Human Trafficking and Migrant Smuggling Section (HTMSS)

Violence against migrants: trafficking in persons and migrant smuggling

UNODC assists States in their efforts to implement the Trafficking in Persons and the Smuggling of Migrants Protocols

4 July 2017
Overview


2. Challenges and Trends

3. Case study including key definition issues: mix migration flows, trafficking in persons (TIP) and smuggling of migrants (SOM)

4. UNODC Global Report on TIP

5. Tools
Status of Ratification of the UNTOC Convention and its Traffic in Persons and Smuggling of Migrants Protocols

July 2017

- UNTOC Convention: 187 States Parties, Not ratified: 0%
- Trafficking in Persons Protocol: 170 States Parties, Not ratified: 0%
- Smuggling of Migrants Protocol: 144 States Parties, Not ratified: 0%
What is the UNTOC?

- A legally-binding instrument
- The only international convention which deals with organized crime
- Signed in Palermo, Italy, in December 2000
- Adopted by the United Nations General Assembly in 2000 and entered into force in 2013
- Represents international commitment to combat transnational organized crime
-Provides States Parties with a platform for cooperation
Global Challenges

- Poor international cooperation
- Low criminalization in accordance with the SOM Protocol
- Complex legal definition of TIP
- Links with other crimes (i.e. corruption, terrorism, drug trafficking, forced criminality, money laundering, cyber-crime)
- Inadequate data especially on SOM
- Focus on irregular migration and migrants rather than criminal network, smugglers and traffickers
- Lack of adequate protection and assistance to TIP victims
No country is immune to trafficking in persons

Most detected victims are women and girls, but the share of men and boys is increasing.

Increased share of detected trafficking cases that are domestic (within a country’s borders).

Victims and traffickers often come from similar social backgrounds.

People are trafficked for many exploitative purposes that vary regionally.

Cross-border trafficking flows often match migration flows.

Conflict can help drive trafficking in persons.

More than ¼ of detected victims are children.

Solid legislative progress, but still few convictions.

<table>
<thead>
<tr>
<th>Year</th>
<th>Trafficking for other forms</th>
<th>Trafficking for sexual exploitation</th>
<th>Trafficking for forced labour</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>32%</td>
<td>9%</td>
<td>59%</td>
</tr>
<tr>
<td>2008</td>
<td>31%</td>
<td>8%</td>
<td>61%</td>
</tr>
<tr>
<td>2009</td>
<td>34%</td>
<td>8%</td>
<td>58%</td>
</tr>
<tr>
<td>2010</td>
<td>31%</td>
<td>7%</td>
<td>62%</td>
</tr>
<tr>
<td>2011</td>
<td>40%</td>
<td>7%</td>
<td>53%</td>
</tr>
<tr>
<td>2012</td>
<td>38%</td>
<td>6%</td>
<td>56%</td>
</tr>
<tr>
<td>2013</td>
<td>39%</td>
<td>6%</td>
<td>53%</td>
</tr>
<tr>
<td>2014</td>
<td>38%</td>
<td>8%</td>
<td>54%</td>
</tr>
</tbody>
</table>

Source: UNODC elaboration of national data.
Global Trends on SOM

1. Would-be migrants seem to be more and more aware of the risks involved in migrant smuggling along certain migration routes. Nevertheless, they still decide to resort to the services of migrant smugglers and to embark on very dangerous journeys.

2. Internet and social media are crucial for facilitating contact between smugglers and migrants.

3. Hubs are central to migrant smuggling. SOM does not happen everywhere.

4. The introduction of long haul transnational flights is many times the precursor to a new smuggling route emerging along that path.

5. In many parts of the world, migrant smuggling seems to occur with the complicity of public officials.
Mix Migration Flows

- Victim of Trafficking
- Asylum Seeker and refugee
- Smuggled Migrant
- Irregular Migrant
- Unaccompanied Migrant Children
- Stranded Migrant

Migrants will hardly fit just one group
Lampedusa Case Study

an introduction to migrant smuggling and human trafficking
Fact summary

- A 20-metre long vessel carrying approximately 518 Eritrean and Somalian migrants departed Libya bound for Lampedusa, Italy
- Each migrant had paid USD 1600 to smugglers for passage on the vessel
- Close to shore, the vessel developed engine trouble
- A blanket on the ship was set alight to signal for help, but this fire began to engulf the ship, causing it to sink
- Passengers jumped or were thrown overboard as the vessel rolled
Fact summary

• Three hours after the vessel sank, a small fishing boat came across the scene and 30 minutes later, a larger fishing boat joined the rescue

• Four hours after the sinking of the vessel, the Italian coastguard arrived

• 155 migrants were rescued from the water

• 363 migrants died

• No child under the age of 12 survived

• Of the 80 women on board the vessel, only 5 survived
Definition of Trafficking in Persons
(Art. 3 TIP Protocol)

**ACT**
- the recruitment, transportation, transfer, harbouring, or receipt of persons

**MEANS**
- by means of the threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim

**PURPOSE**
- for the purpose of exploitation, which includes exploiting the prostitution of others, sexual exploitation, forced labour, slavery or similar practices, and the removal of organs.
Definition of smuggling of migrants

“Smuggling of migrants” shall mean 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)
Differences between trafficking and smuggling

Legal, illegal or no border crossing
Legal or illegal documents
Documents taken
Coercion and repeated exploitation
Restricted movement, control
Commodity: an Individual
Crime against an Individual

Trafficking

Illegal border crossing
Illegal (false or stolen) documents
Voluntary
Commodity: a service, movement
Crime against the State

Smuggling

Profitable Business Involving human beings
Criminal Networks

Design by shinzou, copyright IOM 2004
Fact summary: smuggling or trafficking?

- During the journey to Libya through Africa, on numerous occasions individual migrants were separated from the rest of the group and confined against their will in locked rooms.

- The smugglers demanded ransoms of between USD 1000 and 4000 to release each migrant and take them to the next transit point.
Fact summary: smuggling or trafficking?

- During the journey, migrants were subjected to degrading conditions on the overcrowded vessel.
- A number of witnesses reported instances of torture (migrants doused in gasoline, electric shocks delivered to migrants forced to stand on wet floors).
- Migrants were also subjected to physical assaults, sexual assaults and extortion.
- Some migrants were subjected to other utilitarian treatments under the scopes of the defendant (i.e. sell, give in for free or lend a person, subject a person to labour or sexual exploitation...).
Mr M. was one of the smugglers on board the vessel

Italian prosecutors charged him with:

1. Facilitating migrant smuggling
2. Human trafficking
3. Organized crime
4. Kidnapping for ransom
5. Aggravated sexual abuse
Mr M. was convicted of all charges and sentenced to 30 years’ imprisonment, the maximum sentence the court could give.
Differences between trafficking and smuggling

Question: can these offences overlap?
Overlap between smuggling and exploitation

• Situation A: migrants becoming victims of human trafficking during the process of smuggling

• Situation B: victims of human trafficking being smuggled across borders for exploitation in another country
### Case Law Database Search

**Country:** Slovakia

<table>
<thead>
<tr>
<th>Case</th>
<th>Verdict Date</th>
<th>Recruitment/targeting of victim</th>
</tr>
</thead>
<tbody>
<tr>
<td>SVK004</td>
<td>1 T 194/2011</td>
<td>On December 3, 2008, accomplices of the Defendant enticed the Victim to a bar in Lennice, where they sold her to the Defendant for EUR 497.91 and told her that they would not release her until she worked it off by means of prostitution.</td>
</tr>
<tr>
<td>SVK044</td>
<td>6 To 26/2009</td>
<td>On June 26, 2005, the Defendant and her accomplice forced the Victim 1 and 2 into a car for the purpose of their transportation to the Czech Republic, where the Defendants intended to sell them for prostitution. After the Victim 2 claimed to have a small child she needed to feed and look after,</td>
</tr>
</tbody>
</table>
Anyone who recruits, transports, transfers, harbours, receives or exploits a trafficked person

Anyone who attempts to commit a human trafficking act

Anyone who participates as an accomplice in a human trafficking act

Anyone who organizes or directs others to commit human trafficking acts.
The victim: How are people victimised?

Purpose of TIP is always exploitation of a person

Actual exploitation need not occur provided there is an intention to exploit the person or persons trafficked

Definition of exploitation is not exhaustive: “(...) 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”.
Personal testimonies of victims of human trafficking - EU

The concept of VICTIM

A Victim is a person who is harmed or made to suffer and who, therefore, needs help, assistance and protection.

A Victim of trafficking, clear needs to be protected - UN Protocol on Trafficking Art. 6.

A person who has used a smuggler's service is not considered a victim!

However: that person might suffer abuses and violence from the smuggler (esp. rape, beating, death, etc.).

Consider helping those vulnerable migrants too!

States have therefore the obligation to duly identify (potential) victims of trafficking and protect their rights (e.g. CASE OF RANTSEV v. CYPRUS AND RUSSIA)
Vulnerability as susceptibility to TIP

- Pre-existing vulnerability factors (age, illness, gender, poverty, etc.)
- Vulnerability factors created (isolation, irregular status, religious rituals, cultivation of romantic or emotional relationship)
- Multitude of factors that requires situation-specific analysis
- States Parties required by Article 9(4) of TIP Protocol and other instruments, to take steps to reduce social and economic conditions that increase vulnerability
Existence of vulnerability – abuse of vulnerability

Assessed on a case-by-case basis, taking into account:
- Personal vulnerability
- Situational vulnerability
- Circumstantial vulnerability

Vulnerability can be:
- Pre-existing vulnerability
- Created vulnerability

Key point:
- It matters that the victim believes that there is no real or acceptable alternative
Control methods are crucial for traffickers to ensure compliance of the victims.

The use of control methods vary during the trafficking process, adapting to the current situation and location.

Traffickers typically use a mix of several control methods, as victims tend to get “immune” to them.
Consequences for victims

- Victim will not trust any body
- Traumatisation
- Fear of supporting police investigations
- Reluctance to testify against their traffickers in court
- Fear of stigmatisation
- Vulnerable witness in court.
Rights – victims of trafficking
Directive 2011/36/EU, Preamble 18

- Right to life
- Right to liberty and security
- Right not to be submitted to slavery, servitude, forced labour, or bonded labour
- Right not to be sold, traded or promised in Marriage
- Right not to be subjected to torture, cruel, inhumane and degrading treatment or Punishment
- Right to be free from gender-based violence
- Right to freedom of movement
- Right to access to courts
- Right to be protected from discrimination
- Right to be protected from refoulement
- Right to seek asylum
136 Countries covered:
Most detected victims are women...

*Men* are males aged 18 or older; *boys* are males 17 and below. *Women* are females aged 18 or older; *girls* are females 17 and below.

Source: UNODC elaboration of national data.
...but the share of men is increasing

Trend in the share of men among the detected victims of trafficking in persons, selected years

Source: UNODC elaboration of national data.
Forms of exploitation by gender

**Detected female victims**
- Trafficking for forced labour: 20%
- Trafficking for other forms of exploitation: 8%
- Trafficking for sexual exploitation: 72%
- Trafficking for organ removal: 0.1%

**Detected male victims**
- Trafficking for forced labour: 85.7%
- Trafficking for sexual exploitation: 6.8%
- Trafficking for other forms of exploitation: 6.5%
- Trafficking for organ removal: 1.0%

**Fig. 11** Forms of exploitation among detected female trafficking victims, 2014 (or most recent)

**Fig. 6** Forms of exploitation among detected male trafficking victims, 2014 (or most recent)
Beyond sexual exploitation and forced labour

People are trafficked for many exploitative purposes

- Forced labour
- Forced begging
- Sexual exploitation
- Selling children
- Removal of organs
- Forced marriage
Most convicted traffickers are men...

**FIG. 16** Shares of persons convicted of trafficked in persons, by sex, 2014 (or most recent)

- 63% Male
- 37% Female

66 COUNTRIES
Citizenships of foreign offenders often match the citizenships of the victims they traffic – or:

- Language
- Ethnicity
- Gender
- Family/friendship ties
Most countries now have solid legislation
Countries with older legislation report more trafficking convictions
The current legislation on trafficking in persons in Slovakia covers all forms of trafficking indicated in the UN Trafficking in Persons Protocol.

Investigations and suspects

Cases of trafficking in persons recorded, 2010-2015

Source: Ministry of Interior.

Human trafficking, migration and conflict

• Cross-border trafficking flows often resemble regular migration flows
  – Broad similarities between citizenships of detected trafficking victims and citizenships of recently arrived migrants

• Conflict creates vulnerabilities
  – Increasing numbers of detected trafficking victims from conflict areas e.g. Syria
Refugees escaping wars are easily targeted by traffickers.

The presence of a large number of troops creates demand for labour and sexual services.

Armed groups recruit and abduct children to use them as combatants.

Armed groups recruit or abduct women and girls for forced marriage, domestic work and sexual slavery as well as men and boys for forced labour.
UNODC Goodwill Ambassador for the Dignity of Survivors of Human Trafficking

WORLD NEWS
Nadia Murad, Yazidi woman and survivor of ISIL atrocities, becomes UN Ambassador

Way Forward - Priorities

1. Continue to address the complexity of TIP and SOM definitions (conceptual clarity and implementation).

2. Continue to look into cross-cutting issues with TIP/SOM such as corruption, terrorism, money-laundering, cybercrime, etc.

3. Address the vulnerabilities of migrants and refugees to TIP and other forms of exploitation and abuse.

4. Further develop thematic work on specific TIP issues such as TIP in the fishing industry, removal of organs, TIP for marriage etc.

5. Reinforce capacity to follow the money and to address specific types of SoM such as SOM by sea, document fraud, etc.
# Tools facilitating the implementation of the Protocols

<table>
<thead>
<tr>
<th>Tools</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>2 Model Laws</td>
<td>(against TIP and SOM)</td>
</tr>
<tr>
<td>2 Assessment Guides</td>
<td>- Criminal Justice Response (TIP and SOM)</td>
</tr>
<tr>
<td>2 Frameworks for Action</td>
<td>to Implement the TIP and SOM Protocols</td>
</tr>
<tr>
<td>3 Training Manuals</td>
<td>for practitioners (TIP and SOM)</td>
</tr>
<tr>
<td>2 Training Films</td>
<td>(TIP and SOM)</td>
</tr>
<tr>
<td>Issue papers on key concepts of the TIP Protocol</td>
<td>Exploitation, Consent; Abuse of a position of vulnerability</td>
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<tr>
<td>Assessment toolkit</td>
<td>on TIP for the purpose of organ removal</td>
</tr>
<tr>
<td>Role of recruitment fees in TIP</td>
<td></td>
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<tr>
<td>UNODC Case Law Databases – TIP and SOM</td>
<td></td>
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<tr>
<td>Digest of Human Trafficking Cases</td>
<td></td>
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<tr>
<td>Upcoming: Issue Paper</td>
<td>on “International Legal Definition of TIP”</td>
</tr>
</tbody>
</table>

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**UNODC Case Law Databases** – TIP and SOM

**Assessment toolkit on TIP** for the purpose of organ removal

**Issue papers on key concepts of the TIP Protocol**
- Exploitation, Consent
- Abuse of a position of vulnerability

**Role of recruitment fees in TIP**

**Upcoming: Issue Paper** on “International Legal Definition of TIP”
The SOM Case Law Database includes 652 cases from 30 jurisdictions. The TIP Case Law Database includes 1,429 cases from 99 jurisdictions.
Thank you!

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