**United nations convention against transnational organized crime review mechanism: Template civil society questionnaire**

(FIRST REVIEW CLUSTER-Criminalization and jurisdiction)

Introduction

The Review Mechanism of United Nations Convention against Transnational Organized Crime (UNTOC) is a peer review process, with one state being reviewed by two other states for the instruments (the Convention and its three Protocols) to which it is party. The mechanism is intended to assess how states are implementing UNTOC and the protocols to which they are party, and to identify what gaps exist in implementation that could be addressed through capacity building and technical assistance.

62 countries are to be reviewed over the next two years under the first review cluster - ‘Criminalization and Jurisdiction’. This cluster covers articles 2, 5, 6, 8, 9, 10, 15 and 23 of UNTOC; articles 3 and 5 of the Trafficking in Persons Protocol; articles 3, 5 and 6 of the Smuggling of Migrants Protocol; and articles 3, 5 and 8 of the Firearms Protocol. To assess their implementation of this cluster of provisions, states will use this [UNODC questionnaire.](https://www.unodc.org/documents/organized-crime/reviewmechanism/Self-assessment_questionnaire_for_the_United_Nations_Convention_against_Transnational_Organized_Crime_and_the_Protocols_thereto_Cluster_I.pdf)

The self-assessment phase, which should already be underway on all of these 62 countries, is one of the key opportunities for civil society to engage with the government as it prepares its responses to their questionnaire. Indeed, the Rules and Procedures of the Review Mechanism agreed by Member States set out a clearly defined role for civil society in the review process, and therefore the governments under review should consult with relevant stakeholders in the preparation of responses to the self-assessment questionnaire, including the private sector, non-governmental organizations, and academia.

Guidance

This **template civil society questionnaire** provides a framework for non-governmental individuals and groups to respond to the issues covered under the first review cluster, and to submit these inputs to the government under review and share them with other national and international stakeholders as required.

The questionnaire is divided into two parts:

* **Part A** is for a general overview of civil society perceptions or analysis of the response to organized crime since the adoption of the UNTOC, with reference to the Cluster under review. This is primarily for dissemination to civil society and other interested partners, and can be submitted to GI-TOC on a voluntary basis, to inform their analysis of trends and findings from around the world vis-à-vis implementation of the UNTOC and its effects on efforts to prevent and counter TOC. **This part should only be shared with the State Party under review if you are sure it would be welcome**. There are politically sensitive points included, and it does not mirror the exact themes of the review mechanism, so in many cases submission of this part may not be welcomed by Member States, or could be counter-productive.
* **Part B** is a detailed analysis of the implementation of the Cluster under review.  **This part should be shared with the State Party under review**, and closely mirrors the detailed questions that states will have to answer. Therefore it should help states as they fill in their questionnaire. This can also be submitted to GI-TOC on a voluntary basis.

The States’ Self-Assessment Questionnaire is provided in case respondents would like to understand more what questions states themselves will respond to, so that civil society inputs can be tailored accordingly - [UNODC questionnaire.](https://www.unodc.org/documents/organized-crime/reviewmechanism/Self-assessment_questionnaire_for_the_United_Nations_Convention_against_Transnational_Organized_Crime_and_the_Protocols_thereto_Cluster_I.pdf)

The [text of the Convention and its Protocols](https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html) should also be consulted in filling in this questionnaire, along with the UNODC *Legislative Guide for the United Nations Convention against Transnational Organized Crime and the Protocols thereto* <https://www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html#_Full_Version_1>

This completed questionnaire can be submitted to the focal point of the state party under review, shared with interested parties, and submitted to the GI-TOC on a voluntary basis (to [ian.tennant@globalinitiative.net](mailto:ian.tennant@globalinitiative.net)) . GI-TOC would, on a confidential basis, keep track of all submitted civil society questionnaires for the purposes of analysis of trends and findings around the world through the review mechanism.

**Questions on the** **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**

Country status

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| Background | Civil Society consultation questions (Respond in this column) |
| The Protocol has 178 parties.  The ratification status page is here – <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en> | Is your country a party to the Protocol? Yes/No.  **If no,** what reasons can you identify for why your country has not ratified this Protocol?  What implications does this have for the fight against trafficking in persons in your country? |

PART A: General responses on the Protocol and its criminalization provisions

For submission to GI-TOC, dissemination to civil society, partners etc, and potentially to states parties in some cases.

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| Background | Civil Society consultation questions (Respond in this column) |
| According to the UNODC, the Protocol’s definition of trafficking in persons “facilitates convergence in national approaches with regard to the establishment of domestic criminal offences that would support efficient international cooperation in investigating and prosecuting trafficking in persons cases. An additional objective of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights.”  <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>  According to the GI-TOC report ‘The Global Illicit Economy’ 2021:  “*Opportunities for human trafficking have grown with advances in technology and the increasing incidence worldwide of vulnerable populations. As of 2017, the total number of detected victims of human trafficking around the world was estimated to be roughly 40.3 million. The vast majority are women and girls, who are victims of both labour and sexual exploitation. Egregious displays of sexual slavery and slave markets in Syria, Iraq, Libya and Nigeria have exposed the dangers among occupied populations, refugees and internally displaced people. The internet has fundamentally changed the market for sexual exploitation, in particular that of children, making it far more widespread and difficult to police and providing criminals with access, affordability and anonymity (the so-called ‘triple phenomenon’). Traffickers are facilitating online child sexual exploitation, modernizing payment transactions, marketing women and girls via the internet and social media, and using chat groups for communication and solicitation on the dark web. The last 20 years have witnessed a rise in online communities built around predatory criminal sexual interests. As well as facilitating the sharing and spreading of illicit sexual abusive material, these virtual communities provide a (misplaced) sense of validation and legitimization for potential and current sexual offenders. Forced labour is found in many sectors: domestic servitude; agriculture and fishing; begging; construction, mining, quarrying and brick kilns; and manufacturing, processing and packaging. It is also linked to fraudulent recruitment practices and debt bondage: people borrowing money or being trapped into paying inflated costs for food, accommodation and transportation and then having to work until it is paid off. The coronavirus pandemic increased the probability of abuse and reduced the chance of being identified and rescued, especially in sectors that are hard to access or dangerous, for instance in areas of illegal logging, illegal mining and illegal fishing, which all saw a drop in labour inspections and weak enforcement of laws on labour trafficking (which were already lax for victims in exploitative situations before the pandemic).”*  [*https://globalinitiative.net/wp-content/uploads/2021/03/The-Global-Illicit-Economy-GITOC-Low.pdf*](https://globalinitiative.net/wp-content/uploads/2021/03/The-Global-Illicit-Economy-GITOC-Low.pdf)  **UN SDG 8.7** commits all UN Member States to “Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.” | Since becoming a State Party to the Protocol in year 2\_\_\_\_\_, has trafficking in persons in your country (a) expanded/become more prevalent, (b) decreased/become less prevalent, or (c) stayed the same? Please provide evidence and justification, including data and case studies where possible.  Overall, do you think becoming a party to Protocol has (a) improved, (b) weakened or (c) has had minimal or zero effect on your country’s ability to prevent and counter trafficking in persons and protect victims? Please explain your answer.  Overall, as a state party to the Protocol, do you think your country is implementing the Protocol effectively? With regards to the provisions under review in this cycle (criminalization), do you think your country has criminalized offences sufficiently, and is protecting victims sufficiently? Please provide evidence and justification, including data and examples where possible.  Do you think that preventing and countering trafficking in persons is a political priority in your country? Please explain.  If trafficking in persons is widespread in your country, why do you think transnational organized criminal groups are able to operate and succeed in trafficking in persons in/from/to your country (please tick all that apply)?   * Poor/non-implementation of provisions of the Protocol * Conflict * Corruption/criminal infiltration/impunity * Human rights abuses * Lack of gender-sensitive responses by governments * Poor relations with international partners * Poverty/Inequality/Socio-economic conditions * Lack of Rule of Law * Lack of protection for victims and witnesses * Low understanding of the nature of organized crime and how criminal groups work * Resilience/power of criminal groups * Weak civil society * Weak government and institutions * Heavy-handed/securitized state responses * Restricted media and civil society * Low political will/priority * Other: (please list here):   Please explain your answers:  Has becoming a State Party to the Protocol (a) enhanced, (b) damaged or (c) made no difference your country’s efforts to achieve UN Sustainable Development Goal 8.7 – i.e. to ‘end modern slavery and human trafficking’. |

PART B: Detailed responses

For submission to states parties and dissemination to civil society and other partners

Please respond to the following section if you have more detailed expertise and responses to offer with regard to the specific articles under review for the Protocol - ‘Criminalization’. This cluster covers articles 3 and 5 of the Trafficking in Persons Protocol

Article 3. Use of terms, Article 5. Criminalization

Summary (article3): defining terminology, i.e., trafficking in persons, consent of a victim of trafficking in persons, recruitment, transportation, transfer, harboring or receipt of a child, child.

Summary (article5): criminalization of attempting to commit trafficking in persons, participating as an accomplice in trafficking in persons, organizing or directing other persons to commit trafficking in persons.

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 33. Is trafficking in persons, when committed intentionally, criminalized under your country’s legal framework (art. 5, para. 1, in conjunction with art. 3)?  36. If the answer to question 33 is “Yes”, are the following actions of trafficking in persons criminalized in your country (art. 3, para. (a))?   1. Recruitment 2. Transportation 3. Transfer 4. Harbouring 5. Receipt of persons 6. Other actions   37. If the answer to question 33 is “Yes”, do the means of trafficking in persons consist of any of the following (art. 3, para. (a))?   1. Threat or the use of force or other forms of coercion 2. Abduction 3. Fraud 4. Deception 5. Abuse of power 6. Abuse of position of vulnerability 7. Giving or receiving of payment or benefits to achieve the consent of a person having control over another person   38. If the answer to question 33 is “Yes”, does the purpose of exploitation include, at a minimum, any of the following (art. 3, para. (a))?   1. The exploitation of the prostitution of others or other forms of sexual exploitation 2. Forced labour or services 3. Slavery or practices similar to slavery 4. Servitude 5. The removal of organs 6. Other purposes   39. Does your country ensure that, when the means set forth in article 3, paragraph (a), of the Protocol have been established, the consent of the victim to the intended exploitation is irrelevant (art. 3, para. (b))?  41. Who is considered to be a “child” under your country’s legal framework (art. 3, para. (d)):  - “Child” means any person under 18 years of age (art. 3, para. (d))? Other? Please specify.  42. Subject to the basic concepts of your legal framework, does your country criminalize attempting to commit trafficking in persons (art. 5, para. 2 (a), in conjunction with art. 3)?  43. Does your country criminalize participating as an accomplice in trafficking in persons (art. 5, para. 2 (b), in conjunction with art. 3)?  44. Does your country criminalize organizing or directing other persons to commit trafficking in persons (art. 5, para. 2 (c), in conjunction with art. 3)?  **Text of Article 3: Use of terms**  For the purposes of this Protocol:  (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;  (b) The **consent** of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;  (c) The recruitment, transportation, transfer, harbouring or receipt of a **child** for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;  (d) **“Child”** shall mean any person under eighteen years of age.  **Text of Article 5: Criminalization**  1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in article 3 of this Protocol, when committed intentionally.  2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:  (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;  (b) Participating as an accomplice in an offence established in accordance with paragraph 1 of this article; and  (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article | Does your country’s legal framework define and criminalize, in line with the Protocol, trafficking in persons?  Does your State’s legal framework criminalize other trafficking related offences beyond what is captured in the Protocol? To what effect?  Are criminal justice practitioners aware of these criminalization provisions and do they understand them? Why or why not?’  Are these provisions implemented effectively in practice? Why or why not? To what effect?  Do you think the definition of ‘child’ provided for in your country’s legal system is in line with what is outlined in the Protocol?  Other comments: |

Criminalization: cases and judgments

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 45. States are invited to provide examples, relevant cases or judgments relating to successful implementation and enforcement for each of the criminal offences reviewed above. | Please provide any relevant information or case studies relating to the successful or unsuccessful implementation and enforcement for any of the above-mentioned measures to tackle tackling in persons, in your country |

Difficulties encountered

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 46. Does your country encounter difficulties or challenges in implementing any provisions of the Trafficking in Persons Protocol relevant to cluster I? | Do you think that your country has encountered difficulties in implementing the Protocol in Trafficking in Persons?   * Yes * No   If yes, please specify. |

Need for technical assistance

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 47. Does your country require technical assistance to implement the Protocol?  (a)  If the answer is “Yes”, please indicate the type of assistance required:   * Assessment of criminal justice response to trafficking in persons * Legal advice or legislative drafting support * Model legislation, regulations or agreements * Development of strategies, policies or action plans * Good practices or lessons learned * Capacity-building through the training of criminal justice practitioners and/or the training of trainers * Capacity-building through awareness-raising among the judiciary * On-site assistance by a relevant expert * Institution-building or the strengthening of existing institutions * Prevention and awareness-raising * Technological assistance and equipment   (b)  Please be specific.   * Development of data collection or databases * Workshops or platforms to enhance regional and international cooperation * Specialized tools, such as e-learning modules, manuals, guidelines and standard operating procedures * Other (please specify)   48. Is your country already receiving technical assistance in those areas?  49. Please provide any other information that you believe is useful to understand your implementation of the Trafficking in Persons Protocol and information that is important for the Conference of the Parties to the United Nations Convention against Transnational Organized Crime to consider regarding aspects of, or difficulties in, the implementation of the Protocol. | Do you think that your country requires technical assistance or other support or resources to overcome difficulties in implementing the Protocol?   * Yes * No   Please explain your answer:  Please indicate in what area your country may need additional resources, support or technical assistance:   * Assessment of criminal justice response to trafficking in persons * Legal advice or legislative drafting support * Model legislation, regulations, or agreements * Development of strategies, policies, or action plans * Good practices or lessons learned * Capacity-building through the training of criminal justice practitioners and/or the training of trainers * Capacity-building through awareness-raising among the judiciary * On-site assistance by a relevant expert * Institution-building or the strengthening of existing institutions * Prevention and awareness-raising * Technological assistance and equipment   (b)  Please be specific.   * Development of data collection or databases * Workshops or platforms to enhance regional and international cooperation * Specialized tools, such as e-learning modules, manuals, guidelines and standard operating procedures * Other (please specify)   Do you know if your country is already receiving technical assistance in those areas?   * Yes * No   Are you aware of whether your country has already received technical assistance for improved implementation of the Protocol, especially for the issues under this review cluster? And was it useful?  Do you have any other comments?  Please, feel free to provide other information that you believe might be useful to understand the implementation of the Protocol on Trafficking in Persons in your country. |