



UNODC

United Nations Office on Drugs and Crime

UNODC Contribution to the Secretary General's Report on the Human Rights of Migrants

*(pursuant to United Nations General Assembly Resolution A/RES/72/179 of 19 December 2017
entitled "Protection of migrants")*

The following brief¹ outlines and illustrates, through selected examples, UNODC's efforts to enhance the protection of migrants through addressing human trafficking and migrant smuggling.

Resolution A/RES/72/179 urges States to fully implement the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* (Trafficking in Persons Protocol) and the *Protocol against the Smuggling of Migrants by Land, Sea and Air* (Smuggling of Migrants Protocol), both supplementing the *United Nations Convention against Transnational Organized Crime* (UNTOC), and calls upon States that have not done to consider ratifying or acceding to them as a matter of priority.

In a significant number of its paragraphs, the Resolution specifically refers to preventing and combating human trafficking and migrant smuggling, assisting and protecting the rights of smuggled migrants and victims of trafficking, and strengthening international cooperation to that end, while effectively promoting and protecting the human rights and fundamental freedoms of all migrants, regardless of their migration status.

Synopsis

Preventing and combating migrant smuggling and trafficking in persons are key components of a comprehensive approach to promote and protect the human rights and fundamental freedoms of all migrants, regardless of their migration status.

As the guardian of the Trafficking in Persons Protocol and the Smuggling of Migrants Protocol, both supplementing the UNTOC, UNODC promotes global adherence to these instruments and assists states in their efforts to fully implement them. Based on a human rights, gender-sensitive and people-centred approach, UNODC's strategic approach to combating trafficking in persons and the smuggling of migrants is founded in the full and effective implementation of the *Protocols* focusing on generating reliable knowledge, protection of and assistance to smuggled migrants and victims of trafficking in persons, and proactive prevention through criminal justice responses, while strengthening international cooperation in support of these objectives.

In this context, it is worth noting the newly established mechanism to review the implementation of the *UNTOC* and its *Protocols*. On 19 October 2018, States Parties decided to establish a *Review Mechanism* for UNTOC. In accordance with that decision, the review process will commence in 2020 with four review phases to take stock of national approaches, progress, good practices and lessons learned. Together with the *Protocols*, the new review mechanism will contribute to further improving responses to human trafficking and migrant smuggling. This is particularly of current significance as *UNTOC* is not only rapidly approaching universal ratification (currently 190 States parties), but it also provides a standalone legal basis for cooperation between States on all aspects of its supplementary *Protocols* concerning trafficking in persons and smuggling of migrants, both of which have key protection pillars.

¹ This submission is made in response to OHCHR's request to provide information regarding UNODC's contribution to the implementation of the General Assembly Resolution A/RES/72/179 on the Protection of migrants in preparation of the comprehensive report entitled "Human rights of migrants".

Furthermore, through its global, regional and national programmes, UNODC supports the capacity development of UN Member States to improve national and regional responses against human trafficking and migrant smuggling. Overall, in 2018, under its global programmes addressing human trafficking and migrant smuggling, UNODC organized or contributed to 261 technical cooperation activities at the national and regional level. The programmes provided 25 countries with targeted technical cooperation activities at the national level. More than 4,500 practitioners, government officials and civil society (including media) representatives have been trained to better address trafficking in persons and smuggling of migrants.

Actions related to specific components of the resolution are noted, as follows.

Promoting ratification of or accession to the Protocols with reference to the Resolution's OP 5

UNODC promotes the ratification of or accession to the *Protocols* as an integral part of its work. The *Trafficking in Persons Protocol* is now nearing universal ratification with 174 States parties while the number of States parties to the *Smuggling of Migrants Protocol* increased to 149 in 2019.

For example, Sudan became a State Party to the *Smuggling of Migrants Protocol* in 2018. UNODC supported this process through a Regional Pre-ratification and Accession Workshop to the UNTOC and Protocols thereto. The workshop was part of a series of activities organized by UNODC at the request of countries that consider becoming parties to UNTOC and its Protocols.

Generating reliable knowledge with reference to the Resolution's OP 5

To address smuggling of migrants and trafficking in persons in the context of international migration, UNODC actively generates and shares authoritative and reliable knowledge. Understanding the patterns and trends for the crimes of smuggling of migrants and trafficking in persons, as well as their interaction with international migration, is a prerequisite for evidenced-based decision making and policy development.

The 2018 UNODC *Global Report on Trafficking in Persons* is the fourth of its kind mandated by the General Assembly through the 2010 United Nations *Global Plan of Action to Combat Trafficking in Persons*. It covers 142 countries and provides an overview of patterns and flows of trafficking in persons at global, regional and national levels, based primarily on trafficking cases detected between 2014 and 2016. As UNODC has been systematically collecting data on trafficking in persons for more than a decade, trend information is presented for a broad range of indicators.

The first UNODC *Global Study on Smuggling of Migrants*, released in 2018, shows that migrant smuggling routes affect every part of the world. The study is based on an extensive review of existing data and literature. It presents detailed information about key smuggling routes, such as the magnitude, the profiles of smugglers and smuggled migrants, the modus operandi of smugglers and the risks that smuggled migrants face. It shows that smugglers use land, air and sea routes - and combinations of those - in their quest to profit from people's desire to improve their lives. Smugglers also expose migrants to a range of risks, including violence, theft, exploitation, sexual violence, kidnapping and even death along many routes.

An example of UNODC's work at the regional level is UNODC's cooperation with the Secretariat of the *Southern African Development Community* (SADC) in the development of a data collection and management system on human trafficking for the SADC region - the resulting SADC Regional Anti-Trafficking in Persons Data Collection System, involves Botswana, Madagascar, Malawi, Mozambique, Namibia, Seychelles, Tanzania, Zambia and Zimbabwe.

At the national level, for example, in Malawi, UNODC supported the establishment of a National Trafficking in Persons Database, provided equipment and training to first responders on data collection, data management and reporting with a view to enhancing frontline officers' understanding, knowledge and skills to use the regional data collection and management system effectively.

Promoting assistance to and protection of smuggled migrants and victims of human trafficking with reference to the Resolution's OPs 1, 3, 4, 5, 7 and 9

With regard to assistance to and protection of smuggled migrants and victims of trafficking in persons, UNODC is guided by a rights-based and victim-centred approach to policy development and delivery of technical assistance to strengthen criminal justice responses to smuggling and trafficking. UNODC fulfils its rule of law and justice mandate by promoting protection and assistance of victims of crimes regardless of their migration or other status. In support of this approach, UNODC - in accordance with the *Smuggling of Migrants and Trafficking in Persons Protocols* – supports in its actions and advocates for:

- Protection of the rights of all migrants, irrespective of their status, including access to justice and remedies in accordance with international human rights law;
- Rights-based and victim-centred approaches to be viewed as mutually reinforcing of criminal justice objectives, while prioritizing the rights and safety of migrants who fall victim to crimes above law enforcement objectives;
- Access to protection and assistance services for migrants, irrespective of their participation in criminal justice processes against migrant smugglers or human traffickers;
- Non-criminalization of migrants for being the objects of smuggling, or for their involvement in crimes directly perpetrated as a result of being trafficked;
- The voices of migrants who have been subjected to crimes at the hands of smugglers or traffickers to be heard, with the view to improving victim-centred responses to smuggling and trafficking; and
- Integrating and mainstreaming rights-based and victim-centred approaches in technical assistance tools.

At the national level, for example in Greece, UNODC supported a training course targeting the heads of the regional labour inspectorates in Greece organized by the *Office of the Greek National Rapporteur on Trafficking in Persons* and the *Greek Central Labour Inspection Agency*. The Greek National Rapporteur aims at training all 800 Greek labour Inspectors on identification and referral of victims of trafficking in persons, given their key role in detecting victims or potential victims of trafficking.

An example of UNODC's work at the regional level is its support, in cooperation with *ILO* and *UN Women*, to the "Safe and Fair" programme under the *EU-UN Spotlight Initiative to eliminate violence against women and girls*, which aims at preventing human trafficking in Asia through empowering migrant women and ensuring safe and fair labour migration for all women in the ASEAN region with three specific objectives - establishing gender-sensitive labour migration governance frameworks; mitigating the vulnerabilities of women migrant workers to violence and trafficking and ensuring access to coordinated and responsive quality services; and improving data, knowledge and attitudes on the rights and contributions of women migrant workers.

Illustrating UNODC's work at the global level, UNODC continued to host and manage the *United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, Especially Women and Children*, which was established by the United Nations *Global Plan of Action to Combat Trafficking in Persons* in GA Resolution 64/293. The Trust Fund's mandate emphasizes direct victim assistance, in particular to women and children, as an integral component of a global effort to address trafficking in persons. Through the work of its NGO partners, the Trust Fund supports the implementation and delivery of activities and services that both enhance the psychological recovery and social reintegration of victims and empower survivors to reclaim their rights to justice and fair compensation, as part of the global fight against trafficking. For example, through its rehabilitation services, the NGO Agar Ethiopia supported 125 women and girls, aged

between 15 and 32 years, to be reunited with their families in the reporting period. Overall, Agar assisted 1,568 returnee victims with rehabilitation services and life skills training.

Promoting proactive prevention through criminal justice responses to human trafficking and migrant smuggling with reference to the Resolution's OPs 4, 5, 8 and 9

Promoting proactive prevention through criminal justice responses is a part of UNODC's holistic, multidisciplinary approach to prevent smuggling of migrants and trafficking in persons, including through inter-agency cooperation. UNODC's work is closely linked to that of other agencies with migration-related mandates. While leveraging its criminal justice expertise, UNODC works to move states' efforts beyond reactive responses to migrant smuggling and human trafficking, to achieve proactive prevention by supporting action and advocating for:

- Regional and national cooperation in identification and referral of migrants in vulnerable situations to not only focus on indicators of exploitation and abuse, but also on indicators of vulnerability to identify persons before they are smuggled or trafficked;
- Rights and evidence-based awareness-raising campaigns that provide protection-oriented messages rather than those that 'deter' people from using smuggling services where they have no meaningful alternatives to otherwise flee conflict, widespread violence or persecution;
- Measures to address demand for goods and services produced through exploitation, demand for labour marketplace opportunities that may drive people into exploitative activities, and demand for smuggling services in the absence of safe, orderly and regular alternatives;
- Pursuit of the *2030 Agenda for Sustainable Development* (and particularly Sustainable Development Goals targets 5.2, 8.7, 10.7, 16.2, 16.4 and 17.9) as a cornerstone of the response to smuggling of migrants and trafficking in persons;
- Increased evidence of how international, regional and national policies and approaches to border, labour and migration management impact vulnerability to smuggling and trafficking; and
- Better understanding not only of vulnerability to being trafficked or smuggled, but also of the factors that make people susceptible to perpetrating these crimes.

As an example, the new laws on the prevention of human trafficking and migrant smuggling approved by Pakistan's National Assembly in 2018 illustrate UNODC's related work. The two laws were drafted by the *Federal Investigation Agency* with the support of UNODC and on the basis of UNODC's model laws on *Trafficking in Persons* and the *Smuggling of Migrants*. In addition to incorporating the Protocol's provisions, the laws acknowledge the non-criminalization of smuggled migrants and victims of human trafficking, as well the inclusion of assistance provisions for victims of human trafficking. The laws also make specific reference to women and children, increasing sentences provided for perpetrators of the crime when women and children are the victims of human trafficking.

An example of its engagement at the regional level is its support to fostering coordination and cooperation in South Eastern Europe, where UNODC delivered regional workshops in 2018 and 2019 in support of enhancing national and regional capacities on combating trafficking in persons for the purpose of forced criminality by bringing together practitioners from Albania, Bosnia and Herzegovina, Bulgaria, France, Republic of North Macedonia, Republic of Moldova, Montenegro, Romania, Slovenia, Serbia.

Foster coordination and cooperation in addressing human trafficking and migrant smuggling with reference to the Resolution's OPs 1, 8 and 9

UNODC advocates for bringing together the expertise of international and regional organizations and specialised agencies to address smuggling and trafficking in the context of international migration through existing inter-agency mechanisms in ways that are mutually supportive.

As guardian of the *Trafficking in Persons and the Smuggling of Migrants Protocols*, UNODC has provided significant input to the preparation and organization of the *Intergovernmental Conference for the adoption of the Global Compact on Safe, Orderly and Regular Migration*, convened in Marrakech on 10-11 December 2018, which addressed and reinvigorated the UN response to challenges emerging from large movements of people.

UNODC sees its mandate as inextricably related to those of other UN agencies with migration-related mandates. As part of its ongoing work, UNODC continued to engage in inter-agency mechanisms which address or are related to trafficking in persons and migrant smuggling. In this respect, UNODC continued to serve as Coordinator of the *Inter-Agency Coordination Group against Trafficking in Persons (ICAT)* and actively engaged in the *UN Network on Migration*, designed to assist Member States' implementation of the *Global Compact for Safe, Orderly and Regular Migration*. UNODC also continued to actively participate, particularly as an expert resource, in the *Anti-Trafficking in Humanitarian Action Task Team of the Global Protection Cluster* to promote the importance of providing protection against gender-based violence as an aggravating feature of trafficking in persons and to enhance protection of victims of trafficking in persons, especially women and children, in humanitarian and post-conflict settings.

UNODC is in a unique position to support its sister agencies better utilise and coordinate their expertise and resources on these particular thematic issues. A key recent example was a submission by ICAT, coordinated by UNODC, during the intergovernmental negotiations leading to the Global Compact for migration on the aspects related to trafficking in persons.