



## Time to Stop, Look and Listen

Urgent Action for a Review Mechanism



### Factsheet 1: What is the Human Trafficking Protocol?

*The United Nations Convention against Transnational Organized Crime (UNTOC)* was adopted by governments at the UN General Assembly on 15 November 2000. It is the main international instrument in the fight against organized crime that is transnational (crime that crosses borders). This convention includes three supplementary protocols: on Human Trafficking, Smuggling of Migrants, and Firearms.

#### Background Terminology

A United Nations Convention is an international agreement among governments to address a certain issue with an international impact. Countries sign this convention to show their support for an issue. If they ratify or “accede” to a convention, they agree to implement it and create or change national laws and policies to meet the articles in it.

A Protocol is an additional piece of international legislation attached to a convention in order to address a specific problem, for example human trafficking.

If a State has **signed** a convention or protocol it indicates their support but does not mean they have to change national law just that they should avoid taking steps which undermine the objectives of the convention or protocol.

If a State has **ratified** or **acceded** to a convention or protocol they agree to change national law according to its provisions. Once this takes place they become a ‘**State Party**’ and are bound legally to a convention or protocol’s terms.

#### The Human Trafficking Protocol

*The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Human Trafficking Protocol)* was introduced to supplement UNTOC in 2001 and entered into force on 25 December 2003. It is the first international instrument of its kind containing an agreed definition on ‘trafficking in persons’ that recognises all forms of trafficking (previous definitions only recognise trafficking for sexual exploitation).

The definition of trafficking in persons is provided in Article 3 as follows:

Article 3, (a) “Trafficking in persons” shall mean 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.

The objective of the Human Trafficking Protocol was to establish international standards which would create similarities in national criminal responses to trafficking and support international cooperation in investigating and prosecuting trafficking in persons cases.

Secondary to this objective are the aims to protect and assist trafficked persons with full respect for their human rights, as stated in Article 2 of Human Trafficking Protocol. Specific recommendations on protection and assistance for trafficked persons in the Protocol are voluntary – States are not obliged to implement such measures. Article 14 also states that no measures outlined in the Human Trafficking Protocol should prevent

States from meeting their obligations under international human rights law. GAATW's research and MO's experiences shows this is not always the reality.

### **Why is the Human Trafficking Protocol important to civil society?**

1. Once States ratify or accede to the Protocol, it leads to national legislation and policy to address trafficking – this affects everyone working on trafficking and those affected by trafficking responses. It can bring about good changes and can also cause challenges, such as stricter immigration laws.
2. The Protocol increases attention on trafficking issues and can be used to highlight the need for protection or the need for assistance for trafficked persons.
3. The Protocol provides an international standard that all countries should aim to meet, and this includes a broad internationally-accepted definition of trafficking (many States still only recognise trafficking for sexual exploitation and no other forms of trafficking).
4. The Protocol is sometimes misused in order to meet political objectives other than combating trafficking and so civil society need to watch closely how States choose to implement laws and policy (for example, the Protocol is sometimes used to close borders, tighten or restrict regular migration etc.)