the attention of armed groups that do not wish to see their activities disrupted. Still, while it is not always possible to gather data specifically about trafficking in persons, related information may be available that can be relied on instead. There may be information from other assessment mechanisms used in conflict settings or from secondary sources about phenomena such as gender-based violence or forced or exploitative labour. Such information should be shared safely and efficiently with the United Nations and other State and non-State actors on the basis of robust *ethical principles and data protection standards* to reduce the risk of violations of privacy. It should be ensured that it is used to inform an evidence-based response, that it is used only for the purposes for which it was collected, and that sensitive data are not shared with outside parties. Ethical principles and data protection standards also apply to the use of “big data” and other recent technology.

Recommended resources

- In its *Global Report on Trafficking in Persons 2016*, UNODC looks at the conditions faced by people fleeing conflict. The *Global Report* to be issued in 2018 will include a chapter dedicated to trafficking in conflict settings.
- UNODC data on crime prevention and criminal justice.
- The Nexus Institute, an independent international human rights research and policy centre, is conducting a global study on good practices in the global collection of data on trafficking in persons. The study includes ethical and legal dimensions.
- Every year, the Department of State of the United States of America publishes a report on trafficking in persons.

4.1.1. Harmonizing data collection

United Nations entities and other international and regional actors gather data on phenomena related to trafficking in persons. If that information is not labelled as potentially relevant to trafficking, it may be overlooked.⁹⁹ Data concerning conflict-related sexual violence or grave violations against children in armed conflict, a topic discussed in sections 3.3 and 3.4 above, may also relate to trafficking in persons. For example, in cases of sexual exploitation and abuse alleged against United Nations peacekeepers, the information collected may include

⁹⁹An example is the information gathered as part of the multidisciplinary research initiative *Migrants in Countries in Crisis*, which is funded by the European Union and coordinated by the International Centre for Migration Policy Development in partnership with the International Migration Institute of Oxford University (<http://research.icmpd.org/projects/migration-governance/micic/>).

elements relating to trafficking in persons, although the data may not be categorized or disaggregated in a way that makes this clear.¹⁰⁰

It is important to properly analyse data collected in conflict zones, as they may be helpful in the fight against trafficking in persons. Agencies that have experience with addressing phenomena related to trafficking in persons should share their knowledge and views in order to arrive at a harmonized understanding of trafficking that is in line with the definition of the Trafficking in Persons Protocol. The collection of data relating to movements of people that may involve trafficking in persons, including flows of smuggled migrants, should be standardized. Data should be disaggregated during collection and analysis so as to capture exploitation and trafficking. Disaggregating data on both victims and perpetrators by age, gender identity, ethnicity, sex and other relevant characteristics can strengthen the analysis of risk factors relating to trafficking in persons in conflict settings.¹⁰¹ In particular, attention should be paid to the linkage between gender and trafficking in persons. Depending on the country context, it may be useful to analyse how religious, political or ethnic factors influence the choice of victims, the means used to traffic them and the forms of exploitation they are subjected to. Knowledge of such factors can help to tailor and improve preventive action.

For example, data collected on grave violations against children in times of armed conflict may, from a practical point of view, also relate to trafficking in persons. In its resolution 1612 (2005), the Security Council requested the Secretary-General to implement a monitoring and reporting mechanism on children and armed conflict for the timely, objective, accurate and reliable collection of information on the recruitment and use of child soldiers in violation of applicable international law and on other violations and abuses committed against children affected by armed conflict (see also section 3.4 above).

Given that many of those grave violations may overlap with trafficking in children, the data collected through the monitoring and reporting mechanism on grave violations against children in situations of armed conflict, as it is now known, are of particular relevance to the fight against trafficking in persons. This is important for practitioners to understand, so that child victims may benefit from the protection and assistance measures available to victims of trafficking and perpetrators of grave violations amounting to trafficking may be held accountable under anti-trafficking laws. In its resolution 2388 (2017), the Security Council requested the Secretary-General to further explore, as appropriate, links between trafficking in children in conflict situations and the grave violations against children affected by armed conflict as determined by the United Nations. In that light, it would be useful to study how the mechanism could support the fight against trafficking in persons.

In its resolution 1960 (2010), the Security Council requested the Secretary-General to establish monitoring, analysis and reporting arrangements on conflict-related sexual violence. In a guidance note, the purpose of those arrangements was described as ensuring the systematic gathering of timely, accurate, reliable and objective information on conflict-related sexual violence against women, men and children in all situations of concern.¹⁰² The monitoring, analysis and reporting arrangements are in place in several countries, including the Central African Republic,

¹⁰⁰United Nations, Conduct in United Nations field missions, Sexual exploitation and abuse. Available at <https://conduct.unmissions.org/sea-data-introduction>.

¹⁰¹See also “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” (E/2002/68/Add.1), guideline 3.3.

¹⁰²“Provisional guidance note: implementation of Security Council resolution 1960 (2010) on women, peace and security (conflict-related sexual violence)” (Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, June 2011).

the Democratic Republic of the Congo, Iraq, Mali, Somalia, the Sudan and South Sudan. In a recent report on conflict-related sexual violence, the Secretary-General explicitly included trafficking in persons in his definition of conflict-related sexual violence when the trafficking is committed in situations of conflict for the purpose of sexual violence and exploitation (see also section 3.3 above).¹⁰³ This has implications not only in countries and contexts where the monitoring, analysis and reporting arrangements are in place, but elsewhere as well. For example, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict has far-reaching access to data in conflict and post-conflict settings. Although collected in relation to sexual violence, those data can, thanks to the definition of conflict-related sexual violence, be treated as trafficking-related as well. This underscores the value of explicitly integrating trafficking-related dimensions in existing data-collection and reporting mechanisms.¹⁰⁴

At present, statistics on sexual exploitation or abuse alleged against United Nations peacekeepers are not aggregated in a way that indicates whether trafficking in human beings might be involved.¹⁰⁵

Promising practices

- IOM has enhanced its displacement tracking matrix tool to capture data related to trafficking in persons and exploitation in emergencies. The flow monitoring survey that is a part of the tool can be used during conflicts and other crises to identify populations of concern, which may include potential and actual victims of trafficking in persons. The purpose is to facilitate the provision of protection and assistance to those who are out of reach of the humanitarian response. The displacement tracking matrix is available at <http://www.globaldtm.info/global/>
- Special political missions overseen by the Department of Political Affairs work closely with national authorities and United Nations country teams to document and monitor cases of abduction of women and girls by armed groups and to coordinate support to those rescued. Similarly, at the regional level, special political missions have been involved in reporting on trafficking in persons as part of their regional monitoring mandate. For instance, the United Nations Office for West Africa and the Sahel regularly reports on the trafficking-related activities of Boko Haram.^a Specifically in relation to trafficking in persons there is scope for strengthening the reporting activities of United Nations field missions that are mandated to monitor, help to investigate and report to the Security Council on abuses or violations of human rights and to contribute to efforts to prevent such abuses and violations.

^a See S/2016/949, para. 56.

¹⁰³S/2017/249, para. 2.

¹⁰⁴The Gender-based Violence Information Management System was created to harmonize the collection of data on gender-based violence in humanitarian settings. It enables providers of services to survivors of gender-based violence to collect, store, analyse and share their data simply, safely and ethically. The System may have a complementary role to play in the implementation of the monitoring, analysis and reporting arrangements on conflict-related sexual violence. For more information, see United Nations, “Provisional guidance note: Intersections between monitoring, analysis and reporting arrangements (MARA) and the Gender-based Violence Information Management System (GBVIMS)” (2015).

¹⁰⁵United Nations, Conduct in United Nations field missions, Sexual exploitation and abuse, Allegations. Available at <https://conduct.unmissions.org/sea-overview>. The one instance of child trafficking for sexual exploitation or abuse was discussed in the report of the Secretary-General on special measures for protection from sexual exploitation and abuse: a new approach (A/71/818, para. 13).

Recommended resources

- Website of the monitoring and reporting mechanism on grave violations against children in situations of armed conflict (www.mrmtools.org). Includes a link to *Field Manual: Monitoring and Reporting Mechanism (MRM) on Grave Violations against Children in Situations of Armed Conflict* (2014)
- For guidance on setting up country-specific monitoring, analysis and reporting arrangements on conflict-related sexual violence, see “Provisional guidance note: implementation of Security Council resolution 1960 (2010) on women, peace and security (conflict-related sexual violence)” (Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, June 2011)
- WHO *Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies* (World Health Organization, 2007)

4.1.2. Establishing or strengthening multi-sector data collection

Many actors do not share enough information that can be used to meaningfully improve our knowledge about trafficking in persons from, to and through areas affected by conflict. They may be reticent to share sensitive data owing to a risk of confidentiality breaches that could compromise the lives and safety of those under threat. There is, in other words, a need for secure and confidential data-sharing systems. The OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasize that research in this area should be firmly grounded in ethical principles and that research methodologies and interpretative techniques should be of the highest quality. However, actors may fail to share even non-sensitive data because those data have not been identified as relevant to the fight against trafficking in persons or because they lack awareness that relevant data are being collected in the first place. For those reasons, even though data relevant to the fight against trafficking in persons and the analysis of conflict settings are already being collected, they may be so fractured that an integrated analysis is not possible, thereby undermining the ability of stakeholders to mount a coherent and systemic response. For instance, research on terrorism and recruitment into terrorism as a specific form of trafficking in persons could be expanded to include the supply side of terrorism. This could be achieved if States shared their primary data more readily with international organizations and academics. The result could be policy responses more firmly grounded in empirical evidence.¹⁰⁶

¹⁰⁶Hamed el-Said and Barrett, *Enhancing the Understanding of the Foreign Terrorist Fighters Phenomenon in Syria*, p. 8.

Promising practices

- The Global Protection Cluster collects information and data management tools relating to needs assessments, protection monitoring, population data systems and protection incident systems.^a
- United Nations University is currently developing the Alliance 8.7 knowledge platform. The aim of the platform is to accelerate progress towards reaching target 8.7 of the Sustainable Development Goals by encouraging evidence-based policymaking. A core function will be to highlight promising practices, including practices in data collection and analysis, to further the scientific study of trafficking in persons and the other phenomena addressed in target 8.7.

^a Global Protection Cluster, Tools and guidance, Information and data management. Available at www.globalprotectioncluster.org.

4.1.3. Assessing trafficking risks in conflict settings with early-warning indicators

There is a need to analyse the economic, social, cultural factors that make individuals, groups or communities caught in conflict situations vulnerable to being trafficked. Also, the profiles of those who tend to exploit their vulnerability needs to be better understood.

In a conflict situation, *rapid assessments* should be made at the onset of conflict to gauge the scope and scale of any trafficking, the risk factors involved and the protection and assistance needs of vulnerable populations caught in the conflict. The assessments should be based on indicators developed in conjunction with relevant actors inside and outside the United Nations. Tools developed for use in other conflict-related fields can help in assessing the vulnerabilities and risks specific to trafficking in persons. An important question is whether trafficking-related indicators are, or should be, included in a given tool and, if so, to what extent. Another question is whether those indicators should be indirect ones flagging, for instance, drivers of exploitation and abuse, or direct ones that specifically flag trafficking in persons.

Peacekeeping missions with mandates that include the protection of civilians have established monitoring arrangements and incorporated the *matrix of early-warning indicators of conflict-related sexual violence* into their broader protection structures. In that document, the link is acknowledged between conflict-related sexual violence (see section 3.3 above) and phenomena such as forced prostitution, trafficking and sexual slavery (see subsections 2.2.1 and 2.2.2 above). Many of the early-warning indicators could also serve to flag that there is a potential for trafficking in persons. For example, one such indicator could be that an increase is noted in the number of reports of women's involvement in the shadow war economy, including sex work.¹⁰⁷ Similarly, some of the *OSCE early-warning indicators* are relevant to the fight against trafficking, such as reports of organized criminal activities across borders, lack of respect for the rule of law and violations of human rights and fundamental freedoms.

In implementing its global monitoring mandate on the prevention of genocide and related crimes, the Office on Genocide Prevention and the Responsibility to Protect assesses various types of situations on the basis of its *Framework of Analysis for Atrocity Crimes*, including those that may result in trafficking in persons, as well as serious violations of human rights and

¹⁰⁷ See "Matrix: early warning indicators of conflict-related sexual violence" (2011), p. 12.

humanitarian law committed in the context of trafficking in persons that may amount to atrocity crimes (see 3.2 above).^{108, 109, 110} The Framework offers an integrated analysis and risk assessment tool for atrocity crimes. Its non-exhaustive indicators relate to 14 risk factors, 8 of which are common to all types of atrocity crimes. The Framework also identifies 6 additional risk factors, 2 specific to each of the international crimes, namely genocide, crimes against humanity and war crimes.¹¹¹ Some of the common risk factors may be indicative of situations of heightened vulnerability to trafficking in persons. Some indicators of atrocity crimes may even directly overlap with strong indicators of trafficking. For instance, an increase in the number of serious acts of violence against women and children, or the creation of conditions that facilitate acts of sexual violence against those groups, including as a tool of terror (indicator 7.9) and the marking of people or their property based on their affiliation to a group (indicator 7.12). Both indicators could also point to trafficking.

These conflict analysis tools can prove crucial in gathering information about potential trafficking. They could be made more useful in the fight against trafficking by flagging those of their indicators that may be relevant to trafficking and by adding trafficking-specific indicators.

Recommended resources

- *Gender and Early-Warning Systems: An Introduction* (OSCE, 2009)
- “Framework for analysis for atrocity crimes: A tool for prevention” (United Nations, 2014)
- “Matrix: early-warning indicators of conflict-related sexual violence” (2011)

4.2. Preventing trafficking in persons in conflict situations

Preventing trafficking in persons requires more than a criminal justice response. A holistic response is needed to reduce people’s vulnerability to being trafficked as well as to becoming perpetrators of trafficking.¹¹² The *2030 Agenda for Sustainable Development*, if pursued with commitment and good faith, addresses several of the factors that make people vulnerable to trafficking. Targets 5.2, 8.7 and 16.2 of the 2030 Agenda all explicitly refer to trafficking in persons. However, the complexity of trafficking is such that unless the 2030 Agenda is implemented as a whole, there can be no holistic response to the economic, social, cultural and structural inequalities that engender trafficking.

Effective implementation of the 2030 Agenda would also prevent most causes of conflict. It is self-evident that preventing conflict-related trafficking is at its most effective when conflict itself is prevented. In practice, this requires concerted efforts to integrate counter-trafficking measures into conflict-related measures. It also requires trafficking risks to be factored into any programmes or measures undertaken in areas affected by conflict. Wider analysis is necessary to ensure that actions on the ground adhere to the “do no harm” principle. It would

¹⁰⁸A/70/741-S/2016/71, annex.

¹⁰⁹S/2016/949, para. 59.

¹¹⁰United Nations Office on Genocide Prevention and the Responsibility to Protect, “Framework of analysis for atrocity crimes: a tool for prevention” (2014), p. 5.

¹¹¹Ibid., pp. 9–24.

¹¹²General Assembly resolution 70/1.

be beneficial in that regard to include an analysis of the impact on the risk of trafficking in persons and people’s vulnerability to it. Lessons can be learned from the practice of *conflict sensitivity analysis*, which is used to determine whether United Nations programmes are exacerbating the risks to which the people participating in them are exposed. Measures can then be put in place to minimize any negative impact and maximize the positive impact.

Efforts to prevent trafficking in pre-conflict situations must be proactive, meaning they are put in place long before the first signs of conflict, and they must continue throughout the conflict cycle. At the very onset of conflict, actual and potential risks should be identified and addressed, including through the measures outlined under subsection 4.1.3 above, even if no cases of trafficking have been reported or confirmed.¹¹³ Among the risks to be considered are those posed to persons who are trapped in areas affected by conflict and may be forced to flee in large movements.¹¹⁴ One method that has been proposed to ensure that this happens in practice is the inclusion of counter-trafficking experts when mounting a crisis response and carrying out related assessments. Those assessments, together with any other research and information that suggests a risk of trafficking in persons, can form the basis for measures to prevent such trafficking. Another method that has been proposed is the setting up of mobile, multidisciplinary anti-trafficking teams similar to those deployed in response to natural disasters, but adapted to situations of conflict.¹¹⁵

Recommended resource

- 2030 Agenda for Sustainable Development (General Assembly resolution 70/1)

4.2.1. Reducing people’s vulnerability to being trafficked or becoming a perpetrator of trafficking

The prevention principles set out in the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking make clear that factors that increase people’s vulnerability to trafficking must be addressed.¹¹⁶ The nature of an individual’s vulnerability can be personal, for instance, a mental or physical disability, situational, such as being on the move after being forced to flee, or circumstantial, such as poverty and underdevelopment. Vulnerability factors can be pre-existing or they can be created by traffickers.¹¹⁷ They are present before, during and after a conflict. They can be incidental to a conflict, created by it or exacerbated by it. In a conflict setting, rising food insecurity can intensify the conflict that caused it, setting off a vicious cycle compelling more people to migrate.¹¹⁸ The transition between these phases is not necessarily clear, and vulnerabilities may change throughout them, affecting different communities and individuals in different ways. For instance, the elderly or those with limited mobility may be less able to flee conflict situations

¹¹³“Trafficking in persons in humanitarian crises”, p. 2; Lungarotti, Craggs and Tillinac, “Human trafficking in crises: a neglected protection concern”, p. 9.

¹¹⁴See A/71/303, para. 49 and the Migrants in Countries in Crisis initiative.

¹¹⁵Lungarotti, Craggs and Tillinac, “Human trafficking in crises: a neglected protection concern”, p. 9.

¹¹⁶E/2002/68/Add.1, principles 4–6.

¹¹⁷See UNODC, “Guidance note on abuse of a position of vulnerability as a means of trafficking in persons in article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime” (2012), para. 2.3.

¹¹⁸For every 1 per cent rise in food insecurity, there is a 1.9 per cent rise in the number of people compelled to migrate (WFP, *At the Root of the Exodus: Food Security, Conflict and International Migration*, 2017).

or access humanitarian services.¹¹⁹ Ethnic, religious and other minorities may be acutely vulnerable where they are targeted for specific, particularly egregious forms of exploitation. This was evident, for instance, in the exploitation of the Yazidi population in Iraq by ISIL. Every situation is different, therefore it is important to avoid assumptions or simplistic conclusions on the basis of the conflict cycle itself. Instead, vulnerability factors should be analysed holistically and case by case.

Pre-existing vulnerability factors, such as discrimination based on sex or gender, may be exacerbated by conflict. This is the case for adolescent girls' vulnerability to violence, sexual exploitation and forced marriage. Boys and men, for their part, may become more vulnerable to recruitment into armed conflict and other trafficking-related practices. The gendered roles of men and women in the community and notions of masculinity can also be affected by conflict, further playing into *negative coping mechanisms* and resulting in increased vulnerability.¹²⁰ For instance, where gender norms demand that males provide for their families as the head of the household, the loss of their livelihood through conflict may present them with the choice of joining armed groups for an income or migrating through unsafe channels in search of other economic opportunities.¹²¹ Where male providers are lost to conflict or migration, the women and children left behind may be highly vulnerable because the men are no longer there to fulfil the roles traditionally expected of them and because social and cultural norms limit women's autonomy, impeding their access to sources of income.¹²²

The factors that make people vulnerable to being trafficked in conflict settings may be the same as those that make them *vulnerable to becoming perpetrators of trafficking* and related crimes. In some cases, people fall victim to exploitation at the hands not of organized criminals or armed or terrorist groups, but of family members or acquaintances. Their situation may be so dire that they have lost hope and resort to exploiting others for survival, for example through early or forced marriage, begging and child labour.¹²³

Prevention measures must therefore be mounted in the short, medium and long term. They must address vulnerabilities to trafficking and build resilience among individuals and communities. A range of measures can be taken to give individuals and communities hope and increase their resilience, such as creating paths for people to safely leave conflict areas in a regular, orderly manner, ensuring their long-term livelihood and educational opportunities, providing food security, ensuring their legal status, combating discrimination against minority groups and fighting sexual and gender-based violence. *Community involvement before, during and after conflict* is necessary to identify existing local resilience mechanisms that can be built upon so as to avoid imposing ineffective mechanisms from outside.¹²⁴ Identifying the key influencers in a given community who may wish to leverage their positive or minimize their negative influence can be an important prevention measure.

To prevent trafficking in persons in conflict situations, efforts to address other crimes should not inadvertently increase people's vulnerability to trafficking. Certain steps taken by States

¹¹⁹"Conflict-related displacement in Ukraine", p. 11.

¹²⁰See for instance, Shereen El Feki, Gary Barker and Brian Heilman, eds., *Understanding Masculinities: Results from the International Men and Gender Equality Study (IMAGES) — Middle East and North Africa: Egypt, Lebanon, Morocco, and Palestine* (Cairo, UN Women; Washington D.C., Promundo-US, 2017).

¹²¹Lana Khattab and Henri Myrntinen, "*Most of the Men Want to Leave*": *Armed Groups, Displacement and the Gendered Webs of Vulnerability in Syria* (London, International Alert, 2017).

¹²²In its resolution 63/156 on trafficking in women and girls, the General Assembly recognized that crises can exacerbate vulnerabilities to trafficking in persons; see also Healy, *Targeting Vulnerabilities*.

¹²³See, for instance, Healy, *Targeting Vulnerabilities*, pp. 57–62; "Trafficking in mixed migration flows", p. 4.

¹²⁴See also subsection 4.5.2 of this publication.

to cope with *large groups of people forced to flee from conflict*, such as push-back operations immediately after they have crossed a border and criminalizing irregular migration, may increase the disorderly movement of people and favour traffickers and other organized groups of criminals.¹²⁵ Therefore, as a fundamental component of effective prevention, paths should be put in place for people to safely leave conflict areas in a regular, orderly manner. Another key measure to reduce the vulnerability of those fleeing conflict is the establishment of proper, free-of-charge civil registration services, in particular birth and marriage registration for non-nationals and internally displaced persons in refugee camps.

The Framework of Analysis for Atrocity Crimes contains the following passage: “Prevention is an ongoing process that requires sustained efforts to build the resilience of societies to atrocity crimes by ensuring that the rule of law is respected and that all human rights are protected, without discrimination, by establishing legitimate and accountable national institutions; by eliminating corruption; by managing diversity constructively; and by supporting a strong and diverse civil society and a pluralistic media.”¹²⁶ Such efforts are also meaningful in the fight against trafficking in persons. Without them, atrocity crimes can occur and organized crime flourish, and the seeds of conflict are spread and sown.

Promising practices

- The UN Women flagship programme initiative on women’s leadership, empowerment, access and protection in crisis response focuses on gender-inclusive humanitarian planning, frameworks and programming, on protection and economic opportunities for women affected by sudden emergencies and on positive coping mechanisms for women and girls affected by protracted crises.^a
- UN Women and WFP provide safe spaces in refugee camps to build resilience among refugee women, for instance at the Za’atari refugee camp in Jordan, which shelters tens of thousands of women who have fled conflict in Syria.^b

^a UN Women, “Women’s leadership, empowerment, access and protection in crisis response” (2015), available at www2.unwomen.org/~media/headquarters/attachments/sections/library/publications/2015/fpi%20brief-leap_v5.pdf?v=1&d=20151208T214446

^b UN Women, “UN Women and WFP unveil expansion of ‘oasis for women and girls’: safe space in Za’atari refugee camp”, 10 November 2015. Available at <http://arabstates.unwomen.org/>.

Recommended resources on addressing vulnerability factors

- *A Framework to Underpin Action to Prevent Violence against Women* (UN Women, ILO, UNDP, UNESCO, UNFPA, OHCHR and WHO, 2015)
- *Women, Girls, Boys and Men: Different Needs, Equal Opportunities—Gender Handbook in Humanitarian Action* (IASC, 2006) includes framework on building resilience
- *Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum* (2006) relevant to reducing refugees’ vulnerability to trafficking

4.2.2. Addressing demand

¹²⁵A/71/384, para. 11.

¹²⁶“Framework of analysis for atrocity crimes”, p. 3.

As conflict exacerbates people's vulnerability to trafficking, so, too, does it increase demand for some goods and services derived from the exploitation of the victims. There is an ongoing discussion in counter-trafficking circles about what constitutes demand and from whom it originates. There is also a clear need to better understand its impact, so that it may be addressed more effectively in prevention programming.¹²⁷ In conflict-related settings, demand for exploitative labour increases as the regular labour workforce is depleted. At the same time, conflict situations create new demand, for instance for people participating in armed conflict as combatants or non-combatants. The placement of people in such roles and their exploitation may amount to trafficking in persons. Beyond labour that is directly related to conflict, post-conflict settings can increase demand for cheap labour to support States and businesses in rebuilding their infrastructures, potentially fuelling trafficking into post-conflict areas to supply that labour force.¹²⁸

The presence of the international community in conflict and post-conflict settings in the form of peacekeeping, humanitarian and other missions also increases demand for particular services, some of which may be exploitative. The presence of large militarized and predominantly male peacekeeping forces in areas where basic institutions are fragile or absent and populations are highly vulnerable increases the demand for sexual services. That demand may be met through trafficking in persons. It is a reality that those who have been deployed to contain fighting or to stabilize post-conflict areas have, in some cases, been directly involved in exploiting and abusing the people they were mandated to protect, thereby severely undermining the credibility of the United Nations. Those who prey on the vulnerability of others to perpetrate sexual exploitation and abuse represent a range of nationalities including that of the host country. However, it is of note that they are predominantly, if not exclusively, men.^{129,130,131}

Accountability to affected populations is an active commitment to use power responsibly by taking account of, giving account to, and being held to account by the people humanitarian organizations seek to assist.

Inter-agency Standing Committee Task Team on Accountability to Affected Populations and Protection from Sexual Exploitation and Abuse

Addressing demand is a complicated but necessary component of a holistic response to trafficking in persons. In its *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, OHCHR underlines that, based on experience and accurate information, prevention strategies should take into account demand as a root cause of trafficking. There is a need to analyse the factors that increase demand for forms of exploitation specific to conflict and post-conflict settings so as to improve the evidence base on which strategies can be mounted.¹³² Among the measures to address demand are awareness-raising; predeployment training of peacekeepers and other United Nations personnel; gender-sensitive research into sexual and non-sexual forms of exploitation; raising consumer awareness of products and services produced by exploitative and forced labour; regulation and monitoring of private recruitment agencies; sensitization of employers; enforcement of labour standards through

¹²⁷ *Recommended Principles and Guidelines on Human Rights and Human Trafficking: Commentary* (United Nations publication, Sales No. E.10.XIV.1), pp. 97–98.

¹²⁸ A/71/303, para. 40.

¹²⁹ *Ibid.*, para. 42.

¹³⁰ S/2016/949, para. 17.

¹³¹ In A/71/303, para. 43, the Special Rapporteur on trafficking in persons, especially women and children, refers to Angola, Bosnia and Herzegovina, Cambodia, the Democratic Republic of the Congo, East Timor, Kosovo, Liberia, Mozambique, Sierra Leone and Somalia as places where the past involvement of military, peacekeeping, humanitarian and other international personnel in trafficking and related exploitation during post-conflict periods has been documented.

¹³² E/2002/68/Add.1, principle 4 and guideline 7.

labour inspections; support for workers organizations; protection of the rights of migrant workers and the criminalization of the use of services of victims of trafficking or forced labour.¹³³ Such measures need to be calibrated for specific conflict and post-conflict settings based on how the demand fosters exploitation. At the same time, none of the measures taken must result in unintended negative consequences, including infringements on the rights of persons affected by conflict.

Promising practices

- The report of the Secretary-General entitled “Special measures for protection from sexual exploitation and abuse: a new approach” (A/71/818) offers an approach to addressing sexual exploitation and abuse across the United Nations system. The Secretary-General has also created a high-level task force to urgently develop and improve the response of the United Nations to sexual exploitation and abuse.
- The Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse is piloting an incident reporting form to record instances of sexual exploitation and abuse with the eventual aim of applying it across the United Nations system. The form includes a component specifically for reporting trafficking in adults and children for the purpose of sexual exploitation and abuse.
- The Office of the Special Representative of the Secretary-General for Children and Armed Conflict has signed action plans addressing grave violations against children with parties listed as having committed such violations, and has worked to implement them. Many of these action plans are aimed at preventing the recruitment of children into combat and preventing sexual violence against them, both of which can amount to trafficking in persons. The action plans of the Special Representative are a potent tool to increase the accountability of the targeted entities.
- The Inter-Agency Standing Committee Task Team on Accountability to Affected Populations and Protection from Sexual Exploitation and Abuse is currently rolling out mechanisms that allow members of communities to file complaints relating primarily to sexual exploitation and abuse. This model could be expanded to include reporting concerns related to trafficking.

Recommended resources

- *Stop Abuse: Human Trafficking Resource Package* (Department of Peacekeeping Operations, 2004)
- United Nations, Peacekeeping resource hub, Peacekeeping training resources (Department of Peacekeeping Operations)
- “United Nations glossary on sexual exploitation and abuse, second edition” (Task Team on the Sexual Exploitation and Abuse Glossary, 2017)
- Security Council resolutions on women, peace and security
- Secretary-General’s bulletin on special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13)
- *Best Practice Guide: Inter-Agency Community Based Complaints Mechanisms, Protection against Sexual Exploitation and Abuse* (Inter-Agency Standing Committee, 2016)
- Toolkit to Combat Trafficking in Persons (United Nations publication, Sales No. E.08.V.14), tools 9.12, 9.17 and 9.18
- Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo (A/HRC/23/48 and Add.1–5)

¹³³ CTOC/COP/2010/6, para. 66.

4.2.3. Raising awareness of the risk of trafficking and other forms of exploitation

According to good practice guidelines, potential migrants should be properly informed about the risks associated with migration, such as those relating to exploitation and security, and that they should also be informed about the avenues available to them for legal migration.¹³⁴ Applied to the context of mass movements of people forced to flee conflict, informing those fleeing requires that targeted messages be placed along known routes with warnings about the danger of falling victim to exploitation. The OHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking* suggest that information campaigns be used to promote awareness of the dangers associated with trafficking, and that such campaigns should be informed by an understanding of the reasons for individuals to migrate despite the dangers involved and the complexities surrounding trafficking.¹³⁵

However, awareness-raising measures will do little to prevent trafficking in persons, unless they are targeted at specific audiences on the basis of identified risks. People who are forced to flee conflict and have no choice but to use the services of smugglers receive no benefit from being told that they run the risk of being trafficked. Points of intervention should be identified to ensure that people who flee or may flee from conflict are warned about possible dangers and receive information that enables them to seek assistance.¹³⁶ For instance, campaigns to raise migrants' awareness of their rights should include the contact information of relevant organizations so that they can take action in pursuit of those rights.

Awareness-raising campaigns targeting people in conflict zones who are at risk of being trafficked or otherwise exploited (whether through the lure of radicalizing messages or deceptive employment opportunities) should be based on a thorough understanding of their motivations. Electronic, print, social and other media should be used to counter messages spread by traffickers and others who exploit impressionable people. Journalists should be supported in their work by offering them information and training on trafficking in persons.

In addition, concrete measures could be taken to raise awareness of the risks among United Nations entities and other actors on the ground, such as giving training, building capacity and disseminating guidance material. Whenever United Nations entities engage in training or awareness-raising activities aimed at promoting human rights in a broad sense, consideration should be given to incorporating trafficking components either as dedicated training modules or otherwise. Training should take into account human rights, children's issues and gender-sensitive issues. Accordingly, cooperation with non-governmental and other relevant organizations in the design and delivery of such training should be encouraged.

¹³⁴ E/2002/68/Add.1, guideline 7, para. 4.

¹³⁵ Ibid., guideline 7, para. 5.

¹³⁶ Ibid., guideline 2, para. 4.

Promising practices

- UNODC and the Department of Peacekeeping Operations are developing a training module on trafficking in persons and the smuggling of migrants for in-mission training of police personnel. The aim of this initiative is to produce a training module for a selected peacekeeping operation and replicate it for use in other United Nations peacekeeping operations where applicable.
- ILO and IOM are developing a training module on trafficking in persons and forced labour in conflict and crisis situations for delivery in 2018.
- The Metropolitan Police Service of the United Kingdom has distributed online videos of refugee women from Syria warning women outside Syria about the realities of life under ISIL. The purpose is to counter the online fraud and deception that drive online recruitment. The Service has also conducted media campaigns featuring, among others, former members of terrorist groups, community leaders and religious leaders.^a
- Google redirects online searches that appear to come from potential terrorism recruits towards anti-terrorist videos.^b

^a A/71/303, para. 51.

^b See Kent Walker, “Four steps we’re taking today to fight terrorism”, 18 June 2017, available from <https://www.blog.google/topics/google-europe/four-steps-were-taking-today-fight-online-terror/>

4.3. Protecting and assisting the victims

Protection and the obligations it entails are understood in different ways. For the Inter-Agency Standing Committee, protection means supporting full respect for the rights of the individual in accordance with international human rights, humanitarian law and refugee law.¹³⁷ For others, protection may also refer to the physical protection of victims of trafficking and other crimes from retaliation. The term may capture a wide range of services, such as physical and psychosocial support for victims who participate in criminal justice processes, and it may extend to measures applied irrespective of any criminal justice process, such as the rehabilitation and reintegration of victims. Finally, protection may be construed as a broad aim that can only be meaningfully achieved through prevention.

In the specific context of conflict, the *responsibility to protect* means that “each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”¹³⁸ The international community, including the United Nations, plays a central role in that it assists States in fulfilling that obligation.¹³⁹ Broader forms of assistance include the dissemination of legal standards and normative commitments and engaging in dialogue with States on fulfilling their responsibility to protect; building national capacities through training, institution-building and the active sharing of best practices; and assisting States in protecting populations in situations of emerging or ongoing crisis through the provision of additional capacity or expertise.¹⁴⁰ Wherever acts indicative of trafficking in persons occur in a context of genocide, war crimes, ethnic cleansing or crimes against

¹³⁷Inter-Agency Standing Committee, “Protection of internally displaced persons: Inter-Agency Standing Committee policy paper” (New York, December 1999), p. 4.

¹³⁸General Assembly resolution 60/1, para. 138.

¹³⁹A/68/947-S/2014/449, para. 21.

¹⁴⁰Ibid., para. 28.

humanity, States' responsibility to protect vulnerable populations can be brought to bear to ensure that anti-trafficking measures are included in the response.

In the context of the Trafficking in Persons Protocol, States are required to take or consider taking a number of measures to protect and assist victims of trafficking. In practice, the content of those measures depends on the circumstances, the actors involved, and, crucially, the needs of the victim. Article 6 of the Trafficking in Persons Protocol outlines the protection and assistance that States parties are obliged to consider providing in cooperation with non-governmental and other relevant organizations and elements of civil society. These include housing; counselling and information about legal rights; medical, psychological and material assistance; and opportunities for employment, education and training.¹⁴¹ The OHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking* describe how it can be ensured that the protection and assistance provided are not detrimental to the rights and dignity of the victims.¹⁴²

These obligations are not diminished by the onset of conflict; victims of trafficking have the same rights to protection and assistance in conflict or post-conflict situations as they do otherwise.¹⁴³ However, in conflict or post-conflict situations, the capacity of States to fulfill their obligations may have been drastically reduced. Where protection frameworks are damaged as a result of conflict, the challenge is to ensure that victims are identified and receive the protection and assistance they need and are entitled to, both in the short and long terms. Sometimes stepping up protection and assistance will require that an enabling environment is promoted. For instance, psychosocial support and sexual and reproductive health services may be inaccessible where certain acts are criminalized (for instance, abortion or same-sex encounters). In such situations, the barriers to accessing support need to be overcome.

In settings where States are not able to fulfil their obligations, existing protection frameworks may need to be bolstered by international organizations and non-State actors. Accordingly, it is recommended that United Nations actors conduct a mapping exercise to determine which actors are involved and what services they are making available to trafficked persons.¹⁴⁴ Such mapping exercises should include national strategies, national plans of action and national referral mechanisms already in place to address trafficking in persons.¹⁴⁵ It is crucial that the United Nations and other humanitarian actors assess the extent to which such mechanisms and any other response frameworks are functional despite the conflict, and that they evaluate how they can be adapted to the circumstances and strengthened in the long term.

¹⁴¹Art. 6, para. 3, of the Trafficking in Persons Protocol.

¹⁴²E/2002/68/Add.1, guideline 6.

¹⁴³A/71/303, para. 48.

¹⁴⁴See annex C of the present publication.

¹⁴⁵A national referral mechanism is a cooperative framework through which State actors fulfil their obligations to protect and promote the human rights of trafficked persons and to that end coordinate their efforts with civil society in a strategic partnership. Typically, national referral mechanisms set out the actions to be taken when victims of trafficking are detected so as to ensure a comprehensive response to their needs and situation. See Organization for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights, *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons* (Warsaw, 2004), p. 15.

Recommended resources

Several guidelines and resources are available on protecting and assisting victims of trafficking. They can be referred to when integrating trafficking considerations into conflict-related protection and assistance frameworks and mechanisms.

- *The IOM Handbook on Direct Assistance for Victims of Trafficking* (IOM, 2007)
- *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster* (Migrants in Countries in Crisis, 2016)
- “Providing effective remedies for victims of trafficking in persons: issue paper” (ICAT, 2016)
- “Trafficking in persons and refugee status: issue brief No. 3” (ICAT, September 2017)
- *Toolkit to Combat Trafficking in Persons* (UNODC, 2008), in particular tool 6 on victim identification and tool 8 on victim assistance
- “Policy guide on protecting victims of trafficking” (Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, 2015)
- Report of the Special Rapporteur on trafficking in persons, especially women and children (A/69/33797, annex)
- Report of the Special Rapporteur on trafficking in persons, especially women and children (A/66/283)
- Report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/17/35)

4.3.1. Identifying victims of trafficking

Unless they are identified, victims of trafficking cannot be assisted and protected, and further denial of their rights will result. Victims of trafficking may be approached as survivors of gender-based violence and sexual slavery or as any other people in need of support. In the former case there are opportunities to also identify them as victims of trafficking and to ensure their access to specialized assistance services. In the latter case, those opportunities may be missed. In the presence of large, conflict-driven movements of people whose journeys may be facilitated by smugglers, *victims of trafficking may be misidentified* as smuggled or undocumented migrants. In such situations, they may not receive the protection and assistance to which they are entitled and may even be detained and deported instead. This shows that there is room for improving the integration of trafficking-related considerations into existing protection mechanisms. Guideline 2 of the OHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking* sets out concrete measures that may aid in the identification of trafficked persons and traffickers, including through the development of procedures and guidelines, cooperation between actors, adequate training on identification and cooperation.¹⁴⁶

It is important to understand that *victims of trafficking are unlikely to come forward and identify themselves* because they do not understand their situation, are ashamed, or are afraid of stigmatization, retaliation from traffickers, or detention or deportation by the authorities. Many of these fears may be well founded. There are reports of victims and their families having been harmed by retaliations from traffickers. Victims of trafficking therefore need to be proactively identified by those who come into contact with them in the course of their day-to-day work, whether they are police, border guards, immigration officials, health practitioners, humanitarian personnel or peacekeepers. All these actors should have access to

¹⁴⁶ E/2002/68/Add.1, guideline 2, paras.1 and 3.

appropriate guidelines and procedures for identifying cases of trafficking, and be trained and empowered to use them.¹⁴⁷ Cooperation between State and non-State actors in the identification of victims of trafficking should be enhanced to maximize their capacity in that respect.

Personnel who may encounter victims in their day-to-day work may be given a summary of *indicators* or signs that suggest a person has been trafficked. The indicators could be printed on small cards that they could carry with them. Indicators are not conclusive on their own; their purpose is to alert non-specialists to the possibility that certain individuals may be victims of trafficking so that they can refer them to a trained specialist. The specialist will determine whether they are indeed a victim of trafficking and, if necessary, ensure they receive appropriate support. Indicators are most effective when tailored to the context of those who are in contact with potential victims, whether along migration routes, in conflict settings, in refugee camps or elsewhere. Generalized and publically available indicators should be adapted to the specific situation of the conflict or post-conflict setting. They should be shared as soon as practical after the onset of a crisis and be continually updated as trafficking trends and *modi operandi* change and new information is acquired.

Promising practices

- Two hundred monitors active in the OSCE Special Monitoring Mission to Ukraine received country-specific training to integrate counter-trafficking concerns into their day-to-day monitoring duties. There is a potential to harness the lessons learned from this experience and harmonize monitoring methodology across OSCE.
- The UNHCR Strategy and Regional Plan of Action on Smuggling and Trafficking from the East and Horn of Africa has resulted in hundreds of victims being identified and assisted by UNHCR and IOM. Eighty per cent were resettled in 2016.^a
- While, in its databases, UNHCR does not explicitly include trafficked people within its population of concern, it is currently rolling out and testing its ProGres registration software that includes a function for reporting forms of exploitation that could be related to trafficking.
- IOM has leveraged networks of State and non-State actors to identify victims of trafficking among migrant workers and provide comprehensive packages of services to them. The migrant workers may have fled, have been rescued or have been evacuated from a conflict. Examples of countries include Libya (2013–2014), Yemen (2015) and Syria (2011–present).^b

^a S/2016/949, para. 49.

^b Sarah Craggs and others, "Responding to human trafficking and exploitation in times of crisis: reducing the vulnerabilities of migrants in preparedness, response and recovery efforts", Issue Brief (Migrants in Countries Crisis Initiative, January 2016), p. 6. Available at: <https://micinitiative.iom.int/>.

Recommended resources

- "Trafficking in persons indicators", leaflet published by UNODC and the Global Initiative to Fight Human Trafficking in 2008)
- ILO, "Operational indicators of trafficking in human beings" (2009)
- "Policy guide on identifying victims of trafficking" (Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, 2015)
- OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders* (2014)

¹⁴⁷ E/2002/68/Add.1, guideline 2, paras.1 and 2.

4.3.2. Referring victims of trafficking

In conflict and post-conflict settings, stakeholders can make provisions in their existing referral and registration procedures for victims and potential victims of trafficking and refer them to specialized international and civil society organizations for assistance. Where no procedures exist, new ones can be established.¹⁴⁸ It is best practice to ensure that referrals are not made conditional on the victim's participation in criminal justice proceedings, their cooperation with law enforcement authorities or the legal qualification of the trafficking offence.¹⁴⁹ In areas affected by conflict, functioning national referral mechanisms for victims of trafficking are often lacking. However, there may be systems to provide support to other vulnerable groups such as survivors of sexual and gender-based violence, children, internally displaced persons, stateless persons, migrants and refugees. Such mechanisms should be mapped, so that persons who are identified may be referred to actors able to protect and assist them. Crucially, access to assistance and protection should not be limited on the basis of the legal or other status of the person referred.

While States are the primary parties responsible for providing protection and assistance services, other stakeholders, including United Nations actors and civil society organizations, may be able to provide support. In the absence of State capacity they may even be required to do so. For example, as noted in the report of the Special Rapporteur, the United Nations voluntary trust fund for victims of trafficking in persons, especially women and children, and the United Nations voluntary trust fund on contemporary forms of slavery could provide resources to non-State actors of limited means, enabling them to support victims directly.¹⁵⁰ As another example, the Women's Peace and Humanitarian Fund of UN Women has as its aim to promote the resilience of women's civil society organizations through targeted funding. In certain settings, civil society actors and non-governmental organizations may be the sole assistance providers available, making their safe access to persons in need crucial.

In many situations, international protection may be the most comprehensive form of protection available to victims of trafficking. Persons identified as victims or potential victims who are outside their country of nationality or habitual residence may be eligible for international protection as refugees under the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. There are circumstances in which a victim or potential victim of trafficking may have a well-founded fear of being persecuted within the meaning of the Convention and the Protocol. Whether this is indeed the case, needs to be assessed case by case.¹⁵¹ While the mere act of fleeing conflict does not qualify a person for refugee status under the Convention, conflict settings can give rise to a well-founded fear of persecution on ethnic, religious, societal and/or political grounds.¹⁵² In such situations, a person or group may be at risk of being singled out and targeted for persecution.

¹⁴⁸ See, for instance, Migrants in Countries Crisis Initiative, *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster* (Geneva, IOM, 2016), guideline 12.

¹⁴⁹ A/71/303, para. 57.

¹⁵⁰ A/71/303, para. 58.

¹⁵¹ Guidelines on International Protection: The application of article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking in persons and persons at risk of being trafficked (HCR/GIP/06/07), paras. 13–18. See also Guidelines on International Protection: Child asylum claims under articles 1(A)2 and 1(F) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees (HCR/GIP/09/08) and Guidelines on International Protection: Gender-related persecution within the context of article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees (HCR/GIP/02/01).

¹⁵² At the national and regional levels, the definition of refugee may be broader than in the 1951 Convention and the 1967 Protocol relating to the Status of Refugees. For instance, the Organization of American States has broadened the definition of refugee to include people fleeing armed conflict.

The persecution can at first appear to be criminal, motivated by profit or indiscriminate, but may, in fact, give rise to a well-founded fear of being persecuted within the meaning of the Convention. Persecution can include exploitation in the form of forced recruitment, trafficking in persons, sexual slavery or forced marriage. When determining whether a person who has fled conflict, or who may have been trafficked from a conflict setting for the purpose of exploitation in a third country, is in need of international protection, the presence of such forms of exploitation can therefore be highly relevant.¹⁵³ For other trafficked individuals or groups, their fear of persecution can result from severe discrimination or punishment by State authorities or community members in their country of origin for having been trafficked, and can also include, for example, a well-founded fear of reprisal and/or renewed trafficking in the country of origin on the basis of their ethnicity or membership of a minority group.¹⁵⁴ Victims of trafficking for whom a well-founded fear of being persecuted cannot be established may be accorded permission to remain in a host State on humanitarian and compassionate grounds, because it is in the best interests of a child, or for other practical reasons (e.g. for the duration of medical treatment). In some situations, doing so may prove life-saving.

¹⁵³ Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions (HCR/GIP/16/12).

¹⁵⁴ Inter-Agency Coordination Group against Trafficking in Persons, “Trafficking in persons and refugee status”, Issue Brief No. 3 (September 2017). See also HCR/GIP/06/07, paras. 13–18.

Promising practices

- In 2009, IOM and UNCHR set up a joint framework for developing standard operating procedures to enable the identification and referral of specific cases of trafficking, including in conflict settings, where the victim may be eligible for international protection or may need tailored support.^a
- IOM, UNODC, UNFPA, UNCHR and UNICEF followed a joint strategy to address trafficking in persons, kidnappings and the smuggling of migrants in the Sudan in the period 2015–2017.
- In its third call for proposals, the United Nations voluntary trust fund for victims of trafficking in persons, especially women and children made it a priority to assist victims coming out of a context of armed conflict and victims identified among large movements of refugees and migration flows. The aims of the trust fund include providing essential humanitarian, legal and financial aid to victims and ensuring effective access to services and remedies. The trust fund is administered by UNODC.
- In the Northern Triangle of Central America (comprising El Salvador, Guatemala and Honduras), a network of service providers has been created to identify and refer to appropriate agencies and institutions victims of trafficking and survivors of sexual and gender-based violence among those fleeing violence perpetrated by non-State armed groups. The network consists of United Nations agencies, civil society and faith-based organizations, shelters and State institutions that share information, identify and refer cases and provide services to victims of trafficking.
- The Praesidium project is a multi-agency cooperation model for humanitarian reception and assistance. Initiated in 2006, it is led by the Ministry of Interior of Italy and carried out by State institutions in partnership with IOM, UNHCR, the Italian Red Cross and Save the Children Italy. Various activities are undertaken to coordinate protection and assistance services.
- Migrants in Countries in Crisis is a Government-led, multi-stakeholder initiative for improving the ability of States and other stakeholders to respond to the needs of migrants caught in countries experiencing crises, including as a result of conflict. Its voluntary, non-binding guidelines refer to vulnerability to trafficking in persons and other forms of exploitation^b
- The World Food Programme has created pocket-sized cards for staff and partners coming into contact with victims of abuse and exploitation in the course of their work in refugee camps, to enable them to make appropriate referrals.

^aIOM, *Addressing Human Trafficking and Exploitation in Times of Crises: Evidence and Recommendations for Further Action to Protect Vulnerable and Mobile Populations* (Geneva, 2015), p. 29.

^bSee *Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster*. For IOM good practice examples, see Craggs and others, “Responding to human trafficking and exploitation in times of crisis”.

Recommended resources

UNHCR has created guidance material that is relevant to determining refugee status in situations of armed conflict and violence.^a These guidelines should form the basis of efforts to build the capacity of refugee decision-makers to identify claims for refugee status that are linked to conflict.

- “Guidelines on International Protection: Gender-related persecution within the context of article 1A (2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees” (HCR/GIP/02/01)
- “Guidelines on International Protection: The application of article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking in persons and persons at risk of being trafficked” (HCR/GIP/06/07)
- “Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A (2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions” (HCR/GIP/16/12)

^a HCR/GIP/16/12.

Other relevant guidance

- *Recommended Principles and Guidelines on Human Rights at International Borders* (OHCHR, 2014)
- *National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons —A Practical Handbook* (OSCE/Office for Democratic Institutions and Human Rights, 2004)
- Report of the United Nations High Commissioner for Human Rights on principles and practical guidance on the protection of the human rights of migrants in vulnerable situations (A/HCR/34/31)
- “Principles and guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations within large and/or mixed movements, draft” (Global Migration Group)
- IOM, “Regional guidance note on addressing trafficking in persons and protecting vulnerable migrants in crisis and post-crisis contexts: ensuring a regional mainstreaming approach” (Cairo, 2014)

4.3.3. Non-criminalization and non-stigmatization of victims of trafficking

In its resolution 2331 (2016), the Security Council called for the continued support of UNODC and other relevant actors in assisting Member States, upon request, with the identification of and assistance to victims of trafficking. In the same resolution, the Council called on Member States to ensure that victims are treated as victims of crime and in line with domestic legislation not penalized or stigmatized for their involvement in any unlawful activities in which they have been compelled to engage.

The *principle of non-punishment* is an essential part of a human-rights based approach to trafficking in persons. While the Trafficking in Persons Protocol does not explicitly invite States to refrain from punishing victims of trafficking for acts they have committed in the context of their trafficking experience, the effective implementation of the Protocol’s provisions on protection and assistance requires that this principle be upheld. This is clarified in the Recommended Principles and Guidelines on Human Rights and Human Trafficking:

trafficked persons should not be criminalized for unlawful activities that they were involved in as a direct consequence of their situation as trafficked persons.¹⁵⁵ In particular, victims should not be held accountable for criminal and administrative offences under immigration law or for offences linked with prostitution or petty crime.¹⁵⁶

The principle of non-criminalization has been reflected in regional instruments relating to trafficking in persons. Article 26 of the Council of Europe Convention on Action against Trafficking in Human Beings states:

“Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so”.

Similarly, article 14, paragraph 7, of the ASEAN Convention against Trafficking in Persons, Especially Women and Children, stipulates:

“Each party shall, subject to its domestic laws, rules, regulations and policies, and in appropriate cases, consider not holding victims of trafficking in persons criminally or administratively liable, for unlawful acts committed by them, if such acts are directly related to the acts of trafficking”.

Again, article 8 of European Union directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims addresses non-prosecution or non-application of penalties to victims of trafficking, stating:

“Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in article 2”.

Conversely, many States have included in their legislation provisions to ensure that victims of trafficking are not prosecuted or otherwise sanctioned under criminal or administrative law, for offences they have committed as part of their trafficking experience. Two criteria may be used: causation (the offence is directly connected with the trafficking) and duress (the person was compelled to commit the offences). Some States may apply the non-liability principle only to offences of a certain nature (such as violations of laws or regulations relating to prostitution, illegal crossing of borders) or when the overall circumstances are deemed appropriate, while others may provide for non-punishment of victims for any type of offence.

The challenges involved in applying the principle of non-criminalization to conflict settings are acute. For example, victims may have been trafficked by terrorist or armed groups precisely in order to participate in their criminal activities. Practitioners should therefore study and carefully apply the relevant national legislation and thoroughly and individually assess the situation of each person associated with armed or terrorist groups.

Upholding the *principle of non-stigmatization* is a distinct but related challenge. Persons who are criminalized are also very often stigmatized. This highlights the need not to contribute to their stigmatization by treating them as criminals or otherwise punishing them. Persons who survive trafficking—especially its sexually exploitative forms—are often revictimized

¹⁵⁵ E/2002/68/Add.1, principle 7; guideline 2, paras. 5 and 6, guideline 4, para. 5.

¹⁵⁶ A/71/303, para. 69.

through the treatment they face from State authorities, their communities and even their families. Victims who manage to leave armed or terrorist groups, or who cease to be their captives, may be stigmatized and ostracized for having been associated with their exploiters. Moreover, children who are born because their mothers have been raped by members of armed or terrorist groups or trafficked for sexual exploitation are very often stigmatized and rejected by their families and communities. Male victims of sexual violence may be equally affected. Stigmatization can deter victims from seeking assistance and undermine their capacity and willingness to support criminal justice processes mounted against the perpetrators.

In its resolution 2331 (2016), the Security Council affirmed that victims of trafficking in persons by terrorist groups should be classified as victims of terrorism with a view to rendering them eligible for official support, recognition and redress available to victims of terrorism. The full potential of that classification to not only remove barriers to assistance but also reduce the stigmatization of victims of trafficking should be explored. Other concrete measures can be taken as well, such as minimizing the marginalization of foreign victims of trafficking by ensuring that they have legal status, and engaging with communities to increase their acceptance of survivors and their children.

Promising practices

- ILO, UNDP, the Department of Peacekeeping Operations and UNICEF are members of an inter-agency working group to support the reintegration of children associated with armed groups. The aim is to economically empower and support the reintegration of such children into families and communities. Integrating aspects relating to trafficking in persons could enhance this and similar initiatives.
- In 2016, the Government of Iraq and the United Nations signed an agreement of cooperation on the prevention of and response to conflict-related sexual violence, known as “the joint communiqué”. The parties seek to ensure that children born of rape have legal status so as not to perpetuate their marginalization and potential targeting for future radicalization and recruitment, and to foster engagement with religious and traditional leaders to increase the acceptance of survivors and their children back into communities.
- The anti-poverty organization Heartland Alliance International works with religious and community leaders to reduce stigma.

Recommended resources

- *Policy and Legislative Recommendations Towards the Effective Implementation of the Non-punishment Provision with Regard to Victims of Trafficking* (OSCE, 2013)
- *The IOM Handbook on Direct Assistance for Victims of Trafficking* (IOM, 2007)
- *Toolkit to Combat Trafficking in Persons* (United Nations publication, Sales No. E.08.V.14), tool 6.1 on non-criminalization of trafficking victims
- *Guidelines on the Protection of Child Victims of Trafficking* (UNICEF, 2006)

4.4. Investigating and prosecuting trafficking in persons

The Trafficking in Persons Protocol has been ratified by a large number of countries. As of 15 November 2017, it had 172 States parties, the majority of which had enacted legislation to criminalize trafficking in persons, in general alignment with the international definition of trafficking in persons outlined in chapter 2 above. However, worldwide, few traffickers are

prosecuted, making trafficking a low-risk, high-profit crime even in countries not affected by conflict. Globally, only one trafficker is convicted for every five victims identified.¹⁵⁷ This fact highlights the acute challenge of securing convictions in conflict and post-conflict areas, where the collection of evidence is hampered and criminal justice frameworks are fragile or broken. These realities point to the need to build rule-of-law and criminal justice capacity and to ensure that protection and assistance for victims of trafficking do not rest upon criminal justice outcomes.

Whether and how trafficking in persons is prosecuted in a given area affected by conflict will vary depending on a range of factors, including the legislation that is in place. In most States, trafficking in persons offences are governed by domestic criminal legislation. In States that have not criminalized trafficking in persons as such, or in cases where evidence of trafficking cannot be obtained, investigating and documenting other criminal offences, such as those related to assault and battery, may be useful in bringing perpetrators to account. Perpetrators might not be pursued for their crimes until many years after the fact, if at all, and where crimes are not documented, they may be perpetrated with impunity. It is therefore important to collect and preserve evidence of trafficking in conflict-related settings.

An adequate law enforcement response to trafficking requires cooperation from victims and other witnesses. Many will be reluctant to report traffickers or to serve as witnesses because of the trauma of their experience, or because they lack confidence in the capacity of the law to protect them, especially in places where law enforcers are perceived as complicit in the trafficking. Moreover, the risks involved in the process may outweigh the benefits. In conflict situations, those challenges can be compounded by difficulties victims and their families face that make their participation in criminal justice processes impossible. International and non-governmental organizations have a key role to play in sensitizing law enforcers and prosecutors and building their capacity.¹⁵⁸

A rights-based approach to investigation and prosecution ensures that protection and assistance take precedence over criminal justice objectives wherever the two conflict. Similarly, giving adequate protection and support to witnesses—including victims who serve as witnesses—before, during and after any criminal justice proceedings in which they participate is complex. The support of non-governmental organizations and civil society groups in helping victims to recover and supporting their participation is invaluable. Ensuring that accused persons have access to legal assistance and enjoy the right to a fair trial can also be particularly challenging in conflict-affected countries where State institutions are weakened.

4.4.1. Arriving at a harmonized understanding of trafficking and other crimes in conflict settings

There is an urgent need to arrive at a harmonized understanding among United Nations agencies of trafficking in persons and related crimes across conflict settings in accordance with international law and international standards.¹⁵⁹ At the outset, such a harmonized understanding requires States to be encouraged to ratify relevant international instruments, in particular the Organized Crime Convention and the Trafficking in Persons Protocol. Also, United Nations agencies and other actors operating in conflict and post-conflict situations should determine

¹⁵⁷ *Global Report on Trafficking in Persons*, 2016, p. 12.

¹⁵⁸ E/2002/Add.1, guideline 5.

¹⁵⁹ E/2002/Add.1, guideline 4.

whether the legislative framework of a given country relating to trafficking in persons requires revision, so that they can advocate amendments in accordance with international standards. In particular, consideration should be given to imposing higher penalties for trafficking with aggravating circumstances, such as when committed against children or with the involvement or complicity of State officials or other persons mandated to protect civilians.

Promising practices

The agreement signed in 2016 between the Government of Iraq and the United Nations on cooperation on the prevention of and response to conflict-related sexual violence, also known as the “joint communiqué”, sets out a number of priority actions. One of those is holding those responsible for conflict-related sexual violence accountable in line with Security Council resolution 2106 (2013). Measures to achieve this include strengthening the capacity of authorities to document, investigate and prosecute relevant crimes, providing support for the review and reform of legislation, and providing technical assistance to facilitate the domestic prosecution of crimes.

Recommended resources

- *Needs Assessment Toolkit on the Criminal Justice Response to Human Trafficking* (UNODC, 2010)
- *International Framework for Action to Implement the Trafficking in Persons Protocol* (UNODC, 2009)
- *Model Law against Trafficking in Persons* (United Nations publication, Sales No. E.09.V.11)
- Human Trafficking Knowledge Portal (UNODC) contains country-specific information on the implementation of the Trafficking in Persons Protocol

4.4.2. Building capacity for investigation, including the investigation of financial flows

For victims to have access to justice, evidence has to be collected effectively.¹⁶⁰ Without evidence, perpetrators cannot be brought to justice. As with protection and assistance, many actors in conflict settings that are in a strong position to gather evidence of trafficking in persons may have no specific mandate to do so. This can result in missed opportunities to bring perpetrators to justice. Consideration could be given to establishing an explicit link between, on one hand, those who conduct research, collect data and monitor the situation, and, on the other, those who have an interest in investigation and prosecution. Data collection—and crucially, the sharing of the collected data—has been highlighted by experts as an essential part of efforts to disrupt trafficking in conflict settings, especially if the data are shared with and among actors in law enforcement and the financial sector.¹⁶¹ Non-governmental organizations can help to strengthen the law enforcement response by notifying the authorities of potential trafficking incidents and patterns. In doing so, they should preserve the privacy of the victims.¹⁶²

In general, the capacity of law enforcement authorities to combat trafficking in persons needs to be strengthened by equipping them with investigative tools and techniques to investigate

¹⁶⁰E/2002/Add.1, guideline 9.

¹⁶¹Cockayne and Walker, *Fighting Human Trafficking in Conflict*, ix, p. 4.

¹⁶²E/2002/Add.1, guideline 3, para. 7.

trafficking-related crimes proactively and by sensitizing them to the issues they may encounter in conflict-related settings. There is also a growing understanding that victims who are effectively protected and assisted are better able to cooperate with criminal proceedings against their traffickers. Partnerships with civil society actors are invaluable in that regard.¹⁶³ Furthermore, an increased capacity to conduct financial investigations is required, both in general and specifically in the context of conflict settings. States should be supported in the enactment and implementation of legal provisions that allow the identification, tracing, freezing, seizure and confiscation of the proceeds of trafficking in persons.

A significant amount of attention has been given to analysing and disrupting financial flows to and from traffickers. In its resolution 2331 (2016), the Security Council emphasized the connection between the financing of terrorism and trafficking in persons and encouraged the analysis of financial flows associated with trafficking in persons that finance terrorism. This shows that there is a wider imperative to follow the money. Trafficking is a crime that generates high profits. By tracking those profits and disrupting their flow, trafficking itself can be disrupted. It is therefore widely acknowledged that counter-trafficking efforts must be supported by commensurate efforts to disrupt financial flows. Data must be collected and analysed, and investigations of suspected trafficking must include financial investigations. The provisions of the Organized Crime Convention on criminalizing and combating money-laundering provide a solid framework for action against financial flows resulting from trafficking offences.

Where national courts lack the capacity to bring perpetrators to account, alternative regional and international courts should be considered to end impunity.¹⁶⁴ Suspects may be prosecuted for crimes related to trafficking offences, including those discussed in chapter 3 above. For instance, where the acts associated with trafficking amount to an atrocity crime, international criminal law applies.

¹⁶³E/2002/Add.1, guideline 5.

¹⁶⁴A/71/303, para. 59.

Promising practices

- Justice Rapid Response is an organization that works to increase accountability by supporting the investigation of sexual and gender-based violence, including in areas affected by conflict. In partnership with UN Women it has created a roster of international investigators of crimes involving sexual and gender-based violence. The roster received praise from several countries during the open debate at the Security Council on sexual violence in conflict as a tactic of war and terrorism held in May 2017.^a
- At the national level, UNODC has trained lawyers in assisting and defending children prosecuted for offences related to terrorism. The training was held in response to the extended detention of children awaiting trial and their lack of access to legal assistance. The training also focused on the special needs of children forcibly recruited by terrorist groups and their treatment as victims of trafficking.
- OSCE, together with a range of partners, has created a training project entitled “Combating trafficking in persons along migration routes”. The project comprises a simulation exercise to strengthen multidisciplinary cooperation in responding to trafficking in persons. A mixed migration flow is simulated, with actors playing victims of trafficking and perpetrators. Participants come from a range of disciplines and include criminal investigators, financial investigators, labour inspectors, prosecutors, lawyers, staff of non-governmental organizations and shelters, municipal social services, cultural mediators, interpreters and journalists. All are called upon to work together in developing a response. The training includes a financial investigation component, supported by the financial investigation unit of Switzerland.^b
- The Team of Experts on the Rule of Law and Sexual Violence in Conflict, in accordance with its mandate under Security Council resolution 1888 (2009), assists Governments with criminal investigation and prosecution, military justice, legislative reform, the protection of victims and witnesses, and reparations. The Team of Experts includes specialists from the Department of Peacekeeping Operations, OHCHR and UNDP and a roster of experts, and reports directly to the Special Representative on Sexual Violence in Conflict. As of October 2017, the Team of Experts had been active in the Central African Republic, Colombia, Côte d’Ivoire, the Democratic Republic of the Congo, Guinea, Iraq, Liberia, Mali, Somalia and South Sudan.
- Liberty Asia is a non-governmental organization aiming to prevent trafficking in persons through legal advocacy, technological interventions and strategic collaborations with non-governmental organizations, corporations and financial institutions in South-East Asia. Liberty Asia is working with at least one FATF-style regional body to conduct research on trafficking in persons, and will cooperate with Counter-Terrorism Committee Executive Directorate of the Security Council to raise awareness of the linkages between the funding of terrorism and trafficking in persons to inform policymaking and actions undertaken by Liberty Asia’s network of civil society and non-governmental organizations.

^a Justice Rapid Response, “JRR-UN Women SGBV roster recognized at United Nations Security Council debate on sexual violence in conflict”, 7 June 2016. Available at www.justicerapidresponse.org/sgbv-unscc-may-2017-sexual-violence/.

^b For more information, see OSCE, “Combating human trafficking along migration routes”. Available at www.osce.org/projects/cthlivex.

Recommended resources

- *Anti-Human Trafficking Manual for Criminal Justice Practitioners* (UNODC and the Global Initiative to Fight Human Trafficking, 2009)
- The UNODC global e-learning programme includes, among many other topics, a module on trafficking in persons

4.4.3. Strengthening existing sanctions regimes with regard to trafficking in persons

If no effective investigation or prosecution can be mounted and trafficking cannot be disrupted, other action can be considered, such as using existing sanctions regimes.

In its resolutions 1267 (1999), 1989 (2011) and 2253 (2015), the Security Council imposed asset freezes, travel bans, arms embargos and other sanctions on ISIL, Al-Qaida and associated individuals, groups, undertakings and entities. In the preamble to its resolution 2253 (2015), the Security Council noted that any person or entity who transfers funds to ISIL directly or indirectly in connection with exploitation and abuse would be eligible for listing by the 1267/1989/2253 ISIL (Da'esh) and Al-Qaida Sanctions Committee. Security Council resolution 2368 (2017) requires all States to freeze the assets derived from financial transactions involving any funds, economic resources or income-generating activities benefiting individuals, groups, undertakings and entities on the ISIL (Da'esh) and Al-Qaida Sanctions List, including the proceeds of trafficking in persons. Security Council resolution 2374 (2017) on the situation in Mali also provides for travel bans and asset freezes for trafficking in persons, which it qualifies as an action that threatens the peace, security or stability of that country. The explicit inclusion of trafficking in persons does not change anything from a legal standpoint, given that financing targeted individuals or entities through trafficking in persons or any other act was already subject to asset freezing. However, the resolution does identify trafficking as a possible source of financing of terrorism.¹⁶⁵

Other sanctions regimes were imposed for acts that are also indicative of trafficking in persons, such as planning, directing or committing human rights abuses or violations (in the case of the Central African Republic, the Democratic Republic of the Congo, Libya and Yemen), sexual violence (Central African Republic, Democratic Republic of the Congo, Eritrea, Mali, Somalia, South Sudan and Darfur in the Sudan) or child recruitment (Democratic Republic of the Congo). In its special report on ISIL, Al-Qaida and associated individuals, groups, undertakings and entities, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict provided a basis for determining whether groups and individuals ought to be included in the Sanctions List.¹⁶⁶ The monitoring groups, teams and panels of experts supporting the work of sanctions committees with designation criteria relevant to trafficking in persons have an important role to play, as they could collect information that might be crucial for the investigation into trafficking. These are all avenues for imposing sanctions on individuals and groups for acts relating to trafficking in persons and related crimes.

4.5. Cooperation and coordination

A crucial part of combating trafficking in persons is the strengthening of cooperation between relevant United Nations actors within and across borders by various means, such as ensuring the rapid identification of victims of trafficking through mechanisms geared towards the exchange of information; supporting judicial cooperation in relation to the collection and preservation of evidence; identifying, tracing, freezing and confiscating assets connected to

¹⁶⁵See Security Council Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning ISIL (Da'esh), Al-Qaida, and associated individuals, groups, undertakings and entities, available at <https://www.un.org/sc/suborg/en/sanctions/1267>. See also 3.5 above for a further discussion on the financing of terrorism.

¹⁶⁶See S/2016/1090.

trafficking; and assisting and protecting victims. Such measures require careful cooperation and coordination.

4.5.1. Diversifying partnerships, in particular for prevention

Cooperation with actors outside the United Nations, including regional organizations, non-governmental organizations, civil society organizations and State authorities such as law enforcement, is essential. In places where institutional structures have been weakened by conflict, cooperation can be hampered. Where there are concerns about complicity of State actors in trafficking activities in a country, trust may be eroded and cooperation can be fraught. Notwithstanding these challenges, it is crucial to coordinate with other stakeholders as much as possible. This helps not only to avoid duplication of efforts, but also to build trust and increase the sustainability of efforts on the ground. State cooperation is vital for ensuring that victims have legal status and can rely on protection frameworks and laws against trafficking. To determine who is doing what in a given area, it is helpful to look at the national referral mechanisms and/or plans of action that may be in place (see section 4.3 above) and map actors on the ground.

The complexities of trafficking in persons make building innovative partnerships an urgent priority. It is necessary to build a range of partnerships, in particular ones that harness the power of *information and communications technology (ICT)*.¹⁶⁷ Online forums are used to lure potential victims into trafficking situations and to sell them. How online markets and encrypted messaging applications are used for trafficking and recruiting people in areas affected by conflict needs to be better understood. For instance, messaging applications with end-to-end encryption are used to sell people through online bidding,¹⁶⁸ and social media platforms have been used to traffic people into and within areas affected by conflict.¹⁶⁹ Greater cooperation with the ICT sector is clearly required to convert the technology from being a tool for trafficking into a means of preventing it. The power of social media to widely and rapidly disseminate messages should also be harnessed.

At the international and regional levels, strengthening cooperation and coordination requires engaging with regional bodies such as the African Union, ASEAN, the Gulf Cooperation Council, the South Asian Association for Regional Cooperation, the European Union and the Economic Community of West African States, as well as with security-oriented actors such as INTERPOL, the European Police Office (Europol) and the security sections of regional bodies.

¹⁶⁷ See “Trafficking in mixed migration flows”, p. 8, where the author recommends: “Further thinking and testing is needed to adapt and refine the methodologies used to detect exploitation and identify victims and perpetrators of trafficking. This could include research on how new technologies, social media and big data can be harnessed to mitigate, prevent and respond to exploitation and trafficking.”

¹⁶⁸ S/2016/1090.

¹⁶⁹ Cockayne and Walker, *Fighting Human Trafficking in Conflict*; Healy, *Targeting Vulnerabilities*, p. 153.

Good practices

- Artificial intelligence is being used to keep terrorism-related content off Facebook^a and to remove posts offering to smuggle people across the Mediterranean Sea.^b
- Google uses video analysis and cooperates with independent experts to prevent uploads of violent extremist video clips to its YouTube service.^c
- In partnership with the financial sector, the National Crime Agency of the United Kingdom has established a joint money-laundering intelligence task force to combat high-end money-laundering and share information on terrorist networks.^d
- The organization Liberty Asia works with other non-governmental organizations to facilitate the flow of information on trafficking in persons and forced labour from local cases and media reports to specialist information providers, such as Thomson Reuters World-Check.^e

^a See Monika Bickert and Brian Fishman, “Hard questions: how we counter terrorism”, 15 June 2017. Available at <https://newsroom.fb.com/news/2017/06/how-we-counter-terrorism/>.

^b Karen McVeigh and Mona Manmood, “Facebook removes posts made by people smugglers aiming to lure migrants”, *The Guardian*, 25 August 2017. Available at www.theguardian.com/global-development/2017/aug/25/facebook-removes-posts-made-by-people-smugglers-aiming-to-lure-migrants.

^c See Walker, “Four steps we’re taking today to fight terrorism online”. At the same time, consideration must be given to the role that such clips can play in collating evidence with which to hold perpetrators to account. See: Malachy Browne, “YouTube removes videos showing atrocities in Syria”, *New York Times*, 22 August 2017.

^d See National Crime Agency, Joint money-laundering intelligence task force, available at www.nationalcrimeagency.gov.uk.

^e See Liberty Asia, Actionable research programmes, available at www.libertyasia.org.

4.5.2. Increasing community participation

To prevent trafficking in persons from, through, to and within areas affected by conflict, it is vital to increase community participation by *engaging religious and traditional leaders, faith-based organizations, non-governmental organizations, civil society organizations and academia*. Religious and traditional leaders have a particular role to play. They can help not only to address violent extremism (which can lead to recruitment into conflict situations), but also to challenge ideologies that promote the demand for exploitative services, including sexual enslavement.

There is an increasing understanding that to prevent victimization, identify and address vulnerabilities, build resilience and recover from crises, it is vital to enlist the participation of the affected communities. In its resolution 2331 (2016), the Security Council emphasized the importance of engaging religious and traditional leaders, paying particular attention to amplifying the voices of women and girls alongside men and boys, with the objective of countering terrorism and violent extremism that can be conducive to terrorism, refuting justifications for trafficking in persons and sexual or other violence in the context of armed conflict, addressing the stigmatization suffered by survivors and facilitating their return and their reintegration into families and communities.

Lessons can be learned from the inclusion of women and girls in the assessment, planning and implementation of humanitarian and early-recovery responses to crises as part of the women, peace and security agenda. In its resolution 1325 (2000), the Security Council reaffirmed the important role of women in the prevention and resolution of conflicts and stressed the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security. Efforts to implement that resolution could be strengthened, and its provisions could be applied to trafficking.

Further thought should be given to how survivors of trafficking could contribute, on a strictly voluntary basis, to the development and implementation of counter-trafficking interventions and the evaluation of their impact in conflict and post-conflict situations.¹⁷⁰ There are lessons to be learned in that respect from the fight against sexual exploitation and abuse. The Secretary-General, in presenting his new approach to combating sexual exploitation and abuse, cautioned that “in dealing with the magnitude of pain and deprivation around the world on a daily basis, we have perhaps also inoculated ourselves against its worst effects.” He intended to help the victims to make their voices heard.¹⁷¹ This approach can also be applied to trafficking in persons whether for sexual exploitation and abuse or for other purposes.

The role traffickers themselves could play in identifying problems and solutions should also be further explored. More can be learned from perpetrators about their reasons for turning to trafficking and related crimes and for even targeting members of their own families or communities. The conflict may have landed them in dire circumstances, and their crime may have been the result of negative coping mechanisms and survival tactics. Factors of this kind need to be better understood.

Good practices

- In the days following the earthquake in Nepal of 25 April 2015, UN Women facilitated a meeting with national women’s groups and civil society organizations to discuss challenges in accessing humanitarian services. That meeting resulted in a document entitled “Common charter of women’s demands for gender equality and women’s empowerment in the humanitarian response.” Lessons for the conflict context can be learned from the IASC gender alert for Nepal of May 2015.
- In September 2016, UNODC appointed Nadia Murad Basee Taha as its Goodwill Ambassador for the Dignity of Survivors of Human Trafficking. It was the first time the appointee was a survivor of trafficking.

4.5.3. Leveraging existing platforms to strengthen cooperation

Some cooperative platforms can be leveraged to address trafficking in conflict situations and overcome obstacles to the effective and efficient deployment of counter-trafficking capabilities. *States and other stakeholders can help to address gaps in the understanding of and responses to trafficking.* However, it is important to avoid duplication of efforts; time spent working on one platform should ideally translate into time saved for others. Participation in cooperative platforms should not divert limited and crucial resources or otherwise detract from efforts to implement other responses to trafficking.

Inter-Agency Coordination Group against Trafficking in Persons

ICAT is a policy forum mandated by the General Assembly to facilitate a holistic and comprehensive approach to preventing and combating trafficking in persons by improving coordination among United Nations agencies and other international organizations. It was formally established in March of 2007 pursuant to General Assembly resolution 61/180. ICAT has 16 United Nations bodies and two partner organizations as its members. In 2010, in its resolution 64/293, the General Assembly adopted the United Nations Global Plan of Action to Combat Trafficking in Persons, in which Member States called for a strengthening

¹⁷⁰ E/2002/68/Add.1, guideline 3, para. 6.

¹⁷¹ A/71/818, paras. 20 and 21.

of ICAT to improve coordination and cooperation among relevant United Nations bodies. The designated coordinator of ICAT is UNODC. The members of the ICAT Working Group are ICMPD, ILO, IOM, OHCHR, OSCE, UNICEF, UNHCR, UN Women and UNODC. In 2017, ICAT published an issue brief on trafficking in persons in humanitarian crisis.

Chair	Rotates annually among the members of the ICAT Working Group
Members	Counter-Terrorism Committee Executive Directorate (CTED), Department of Political Affairs of the Secretariat (DPA), United Nations Department of Peace-keeping Operations (DPKO), International Civil Aviation Organization, INTERPOL, ICMPD, ILO, IOM, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, Office on Genocide Prevention and the Responsibility to Protect, OHCHR, OSCE, UNAIDS, UNDP, UNESCO, UNFPA, UNHCR, UNICEF, United Nations Interregional Crime and Justice Research Institute (UNICRI), UNODC, UN Women, World Bank
Other partners	Council of Europe

Task Team on Anti-trafficking in Humanitarian Action of the Global Protection Cluster

IASC and the cluster system coordinate much of the international community's humanitarian assistance by drawing together clusters of United Nations agencies and non-United Nations organizations. The Global Protection Cluster was established in 2005 to support protection responses in non-refugee humanitarian action. In response to a critical gap, the Task Team on Anti-trafficking in Humanitarian Action under the Global Protection Cluster is currently working to develop a collective position on anti-trafficking interventions in humanitarian responses and to provide recommendations and guidance on how best to integrate such interventions systematically in cluster mechanisms. The aim of this guidance is to strengthen current efforts and improve the efficiency of the cluster response to trafficking in persons. The Task Team co-leaders, IOM, UNHCR and Heartland Alliance International, are actively involved in several crises around the world, working in coordination with the clusters, among other things, in particular with the protection cluster. While the work of the Task Team in developing guidance is ongoing, agencies operating in cluster settings should refer trafficking cases for protection, support, assistance and follow-up to the protection cluster members or other stakeholders.

Chairs	IOM, UNHCR and Heartland Alliance International
Members	Participation is open to interested humanitarian organizations, non-governmental organizations, United Nations agencies, members of the International Federation of Red Cross and Red Crescent Societies, the Special Rapporteur of the Human Rights Council on trafficking in persons, especially women and children, and other international organizations
Other partners	Experts, donors and/or Governments may be invited as observers to provide technical input or discuss relevant issues where needed

Action group on conflict and humanitarian settings of Alliance 8.7

Alliance 8.7 is a multi-stakeholder group of State and non-State actors, including United Nations entities, that is dedicated to the eradication of forced labour, modern slavery, trafficking in persons and child labour in accordance with target 8.7 of the 2030 Agenda for Sustainable Development. Launched by ILO in 2016, it coordinates efforts to achieve its goals. Within Alliance 8.7, an action group on conflict and humanitarian settings brings together a number of international actors involved in the prevention of and response to trafficking. Its strategy will be built on three pillars, namely policy and strategy, capacity-building and research.

Chairs	UNHCR, UNICEF and IOM
Membership	Open to interested international agencies and other stakeholders
Other partners	Actors will be invited to join a reference group

Annex I. Glossary

Term	Definition	Source/commentary
ABDUCTION OF CHILDREN	The unlawful removal, seizure, capture, apprehension, taking or enforced disappearance of a child either temporarily or permanently for the purpose of any form of exploitation of the child.	www.mrmtools.org/mrm/1095_1125.htm
ARMED CONFLICT	See entries under “international armed conflict” and “non-international armed conflict”	
CHILD	In the context of trafficking in persons, any person under 18 years of age	Art. 3 (d) of the Trafficking in Persons Protocol
CHILD SOLDIER	A child associated with an armed force or armed group; refers to any person under 18 years of age who is, or who has been, recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls used as fighters, cooks, partners or spies, or for sexual purposes	Principles and Guidelines on Children Associated with Armed Forces or Armed Groups
CONFLICT	There is no internationally agreed definition of conflict. See the entries under “international armed conflict” and “non-international armed conflict”	

Term	Definition	Source/commentary
CONFLICT-RELATED SEXUAL VIOLENCE	Refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. This link may be evident in the profile of the perpetrator (often affiliated with a State or non-State armed group, including a terrorist entity or network), the profile of the victim (who is frequently an actual or perceived member of a persecuted political, ethnic or religious minority, or is targeted on the basis of actual or perceived sexual orientation and gender identity), a climate of impunity (which is generally associated with State collapse), cross-border consequences (such as displacement or trafficking in persons) and/or violations of the provisions of a ceasefire agreement. The term also encompasses trafficking in persons when committed in situations of conflict for the purpose of sexual violence and/or exploitation	Stop Rape Now: United Nations Action against Sexual Violence in Conflict, “Analytical and conceptual framing of conflict-related sexual violence” (2011) Report of the Secretary-General on conflict-related sexual violence (S/2017/249)
DEBT BONDAGE	The status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined	Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, art. 1 (a)
FINANCIAL ACTION TASK FORCE	An intergovernmental policymaking body established in 1989 by the Ministers of its member jurisdictions. The objectives of the Financial Action Task Force are to set standards and promote effective implementation of legal, regulatory and operational measures for combating money-laundering, terrorist financing and other related threats to the integrity of the international financial system	www.fatf-gafi.org/about/

Term	Definition	Source/commentary
FINANCIAL ACTION TASK FORCE-STYLE REGIONAL BODIES	<p>Financial Action Task Force-style regional bodies include the following:</p> <p>Asia/Pacific Group on Money Laundering, based in Sydney, Australia</p> <p>Caribbean Financial Action Task Force, based in Port of Spain</p> <p>Eurasian Group on Combating Money Laundering and Financing of Terrorism, based in Moscow</p> <p>Eastern and Southern Africa Anti-Money Laundering Group, based in Dar es Salaam, United Republic of Tanzania</p> <p>Action Group against Money Laundering in Central Africa, based in Libreville</p> <p>Financial Action Task Force of Latin America, based in Buenos Aires</p> <p>Intergovernmental Action Group against Money Laundering in West Africa, based in Dakar</p> <p>Middle East and North Africa Financial Action Task Force, based in Manama</p> <p>Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism, based in Strasbourg, France (Council of Europe)</p>	www.apgml.org/
FORCED LABOUR	All work or service which is exacted from any person under the menace of penalty and for which the person has not offered herself/himself voluntarily	Forced Labour Convention, 1930 (No. 29), of the International Labour Organization. See also the Protocol to the Forced Labour Convention, 1930 (No. 29), and the Worst Forms of Child Labour Convention, 1999 (No. 182)
FOREIGN TERRORIST FIGHTER	Individuals who travel to a State other than their State of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, including in connection with armed conflict	Security Council resolution 2178 (2014), para. 6 (a)
HUMANITARIAN CRISIS	Refers to both conflicts and natural disasters	
INTER-AGENCY STANDING COMMITTEE	The primary mechanism for inter-agency coordination of humanitarian assistance. It is a unique forum involving the key United Nations and non-United Nations humanitarian partners that was established in June 1992 pursuant to General Assembly resolution 46/182, on the strengthening of humanitarian assistance	

Term	Definition	Source/commentary
INTERNALLY DISPLACED PERSONS	Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border	Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex, para. 2)
INTERNATIONAL ARMED CONFLICT	As defined in the Geneva Conventions, refers to “all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.”	International Committee of the Red Cross, “How is the term ‘armed conflict’ defined in international humanitarian law?”, Opinion Paper (March 2008), referring to common article 2 of the Geneva Conventions of 1949
MIGRANT	Any person who is moving or has moved across an international border or within a State away from his/her habitual place of residence, regardless of (1) the person’s legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is	International Organization for Migration, “Who is a migrant?” Available from www.iom.int/
NON-INTERNATIONAL ARMED CONFLICT	Armed conflicts not of an international character occurring in the territory of one of the High Contracting Parties to the Geneva Conventions	International Committee of the Red Cross, “How is the term ‘armed conflict’ defined in international humanitarian law?”, Opinion Paper (March 2008), referring to common article 3 of the Geneva Conventions of 1949
ORGANIZED CRIMINAL GROUP	A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with the Organized Crime Convention	Art. 3 (a) of the Organized Crime Convention
POST-CONFLICT	Not defined in international law	

Term	Definition	Source/commentary
REFUGEE	Broadly understood to include all persons outside their countries of origin who are in need of international protection because of a serious threat to their life, physical integrity or freedom in their country of origin as a result of persecution, armed conflict, violence or serious public disorder. Individuals who meet this definition under international, regional, or domestic law, or under mandate of the Office of the United Nations High Commissioner for Refugees, are entitled to international protection	Convention relating to the Status of Refugees, and its 1967 Protocol See also "Persons in need of international protection", Office of the United Nations High Commissioner for Refugees, June 2017
SEPARATED CHILDREN	Children who have been separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. These may therefore include children accompanied by other adult family members	United Nations Children's Fund
SERIOUS CRIME	Conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty	Art. 2 (b) of the Organized Crime Convention
SEXUAL VIOLENCE	Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work or, alternatively, Acts of a sexual nature against one or more persons or that cause such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person's or persons' incapacity to give genuine consent. Forms of sexual violence include, inter alia, rape, attempted rape, forced prostitution, trafficking for the purpose of sexual exploitation, child pornography, child prostitution, sexual slavery, forced marriage, forced pregnancy, forced public nudity, forced virginity testing	"Analytical and conceptual framing of conflict-related sexual violence (June 2011) (based on the definition provided by the World Health Organization). For a more general statement of principles applicable to victims, see also Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex) Special measures for protection from sexual exploitation and abuse: a new approach: report of the Secretary-General (A/71/818, footnote 11)
SLAVERY	The status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised	Slavery Convention of 1926, art. I, para. 1

Term	Definition	Source/commentary
SMUGGLING OF MIGRANTS	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 a permanent resident	Art. 3 of the Smuggling of Migrants Protocol
TERRORISM	Any act, intended to cause death or serious bodily injury to a civilian when the purpose of such act, by its nature and context is to intimidate a population, or to compel a government or an international organization to do or abstain from doing any act	Art. 2, para. (1) (b), of the International Convention for the Suppression of Financing of Terrorism (General Assembly resolution 54/109, annex)
TRAFFICKING IN PERSONS	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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs	Art. 3 of the Trafficking in Persons Protocol
UNACCOMPANIED CHILDREN	Children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so	United Nations Children's Fund

Annex II. Indicators of trafficking in persons

The set of indicators presented below was prepared by the United Nations Office on Drugs and Crime and the Global Initiative to Fight Human Trafficking. Other sets of indicators are available, including those recommended in section 4.3.1 of the present thematic paper. Indicators are most effective when they are tailored to particular situations and updated on the basis of new information, and when training is provided on how to use them. Not all indicators listed below are present in all situations involving trafficking in persons, and other indicators may be relevant that are not listed below. The presence or absence of any of the indicators neither proves nor disproves that trafficking in persons is taking place, but their presence should lead to further enquiry and/or referral.

General indicators

People who have been trafficked may:

- Believe that they must work against their will
- Be unable to leave their work environment
- Show signs that their movements are being controlled
- Feel that they cannot leave
- Show fear or anxiety
- Be subjected to violence or threats of violence against themselves or against their family members and loved ones
- Suffer injuries that appear to be the result of an assault
- Suffer injuries or impairments typical of certain jobs or control measures
- Suffer injuries that appear to be the result of the application of control measures
- Be distrustful of authorities
- Be threatened by the possibility of being handed over to the authorities
- Be afraid of revealing their immigration status
- Not be in possession of their passports or other travel or identity documents, as those documents are being held by someone else
- Have false identity or travel documents
- Be found in or connected to a type of location likely to be used for exploiting people
- Be unfamiliar with the local language

- Not know their home or work address
- Allow others to speak for them when addressed directly
- Act as if they were instructed by someone else
- Be forced to work under certain conditions
- Be disciplined through punishment
- Be unable to negotiate working conditions
- Receive little or no payment
- Have no access to their earnings
- Work excessively long hours over long periods
- Not have any days off
- Live in poor or substandard accommodations
- Have no access to medical care
- Have limited or no social interaction
- Have limited contact with their families or with people outside of their immediate environment
- Be unable to communicate freely with others
- Be under the perception that they are bonded by debt
- Be in a situation of dependence
- Come from a place known to be a source of trafficking in persons
- Have had the fees for their transport to the country of destination paid for by facilitators, whom they must pay back by working or providing services at their destination
- Have acted on the basis of false promises

Children

Children who have been trafficked may:

- Have no access to their parents or guardians
- Look intimidated and behave in a way that does not correspond with behaviour typical of children their age
- Have no friends of their own age outside of work
- Have no access to education
- Have no time for play
- Live apart from other children and in substandard accommodations
- Eat apart from other members of the “family”
- Be given only leftovers to eat
- Be engaged in work that is not suitable for children
- Travel without the accompaniment of adults
- Travel in groups with persons who are not relatives

The following might also indicate that children have been trafficked:

- The presence of child-sized clothing typically worn for doing manual or sex work
- The presence of toys, beds and children’s clothing in inappropriate places such as brothels and factories

- A claim made by an adult that he or she has “found” an unaccompanied child
- Unaccompanied children carrying telephone numbers for calling taxis
- The discovery of cases involving illegal adoption

Domestic servitude

People who have been trafficked for the purpose of domestic servitude may:

- Live with a family
- Not eat with the rest of the family
- Have no private space
- Sleep in a shared or inappropriate space
- Be reported missing by their employer even though they are still living in their employer’s home
- Never or rarely leave the house to engage in social activities
- Never leave the house without their employer
- Be given only leftovers to eat
- Be subjected to insults, abuse, threats or violence

Sexual exploitation

People who have been trafficked for the purpose of sexual exploitation may:

- Be of any age, although their age may vary according to their location
- Move from one brothel to the next or work in various locations
- Be escorted whenever they go to and return from work and other outside activities
- Have tattoos or other marks indicating “ownership” by their exploiters
- Work long hours or have few, if any, days off
- Sleep where they work
- Live or travel in a group, sometimes with others who do not speak the same language
- Have very few items of clothing
- Have clothes that are mostly the kind typically worn for doing sex work
- Only know how to say sex-related words in the local language or in the language of the client group
- Have no cash of their own
- Be unable to show an identity document

The following might also indicate that children have been trafficked:

- Evidence indicating that suspected victims have had unprotected and/or violent sex
- Evidence indicating that suspected victims cannot refuse unprotected and/or violent sex
- Evidence indicating that a person has been bought and sold
- Evidence indicating that groups of women are under the control of others
- Advertisements for brothels or similar places offering the services of women of a particular ethnicity or nationality

- Reports of sex workers providing services to a clientele of a particular ethnicity or nationality
- Clients reporting that sex workers do not smile

Labour exploitation

People who have been trafficked for the purpose of labour exploitation are typically made to work in sectors such as agriculture, construction, entertainment, service industries and manufacturing (in sweatshops). People who have been trafficked for labour exploitation may:

- Live in groups in the same place where they work and leave those premises infrequently, if at all
- Live in degraded, unsuitable places, such as in agricultural or industrial buildings
- Not be dressed adequately for the work they do. For example, they may lack protective equipment or warm clothing
- Be given only leftovers to eat
- Have no access to their earnings
- Have no labour contract
- Work excessively long hours
- Depend on their employer for a number of services, including work, transportation and accommodation
- Have no choice of accommodation
- Never leave the work premises without their employer
- Be unable to move freely
- Be subject to security measures designed to keep them on the work premises
- Be disciplined through fines
- Be subjected to insults, abuse, threats or violence
- Lack basic training and professional licences

The following might also indicate that people have been trafficked for labour exploitation:

- Notices have been posted in languages other than the local language
- There are no health and safety notices
- The employer or manager is unable to show the documents required for employing workers from other countries
- The employer or manager is unable to show records of wages paid to workers
- The health and safety equipment is of poor quality or is missing
- Equipment has been designed or modified in such a way that it can be operated by children
- Evidence indicating that labour laws are being breached
- Evidence indicating that workers must pay for tools, food or accommodation, or that those costs are being deducted from their wages

Begging and petty crime

People who have been trafficked for the purpose of begging or committing petty crimes may:

- Be children, elderly persons or disabled migrants who tend to beg in public places and on public transport
- Be children carrying and/or selling illicit drugs
- Have physical impairments that appear to be the result of mutilation
- Be children of the same nationality or ethnicity who move in large groups with only a few adults
- Be unaccompanied minors who have been “found” by an adult of the same nationality or ethnicity
- Move in groups while travelling on public transport. For example, they may walk up and down the length of trains
- Participate in the activities of organized criminal gangs
- Be part of large groups of children who have the same adult guardian
- Be punished if they do not collect or steal enough
- Live with members of their gang
- Travel with members of their gang to the country of destination
- Live as gang members with adults who are not their parents
- Move daily in large groups and over considerable distances

The following might also indicate that people have been trafficked for begging or for committing petty crimes:

- New forms of gang-related crime have appeared
- Evidence indicating that the group of suspected victims has moved, over a period of time, through a number of countries
- Evidence indicating that suspected victims have been involved in begging or in committing petty crimes in another country



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